To: Press[Press@epa.gov]
Cc: pressrsvp[pressrsvp@epa.gov]
From: Ari Natter (BLOOMBERG/ NEWSROOM:)
Sent: Wed 4/12/2017 9:08:49 PM
Subject: Fwd:EPA Administrator to Visit Pennsylvania Coal Mine-- Launch Back-to-Basics Agenda

Hi...just wanted to confirm you got my RSVP for this event. Would hate to drive all the way up there, only to be turned away at the gates.
Thanks!

Ari Natter
Reporter
Bloomberg News
202-807-2243 office
202-445-5555 cell
@AriNatter

https://www.bloomberg.com/authors/ATB37Z6gk7c/ari-natter

From: noreply-subscriptions@epa.gov
Subject: Fwd:EPA Administrator to Visit Pennsylvania Coal Mine-- Launch Back-to-Basics Agenda

CONTACT:
press@epa.gov

FOR PLANNING PURPOSES ONLY
April 12, 2017

EPA Administrator to Visit Pennsylvania Coal Mine-- Launch *Back-to-Basics* Agenda

SYCAMORE, Pa. – U.S. Environmental Protection Agency Administrator Scott Pruitt will speak with coal miners at the Harvey Mine in Sycamore, Pennsylvania on Thursday, April 13, to kick off EPA's *Back-to-Basics* agenda. The *Back-to-Basics* agenda refocuses the EPA on protecting the environment, promoting economic and job growth, and returning power to the states.

Administrator Pruitt will speak with coal miners about the President's recent Energy Independence Executive Order, which directs EPA and other federal agencies to review the Clean Power Plan and revise regulatory barriers that impede energy independence, including unnecessary burdens on coal miners and coal-fired electric utilities.

Members of the media who plan to attend this event must RSVP by emailing pressrsvp@epa.gov no later than 5:00 p.m. EDT on Wednesday, April 12.

WHO: Administrator Pruitt and coal miners at the Harvey Mine – Patterson Creek Portal

WHAT: EPA kicks off *Back-to-Basics* agenda

WHEN: Thursday, April 13, 2017 at 12:00 p.m. EDT

WHERE: Harvey Mine – Patterson Creek Portal, 685 Patterson Creek Road, Sycamore, PA 15364

NOTE: Credentialed members of the media who have RSVP'd will be required to check in at the Harvey Mine security gate no later than 11:30 a.m. on Thursday, April 13. A photo ID is required.

R056

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

To: pressrsvp[pressrsvp@epa.gov]
Cc: Press[Press@epa.gov]
From: Ari Natter (BLOOMBERG/ NEWSROOM:)
Sent: Wed 4/12/2017 6:48:50 PM
Subject: EPA Administrator to Visit Pennsylvania Coal Mine-- Launch Back-to-Basics Agenda

Nevermind, previous request, I found this online.

I'd like to RSVP for this event.

EPA Administrator to Visit Pennsylvania Coal Mine-- Launch Back-to-Basics Agenda
04/12/2017
Contact Information:
U.S. EPA Media Relations (press@epa.gov)
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Reporter
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202-445-5555 cell
@AriNatter

https://www.bloomberg.com/authors/ATB37Z6gk7c/ari-natter

To: Valentine, Julia[Valentine.Julia@epa.gov]
Cc: Press[Press@epa.gov]
From: Ari Natter (BLOOMBERG/ NEWSROOM:)
Sent: Wed 4/12/2017 6:23:46 PM
Subject: Is this press release legit?

Was forwarded to me, but I didn't get and neither did a colleague. Was it just sent to local press?
Thanks for your help!

CONTACT:
press@epa.gov

FOR PLANNING PURPOSES ONLY
April 12, 2017

EPA Administrator to Visit Pennsylvania Coal Mine-- Launch Back-to-Basics Agenda

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@AriNatter

https://www.bloomberg.com/authors/ATB37Z6gk7c/ari-natter

To: Valentine, Julia[Valentine.Julia@epa.gov]
Cc: Press[Press@epa.gov]
From: Ari Natter (BLOOMBERG/ NEWSROOM:)
Sent: Mon 4/3/2017 1:55:38 PM
Subject: Fwd:Details of budget cuts for EPA
Combined.pdf

Hey Julia --

Can you say if the attached budget document is legitimate?

Thanks!

Ari Natter
Reporter
Bloomberg News
202-807-2243 office
202-445-5555 cell
@AriNatter

https://www.bloomberg.com/authors/ATB37Z6gk7c/ari-natter

To: Dunkins, Robin[Dunkins.Robin@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]
Sent: Thur 4/6/2017 6:58:57 PM
Subject: RE: Landfill rules - Potential impact of the Energy Independence Executive Order

Peter – looks like your schedule is pretty full. Do you want to try to touch base before you leave tonight (looking at your calender I could call you at 5:00?) or talk in the morning?

- Kevin

From: Dunkins, Robin
Sent: Thursday, April 06, 2017 2:35 PM
To: Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>
Cc: Culligan, Kevin <Culligan.Kevin@epa.gov>
Subject: FW: Landfill rules - Potential impact of the Energy Independence Executive Order

Peter,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Robin Dunkins, Group Leader

Natural Resources Group

OAR/OAQPS/SPPD Mail Code: E143-03

U.S. Environmental Protection Agency

Research Triangle Park, NC 27711

919-541-5335

dunkins.robin@epa.gov

From: Zenick, Elliott
Sent: Thursday, April 06, 2017 1:17 PM
To: Culligan, Kevin <Culligan.Kevin@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>
Subject: FW: Landfill rules - Potential impact of the Energy Independence Executive Order

From: Heminger, Justin (ENRD) [mailto:Justin.Heminger@usdoj.gov]
Sent: Thursday, March 30, 2017 2:24 PM
To: Zenick, Elliott <Zenick.Elliott@epa.gov>; Vetter, Rick <Vetter.Rick@epa.gov>
Cc: Hostetler, Eric (ENRD) <Eric.Hostetler@usdoj.gov>
Subject: Landfill rules - Potential impact of the Energy Independence Executive Order

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ATTORNEY-CLIENT COMMUNICATION

ATTORNEY WORK PRODUCT

Ex. 5 - Attorney Work Product Attorney Client Deliberative

Ex. 5 - Attorney Work Product Attorney Client Deliberative

Ex. 5 - Attorney Work Product Attorney Client Deliberative

Ex. 5 - Attorney Work Product Attorney Client Deliberative

Best regards,
Justin

Justin D. Heminger

Trial Attorney

U.S. Department of Justice

Environment and Natural Resources Division

Environmental Defense Section

601 D Street, N.W., Suite 8000

Washington, DC 20004

Office 202.514.2689

justin.heminger@usdoj.gov

To: Ford, Hayley[ford.hayley@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Dominguez, Alexander
Sent: Tue 7/11/2017 4:50:23 PM
Subject: RE: 30 Day Report Updates

Hey Hayley – If you haven't sent off yet see below. Some slight changes and one addition. As long as Mandy is alright with the added language should be good.

From: Ford, Hayley
Sent: Tuesday, July 11, 2017 11:47 AM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: FW: 30 Day Report Updates

Thanks!

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: Ex. 6 - Personal Privacy

From: Ford, Hayley
Sent: Monday, July 10, 2017 5:22 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: 30 Day Report Updates

Just a friendly reminder for your comments on the below. I highlighted where I think you likely have updates. Also this is 30-day forward-looking, if any of the below is mute or not really an issue anymore, feel free to delete it. Thanks!! ☺

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: Ex. 6 - Personal Privacy

From: Ford, Hayley
Sent: Monday, July 10, 2017 12:56 PM
To: Beck, Nancy <beck.nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen,

Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Cc: Munoz, Charles <munoz.charles@epa.gov>
Subject: 30 Day Report Updates

See attached for last week's 30 day report. Please send updates by COB today.

Thank you!!

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: Ex. 6 - Personal Privacy

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Greaves, Holly
Sent: Tue 7/11/2017 1:48:26 PM
Subject: QFRs - OAR
HAC QFRs with RESPONSES FOR HOLLY_consolidatedv2.docx

Hi Mandy,

Can you please take a look at the QFRs related to OAR **by noon today**? Liz, Troy and I need to do a review of all QFRs for consistency, but we first need to make sure the answers provided by the programs are factually accurate.

This shouldn't take more than an hour – just "control +F" throughout the document for the questions/subjects for which "OAR" was responsible for responding too.

Thanks,

Holly

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Morris, Madeline
Sent: Fri 7/7/2017 3:39:36 PM
Subject: briefing on Monday

Hi Mandy,

I have a big chunk of time for a briefing on air issues. Before you wanted to discuss the following:

- Refrigerant management rule (HFCs)
- Startup, Shutdown and Malfunction SIP Call
- NSPS for Woodheaters

And now I think CPP got added into the mix as well. Just wanted to make sure you were aware, and we are all on the same page.

Madeline Morris Executive Scheduler | Office of the Administrator | direct: 202-564-0844 | cell: 202-579-4283

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Ford, Hayley
Sent: Wed 7/5/2017 2:04:54 PM
Subject: 30 Day Report Updates

Hey Mandy – Hope you had a nice 4th! Can I get your updates for the 30 day? Anything that can be deleted? Thanks!

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: Ex. 6 - Personal Privacy

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Dallas Baker
Sent: Mon 7/3/2017 8:22:15 PM
Subject: FW: A&WMA Annual Conference & Coffee
SEER- Webinar proposal - Scott M. Turner.pdf

Ah, I forgot about your epa.gov address. Message below…..

From: Dallas Baker
Sent: Monday, July 03, 2017 1:53 PM
To: Ex. 6 - Personal Privacy
Subject: FW: A&WMA Annual Conference & Coffee

Mandy,

Sorry I missed you in Pittsburgh back in June. I understood work took you out of the country? Oh the stories I bet you could tell. But the panel session went well – your co-panelists covered nicely. We appreciate your willingness to be a part of our program.

By chance, would you accept an invitation to play substitute to a cancellation in a webinar panel coming up July 25? Tim Profeta developed a conflict and we're trying to get his replacement to the attached Webinar - jointly produced with the ABA and A&WMA. Interested? I think our two memberships would really appreciate your perspective.

Dallas Baker, P.E., BCEE

(Past President, A&WMA)

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202

Ridgeland, MS 39157

Office: 601.499.0653

Cell: 601.953.7146

Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com

Website: www.neel-schaffer.com

From: Dallas Baker
Sent: Tuesday, May 16, 2017 2:51 PM
To: 'Gunasekara, Mandy' <Gunasekara.Mandy@epa.gov>
Subject: RE: A&WMA Annual Conference & Coffee

It's a plan! Talk in PA.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Tuesday, May 16, 2017 2:35 PM
To: Dallas Baker <dallas.baker@neel-schaffer.com>
Subject: RE: A&WMA Annual Conference & Coffee

I have yet to get my flight details, but let's plan to touch base immediately after the panel discussion. We can figure out where to meet once we get there.

I'm also just noticing that you are at a Neel Schaffer address – congrats on your new position as well!

Look forward to catching up soon,

Mandy

From: Dallas Baker [mailto:dallas.baker@neel-schaffer.com]
Sent: Tuesday, May 16, 2017 12:27 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: A&WMA Annual Conference & Coffee

Mandy: great to hear from you. Let's connect somehow in Pittsburgh. So much is going on. You're likely getting these handed to you, but just in case you're not….

I was a proud member of AAPCA, and am sure you saw this recent letter my friend Clint wrote, FYI: http://www.csg.org/aapca_site/documents/AAPCA-EPARegulatoryReform-DocketIDEPA-HQ-OA-2017-0190-5-15-17.pdf

And a similar one written by ECOS: https://www.ecos.org/wp-content/uploads/2017/05/ECOS-Comments-on-EO-13777.pdf

.....

Dallas Baker, P.E., BCEE

Director of Environmental Services

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Cell: 601.953.7146

Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com

Website: www.neel-schaffer.com

From: Mandy Gunasekara Ex. 6 - Personal Privacy
Sent: Tuesday, May 16, 2017 11:21 AM
To: Dallas Baker <dallas.baker@neel-schaffer.com>
Cc: Bonnie Morgan <bonnie.morgan@neel-schaffer.com>
Subject: Re: A&WMA Annual Conference & Coffee

Dallas- great to hear from you! Let's definitely plan for coffee. Can you shoot me an email to my official account: Gunasekara.mandy@epa.gov

Bonnie is great!

Sent from my iPhone

On May 12, 2017, at 10:36 AM, Dallas Baker <dallas.baker@neel-schaffer.com> wrote:

Mandy,

You may recall Alice Perry and I visiting you while accepting the Senators' invitation to testify in the summer of 2015. Quite the experience, and my how times have changed since then!

Congratulations on your new appointment with EPA. Our mutual friend Bonnie Morgan discretely gave me your gmail address; hope you don't mind. I wanted to reach out and see if you and I could have a few minutes together in Pittsburgh Thursday, June 8. I understand you are invited to speak at the morning session titled, "Clean Power Plan (CPP) Litigation Updates and Road Ahead." That should be a standing room only! If you're making the trip, perhaps afterwards we could grab coffee? As a former Air Director from Mississippi, and a Past President of A&WMA, my perspectives of implementing environmental policy at the state level, and how states vary in advocacy, would perhaps shed light into the amazing transformation the Administration is orchestrating. I commend the work, but have some cautions towards unintended consequences. I'm very impressed with Administrator

Pruitt's first weeks in D.C. and would like to help in any way. (So does Bonnie, by the way!)

Coffee in PA?

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202

Ridgeland, MS 39157

Office: 601.499.0653

Cell: 601.953.7146

Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com

Website: www.neel-schaffer.com

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Dominguez, Alexander
Sent: Wed 6/28/2017 7:29:13 PM
Subject: Draft CPP Update TPs

Draft CPP Update

On June 8th EPA submitted a proposed repeal of the Clean Power Plan to OMB for review.

The inter-agency comment period began two weeks ago on XXX.

EPA has received pass-back on the first round of comments and is reviewing all recommendations and feedback.

OMB review generally takes about two months, but can take additional time depending on the complexity of the proposed rule.

Alex Dominguez

Policy Analyst to the Senior Advisors to

the Administrator for Air and Water

U.S. Environmental Protection Agency

Work: 202-564-3164|Cell: 202-578-5985

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Lyons, Troy[lyons.troy@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Greaves, Holly
Sent: Tue 6/27/2017 5:48:07 PM
Subject: Questions for the record assigned to Air
HAC OAR QFRs (June 27 2017).docx

Mandy,

We have received over 250 questions for the record from members of Congress related to the Administrator's House Budget Hearing. I'm writing to ask your help in crafting responses to 23 of the questions that deal with Air matters.

Responses need to be returned to me and Troy **by noon on Friday** to meet the congressional deadline. Some of the responses will require you to work with OAR, so I do suggest you take a look now and figure out what additional information you might have to request.

Attached please find the questions assigned to you. Thanks in advance for your help!

Holly

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Budget Hearing: Environmental Protection Agency
June 15, 2017

Questions for the Record – Administrator of the Environmental Protection Agency

Office of Air and Radiation

Serious Non-attainment Areas

Recently, much of Northern Utah was classified as a serious non-attainment area. As you know, once a region is designated as serious non-attainment it's almost impossible to shed that designation – even if air quality improves to meet minimum federal standards.

Stewart Q1: Under your leadership, will EPA demonstrate to the states how they can exit non-attainment and serious non-attainment?

Renewable Fuel Standards

Regarding renewable fuel standards, there was a petition filed with the EPA to move the point of obligation for blending renewable fuel from refineries and importers to the marketers who operate the pumps. I've been informed from several marketers in my state, most of which are family-owned businesses, that this would severely impact their operations and cause significant job loss. I've also heard this effort is being led by one major refinery in particular.

Amodei Q5: Can you tell me how the EPA views this petition now that the comment period has closed, and if changing the obligated parties from big refiners to the mom-and-pop marketers is something the EPA is considering?

Amodei Q6: Under the same policy – RFS point of obligation – does EPA make a distinction between obligated parties and position holders?

I have seen estimates that there are currently 200 obligated parties under the RFS. Now, merchant refiners have suggested that we should expect about 1000 obligated parties were the point of obligation to be moved. Obviously, Nevada has terminal operators that could certainly become obligated parties. Some of those terminal operators also have multiple other "position holders" that would also become obligated parties under such a change. In my example, as far as EPA is concerned from a compliance standpoint: (1) unobligated terminal would become (4) new obligated parties because of the three "position holders" that use the terminal. If you multiply this across the country, instead of 1,000 points of obligation as merchant refiners

contend, you could actually have 4,000 or more.

Amodei Q7: Given the President's budget proposal, can the EPA effectively and economically manage a program that could potentially become more complicated by a factor of x 10?

National Ambient Air Quality Standards

Recently, EPA announced it would be extending the timeline for the 2015 ozone standards. In making that decision, the EPA cited several issues in need of further review.

Thank you for this action and your consideration of these issues.

All counties in West Virginia now meet the 2015 standards, and we are proud of that progress. Despite this fact, potential EPA actions threaten affordable, reliable energy in West Virginia.

It is my understanding that the decision does not change several other implementation steps and actions that states must still undertake.

Petitions from other states would require West Virginia electricity generators to address nonattainment areas in those states or join the Ozone Transport Commission, despite the fact EPA does not require those areas to address their contributions first.

States like West Virginia, while meeting the standard, would still submit a state plan to address its "Good Neighbor" obligations by October 2018.

Jenkins Q1: What actions will EPA be taking to address state concerns regarding these interstate modeling results?

Jenkins Q2: Do you agree that States, through the State Implementation Plan process, should be able to address interstate pollution?

The budget calls for approximately $100.4 million for NAAQS.

Voluntary Programs

McCollum Q39: The budget calls for eliminating all of the voluntary partnership programs for reducing greenhouse gases and other air pollution. These programs, which have bi-partisan and industry support, are proven to lower emissions. How will you make up for the emission benefits that are lost?

Hydrofluorocarbons

McCollum Q40: The budget states that the EPM account for the GHG Reporting Program is being cut to "streamline", among other things, the use and emissions of the greenhouse gases, hydrofluorocarbons, under the Clean Air Act SNAP program. What does EPA mean by "streamlining" the program? What would change about the very important work this program

does?

National Vehicle and Fuels Emission Laboratory

The National Vehicle and Fuel Emissions Laboratory (NVFEL), located in Ann Arbor, Michigan, is an integral part of the EPA Office of Transportation and Air Quality. Through this program EPA develops, implements, and ensures compliance with national emission standards to reduce mobile source related pollution and ensure air quality benefits and fair competition in the marketplace.

McCollum Q143: The budget request notes that there is an increased demand for the outcomes from this program, but proposes reducing the program by $17 million. Has EPA analyzed the resultant economic impact on manufacturers or the health and economic impact on consumers' from this proposed reduction of work?

McCollum Q146: In March, EPA issued a notice of intent to reconsider the final determination on the appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards. At the proposed budget levels, how does EPA intend to conduct the analysis that this reconsideration will entail?

McCollum Q147: What are the next steps in the process?

McCollum Q148: Will EPA officially withdraw the final determination? If so, when?

McCollum Q149: Will there be another proposed determination and public comment period?

McCollum Q150: Will EPA and NHTSA produce another Technical Assessment Report? If so, does the proposed FY18 EPA budget provide enough resources to ensure a robust assessment?

Climate Change: GAO High Risk Area

McCollum Q166: According to EPA's budget, in 2013, the Government Accountability Organization designated climate change as a "High Risk" area, noting that climate change poses management challenges for the federal government at large, and that the EPA will play a role in addressing this challenge. Since the budget request eliminates 91% of the climate change funding, what role will the Agency play in addressing this challenge?

Clean Power Plan

McCollum Q167: What is EPA's plan to provide the same level of greenhouse gas emissions reductions as the Clean Power Plan and other rules the Agency plans to reexamine?

McCollum Q168: When does EPA anticipate its review of the Clean Power Plan will be completed as every passing month delays the important emission reductions this plan was designed to achieve?

McCollum Q169: Is EPA planning to extend the administrative stays of any other regulations

that reduce greenhouse gases from stationary sources which it is currently reviewing?

Addressing the impacts of climate change/Paris Accord

I am deeply concerned by the Administration's decision to withdraw from the Paris Agreement. Coupled with the budget's elimination of any funding to combat climate change, the Administration is ignoring changes in our environment that threaten food security, biodiversity, business interests, and even our coastal cities like New York. It is irresponsible to think we are putting America first by ignoring these global threats. Nicaragua and Syria are the only other nations not participating, though I should note that even Nicaragua declined to participate because they felt the agreement did not go far enough. International backlash to the U.S. pulling out has been unprecedented and appears to have undermined U.S. global leadership. You recently made the statement that you had not spoken with President Trump about whether he believes that climate change is real and whether humans impact it. You further stated that the focus of your discussions with the President has been on the merits and demerits of the Paris Agreement. Because the Paris Agreement's central aim is to strengthen the global response to the threat of climate change, it baffles me that you two would not have discussed climate change.

Lowey Q3: To date, have you still not asked the President what his beliefs are regarding climate change?

Lowey Q4: You were in Italy this week for the G7 Meeting on the Environment. What has been the response from our international partners about President Trump's decision to withdraw from the Paris Agreement?

Lowey Q5: Who will fill the void of U.S. leadership on climate issues?

American Energy Jobs

Pulling out of the Paris Agreement prioritizes jobs in the fossil fuel industry over renewable energy jobs. There are more than 678,000 jobs in renewable energy, more than the 515,000 jobs in oil/petroleum.

Lowey Q5: All jobs matter, so why are you arguing that protecting renewable energy jobs is bad for America?

National Institute of Environmental Health Sciences

The National Institute of Environmental Health Sciences discusses how as global temperatures rise and extreme heat events increase in frequency due to climate change, we can expect to see more heat-related illnesses and mortality. Socioeconomic factors, such as economically disadvantaged individuals are at greater risk from heat-related burdens.

Lowey Q8: This Administration states it is concerned about the "forgotten men and women," but how does pulling out of the Paris agreement not forget about the men, women and children that will now suffer more heat-related illnesses because we have abandoned efforts to reduce greenhouse gas emissions, while at the same time working to pull back regulations on carbon

emissions?

From: Middleton, Brandon (ENRD)
Location: DOJ 2607
Importance: Normal
Subject: CPP
Start Date/Time: Tue 6/27/2017 2:30:00 PM
End Date/Time: Tue 6/27/2017 3:00:00 PM

;

To: Graham, Amy[graham.amy@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]
Sent: Mon 6/19/2017 4:37:31 PM
Subject: RE: Mandy - Politico asking about utility CPP meeting

Ex. 5 - Deliberative Process

From: Graham, Amy
Sent: Monday, June 19, 2017 12:28 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: Mandy - Politico asking about utility CPP meeting

Mandy – Politico is asking about the utility meeting this afternoon. Are you okay with this response? Any edits?

Ex. 5 - Deliberative Process

From: Alex Guillen [mailto:aguillen@politico.com]
Sent: Monday, June 19, 2017 11:40 AM
To: Freire, JP <Freire.JP@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Press <Press@epa.gov>
Subject: Utility CEO meeting

Hi all, we have it from multiple sources that EPA is hosting a meeting of utility CEOs this afternoon to discuss CPP. Can you confirm? Is EPA planning on meeting with other stakeholders, like coal mining or environmental groups?

Thanks,

Alex Guillén

Energy Reporter

POLITICO ***Pro***

(o) 703.341.4619 | (c) 571.839.6243

aguillen@politico.com | @alexcguillen

From: Nishida, Jane
Location: DCRoomRRB31107-1/Ronald-Reagan-Building; DCRoomRRB31107-2/Ronald-Reagan-Building
Importance: Normal
Subject: IMF Meeting - OITA's Fish Bowl Conference Room #31107, 3rd Floor RRB (Big Conference Room to the left of our receptionist desk as soon as you step off the elevators)
Start Date/Time: Thur 6/1/2017 5:30:00 PM
End Date/Time: Thur 6/1/2017 6:30:00 PM

In preparation for the meeting with the International Monetary Fund (IMF) on June 1st, please see below the questions submitted by the IMF, with an indication of the appropriate EPA office for response.

Questions submitted by the IMF:

Economic and environmental regulations

- Please share your views on the effectiveness of various EPA programs on environmental safety. How to you see the trade-off with respect to economic costs. **(Office of Policy)**

Policy priorities, views, and plans

- What are the main areas for reform (developing and enforcing environmental regulations, grants, research & partnerships, education)? **(Office of Policy)**

Please discuss views and plans with respect to:

- federal coal leases and the Stream Protection Rule **(Department of Interior issues)**

- the Clean Power Plan (CPP) targets for emissions of carbon dioxide **(Office of Air and Radiation)**

- limits on methane emissions and curbs on venting and flaring **(Office of Air and Radiation)**

- fuel economy and emission standards for cars and trucks; are they too onerous for the automobile industry in the EPA's assessment **(Office of Air and Radiation)**

- renewable fuel standard for biofuels **(Office of Air and Radiation)**

- Paris COP21 agreement and plans to ratify the agreement and achieve emission goals. **(Office of Air and Radiation)**

- What are your views on introducing a carbon tax and a border adjustment for carbon content of imported goods? **(Office of Air and Radiation)**

Budget

- Please discuss the potential implication of proposed funding cuts envisaged in the President's budget on EPA's delivery of grants, regulatory enforcement and staffing. **(Office of the Chief Financial Officer)**

To: Thaker, Rahul[rahul.thaker@ncdenr.gov]
From: Gunasekara.Mandy@epa.gov
Sent: Fri 5/26/2017 3:48:38 PM
Subject: Re: Panel Session Summary - A&WMA's Annual Conference, Pittsburgh, PA, June 5-8, 2017

Hi Rahul,

I apologize for the late notice, but I've been pulled into the G7 trip with the he Administrator and we will be heading out

Sent from my iPhone

On May 22, 2017, at 10:15 AM, Thaker, Rahul <rahul.thaker@ncdenr.gov> wrote:

Tauna, Mandy, and Lissa:

I am summarizing below information you need for the panel session on Clean Power Plan (CPP) Litigation Updates and Road Ahead, at the subject conference:

(i) The panel session timing is Thursday, June 8th, 8 am - 9:40 am. There will be a total of four panelists as below:

Mandy Gunasekara

Senior Policy Advisor, Office of the Administrator, EPA, Washington, D.C.

[providing EPA perspectives]

State Environmental Agency Official

[providing state agencies' perspectives, still in process of confirming the panelist, probably from PA environmental agency]

Tauna M. Szymanski

Senior Attorney, Hunton & Williams, Washington, D.C.

[providing electric power generation industry perspectives]

Lissa Lynch

Climate Litigation Fellow, Natural Resources Defense Council, Washington, D.C.

[providing environmental organizations' perspectives]

Each panelist will have a 20 minutes maximum for presentation. You need to talk / present on the assigned task as above, providing perspectives and latest information on various issues in this litigation. You need to also provide viewpoints on road ahead for everyone on this matter. You can also talk anything else if it is pertinent to this topic and if you have time available. You can have slides for presentation, but, it is not mandatory. The order of presentations will be as above. There will be a Q&A at the end of the session. The session abstract is attached with this message for your use.

(ii) The conference web page is https://www.awma.org/ace2017.

If you have not yet registered for the conference, please take care of it via the above page. If you are to come to this session only and do not attend any other sessions at the conference, it is possible to get a conference registration fees waiver.

In addition, the hotel accommodation information, technical program, etc. are also located at the same website.

(iii) I will be in Pittsburgh for the entire conference. If you need to contact me in Pittsburgh, my cellular number is (919) 285-9541.

(iv) If you are to have slides for your presentation, please remember to email me by June 2nd. Also, please send me your bio-sketch (1-2 paragraphs would be sufficient) by the same date, which would help in introducing you at the conference.

In summary, I thank each of you for your participation. I am delighted to have you on the panel. But, importantly, the conference attendees would benefit from your expert viewpoints.

Let me know if you have any other questions or if I can help.

Rahul

Rahul P. Thaker, P.E., QEP

Environmental Engineer

Division of Air Quality, Permitting Section

North Carolina Department of Environmental Quality

919 707 8740 office/fax

rahul.thaker@ncdenr.gov

217 West Jones Street

1641 Mail Service Center

Raleigh, NC 27699-1641

<image002.png>

Email correspondence to and from this address is subject to the

North Carolina Public Records Law and may be disclosed to third parties.

<FINAL EXTENDED ABSTRACT.docx>

To: Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Hupp, Sydney[hupp.sydney@epa.gov]; Beck, Nancy[beck.nancy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Hale, Michelle[hale.michelle@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]; Konkus, John[konkus.john@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; McMurray, Forrest[mcmurray.forrest@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]
Sent: Mon 5/22/2017 2:46:25 PM
Subject: RE: SPEECHES

Ex. 5 - Deliberative Process

CPP: We are in the final stages of our review process.

Ex. 5 - Deliberative Process

From: Ferguson, Lincoln
Sent: Monday, May 22, 2017 9:30 AM
To: Hupp, Sydney <hupp.sydney@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest

<mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: SPEECHES

Good morning! The Administrator has a number of speeches this week that cover a wide range of topics. Please send me any updated/relevant information on the following: permitting, WOTUS, CPP, Paris, Superfunds, and any other specific topics that he may be asked about.

The groups he is speaking to are listed below:

Monday:

LPPC Speaking Engagement

12:15 at the Washington Court Hotel

Congressional Coal Caucus Meeting

5:00PM at Capitol – HC - 8

Tuesday:

Congressional Western Caucus Speaking Engagement

12:00PM at Rayburn House 2247

American Iron and Steel Speaking Engagement

4:30PM at Four Seasons Hotel

Wednesday:

AXPC Speaking Engagement

10:30AM at 485 Russell Senate

Energy and Environment Symposium

12:00PM at City Club of Washington

Thursday:

US Oil and Gas Board of Directors Meeting

10:00AM at the Hay Adams

From: Hupp, Sydney
Sent: Monday, May 22, 2017 8:09 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: Budget Info From Holly

Good morning! Attached is a draft summary document of the 2018 EPA President's Budget, called the Budget in Brief. This is still internal, pre-deliberative, and NOT to be shared until after the budget is released on Tuesday.

Thank you!

Sydney Hupp

Executive Scheduler

Office of the Administrator

Ex. 6 - Personal Privacy (C)

From: Angela.Owens@usdoj.gov
Location: RFK 2143 (Call-in Ex. 6 - Personal Privacy; conf code Ex. 6 - Personal Privacy)
Importance: Normal
Subject: CPP Litigation and Supplemental Briefing
Start Date/Time: Wed 5/3/2017 8:00:00 PM
End Date/Time: Wed 5/3/2017 9:00:00 PM

;
All visitors to the US Justice Department must enter at center entrance on Constitution Avenue between 9th & 10th Streets, NW and show a photo ID.

From: Dravis, Samantha
Location: DCRoomARN3500/OPEI
Importance: Normal
Subject: Meeting with the Northwest Public Power Association
Start Date/Time: Tue 4/25/2017 3:30:00 PM
End Date/Time: Tue 4/25/2017 4:00:00 PM

Directions: Please use the **William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station**. Please arrive 20 minutes prior to the meeting with photo IDs to clear Security.

For an escort from Security to the meeting call (202) 564-4332; for all other matters call Robin Kime (202)564-6587.

Attendees:

Anita Decker, Executive Director NWPPA

Doug Hardy, Central Montana Electric Power Cooperative, MT

Dave Kelsey, Yellowstone Valley Electric Cooperative, MT

Norman Tebay, Vigilante Electric Cooperative, MT

Clay Koplin, Mayor of Cordova, AK

Brad Janorschke, Homer Electric Association, AK

Molly Simpson, Douglas County Public Utility District, WA

Steve Taylor, Mason County Public Utility District #1, WA

Contact:

Theresa Pugh Consulting, LLC

-a woman-owned small business

703-507-6843 Office

2313 North Tracy Street

Alexandria, Virginia 22311

www.theresapughconsulting.com

Request: I am writing today on behalf of Northwest Public Power Association (NWPPA)'s Executive Director Anita Decker. Anita will be in Washington D, C. from Washington state on April 25-26, 2017. She would like to meet with Administrator Pruitt, you or other political appointees who are assigned to work on electric utility issues of interest to NWPPA.

NWPPA is an electric utility association in the Pacific Northwest representing 151 hydroelectric, nuclear power and natural gas electric utilities (municipal and electric coops) affected by EPA regulations including some that are going to be revisited under recent Executive Orders. Their membership involves many electric utilities (municipal and coop) that would be affected by EPA regulations across several states in the Northwest—not just those in Washington state. NWPPA's member utilities serve 20 million customers making it one of the largest electric utility organizations in the western part of the United States.

They are interested in the following:

- Waters of the US – next steps (realizing it has been addressed in the Executive Order)
- Clean Power Plan review and replacement (they are aware of the Executive Order action last week)
- General EPA priorities related to the electric power sector

A link to the NWPPA organization is https://www.nwppa.org/about-nwppa/ and board information at https://www.nwppa.org/about-nwppa/nwppa-board-of-trustees/

From: Kime, Robin
Location: DCRoomARN3500/OPEI
Importance: Normal
Subject: Meeting with the Northwest Public Power Association
Start Date/Time: Tue 4/25/2017 3:30:00 PM
End Date/Time: Tue 4/25/2017 4:00:00 PM

Directions: Please use the **William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station**. Please arrive 20 minutes prior to the meeting with photo IDs to clear Security.

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Contact:

Theresa Pugh Consulting, LLC

-a woman-owned small business

703-507-6843 Office

2313 North Tracy Street

Alexandria, Virginia 22311

www.theresapughconsulting.com

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Washington state. NWPPA's member utilities serve 20 million customers making it one of the largest electric utility organizations in the western part of the United States.

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A link to the NWPPA organization is https://www.nwppa.org/about-nwppa/ and board information at https://www.nwppa.org/about-nwppa/nwppa-board-of-trustees/

From: Middleton, Brandon (ENRD)
Location: DOJ 2607
Importance: Normal
Subject: CPP
Start Date/Time: Tue 6/27/2017 2:30:00 PM
End Date/Time: Tue 6/27/2017 3:00:00 PM

;

From: LaRue, Steven
Location: WJC North 4406 / Conf. Code Ex. 6 - Personal Privacy
Importance: Normal
Subject: FW: OAR ONLY - FY18 Meetings with Jason Gray (HAC Maj. Staff)
Start Date/Time: Thur 6/22/2017 4:00:00 PM
End Date/Time: Thur 6/22/2017 5:30:00 PM

-----Original Appointment-----
From: LaRue, Steven
Sent: Wednesday, June 21, 2017 4:44 PM
To: LaRue, Steven; Simon, Karl; Hengst, Benjamin; Keller, Jennifer; Charmley, William; Haley, Mike; Kocchi, Suzanne; Krieger, Jackie; Bullard, Pamela; Hopkins, Daniel; Whitlow, Jeff; Green, Marie; Koerber, Mike; Hyde, Courtney; Walters, Margaret; Wolfe, Michael; Salgado, Omayra; Lewis, Josh; Snyder, Carolyn; Gunning, Paul; Shaw, Betsy; Hall-Jordan, Luke; Ashley, Jackie
Subject: OAR ONLY - FY18 Meetings with Jason Gray (HAC Maj. Staff)
When: Thursday, June 22, 2017 12:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: WJC North 4406 / Conf. Code Ex. 6 - Personal Privacy

Updated agenda as of 730am on 6/22:

Office of Air 12:00-1:30

- Ozone strategy = implementation + resources via DERA/Targeted airshed grants (Karl Simon)
- California waiver (Karl Simon)
- Glider Kits/Truck rule (Bill Charmley /Ben Hengst)
- Resource for pre-construction and other permitting needs (Jeff Whitlow/Jackie Ashley)
- Status of Clean Power Plan review consistent with E.O. (Josh Lewis)
- Implementation of new FY17 Biomass language (Suzie Kocchi)
- EnergySTAR and other voluntary programs (Jacob Moss/Carolyn Snyder)
- SNAP (Luke Hall-Jordan)

Included below is a snapshot of the original appointment with invite list:

-----Original Appointment-----
From: Walsh, Ed
Sent: Tuesday, June 20, 2017 5:38 PM
To: Walsh, Ed; Terris, Carol; Fontaine, Tim; Shapiro, Melissa; Shapiro, Mike; Best-Wong, Benita; Robbins, Chris; Kavlock, Robert; Blackburn, Elizabeth; Showman, John; Noga, Vaughn; Williams, Maria; Hyde, Courtney; LaRue, Steven; Berkley, Bruce; Cunningham-HQ, Barbara; Keigwin, Richard; Cherepy, Andrea; Scheifele, Hans; Scott, Gregory; Layne, Arnold; Katz, Brian; Beck, Nancy; Standifer, Juanita; Wilbur, Jennifer; Woolford, James; Sebring, Meridith; Lloyd, David
Cc: Bloom, David; Greaves, Holly; Lyons, Troy; Cleland-Hamnett, Wendy; Wise, Louise; Morales, Oscar; Morris, Jeff; Mottley, Tanya; Schmit, Ryan; Forsgren, Lee; Fine, Steven; Simon, Harvey; Kelley, Sean; Grogard, Megan; Jones-Parra, Lisa; McKinney, Robert; Grevatt, Peter; Goodin, John; Sawyers, Andrew
Subject: FY 18 Meetings scheduled with HAC
When: Thursday, June 22, 2017 10:00 AM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: WJC North 4406

Agenda FY18 Meetings with House Appropriations
Call in 1-866-299-3188 Conference Code 2025644594#

I will continue to update this meeting invite as we learn more.

- Steve

202.564.1304

From: Dravis, Samantha
Location: 3500 WJC-N
Importance: Normal
Subject: Regulatory Reform Meeting With 3M
Start Date/Time: Fri 6/16/2017 7:00:00 PM
End Date/Time: Fri 6/16/2017 7:30:00 PM
3M Input - Docket EPA-HQ-OA-2017-0190 5.15.2017.pdf
3M Comments on Dept of Commerce Request - DOC-2017-0001 - Impact of Fede....pdf
3M Follow-up to U.S. Dept Commerce - DOC-2017-0001 - Impact of Fed Regul....pdf

Directions: Please use the **William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station**. Please arrive 20 minutes prior to the meeting with photo IDs to clear Security.

EPA Contact: For an escort from Security to the meeting call (202) 564-4332; for all other matters call Robin Kime (202)564-6587.

Attendees:

Tom Geier, Manager, 3M Government Affairs

Paul Narog, Manager, Environmental Operations

John F. Metzger, Sr. Environmental Specialist

Request: We would like to meet with you to discuss 3M's ideas for regulatory reform, which we provided to U. S. EPA in accordance with Executive Order 13777. A number of changes that we suggested should fit nicely the dual criteria of "timing" and "simplicity" that you spoke about during today's ACC meeting. We would especially like to discuss with you how a number of the New Source Performance Standards (at 40 C.F.R. Part 60) constrain research and development, which is the lifeblood of innovative companies such as 3M, and remedies that we believe EPA can readily put in place.

Contact:

John F. Metzger, P.E. | Sr. Environmental Specialist
3M Environment, Health, Safety and Sustainability
3M Center, 224-5W-03 | St. Paul, MN 55144-1000
Office: 651 737 3580
jfmetzger@mmm.com | www.3M.com

From: Nishida, Jane
Location: DCRoomRRB31107-1/Ronald-Reagan-Building; DCRoomRRB31107-2/Ronald-Reagan-Building
Importance: Normal
Subject: FW: IMF Meeting - OITA's Fish Bowl Conference Room #31107, 3rd Floor RRB (Big Conference Room to the left of our receptionist desk as soon as you step off the elevators)
Start Date/Time: Thur 6/1/2017 5:30:00 PM
End Date/Time: Thur 6/1/2017 6:30:00 PM

-----Original Appointment-----
From: Nishida, Jane
Sent: Thursday, June 1, 2017 8:18 AM
To: Nishida, Jane; Dravis, Samantha; Bolen, Brittany; Dunham, Sarah; Bloom, David; Smith, Walker; Ferrante, Joe; Greaves, Holly; Terris, Carol; Davis, Patrick; Brown, Byron
Cc: Atkinson, Emily; Schwab, Justin; Loving, Shanita; Williams, Maria; Kime, Robin; Wilburn, Michele
Subject: IMF Meeting - OITA's Fish Bowl Conference Room #31107, 3rd Floor RRB (Big Conference Room to the left of our receptionist desk as soon as you step off the elevators)
When: Thursday, June 1, 2017 1:30 PM-2:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: DCRoomRRB31107-1/Ronald-Reagan-Building; DCRoomRRB31107-2/Ronald-Reagan-Building

In preparation for the meeting with the International Monetary Fund (IMF) on June 1st, please see below the questions submitted by the IMF, with an indication of the appropriate EPA office for response.

Questions submitted by the IMF:

Economic and environmental regulations

- Please share your views on the effectiveness of various EPA programs on environmental safety. How to you see the trade-off with respect to economic costs. **(Office of Policy)**

Policy priorities, views, and plans

- What are the main areas for reform (developing and enforcing environmental regulations, grants, research & partnerships, education)? **(Office of Policy)**

Please discuss views and plans with respect to:

- federal coal leases and the Stream Protection Rule **(Department of Interior issues)**

- the Clean Power Plan (CPP) targets for emissions of carbon dioxide **(Office of Air and Radiation)**

- limits on methane emissions and curbs on venting and flaring **(Office of Air and Radiation)**

- fuel economy and emission standards for cars and trucks; are they too onerous for the automobile industry in the EPA's assessment **(Office of Air and Radiation)**

- renewable fuel standard for biofuels **(Office of Air and Radiation)**

- Paris COP21 agreement and plans to ratify the agreement and achieve emission goals. **(Office of Air and Radiation)**

- What are your views on introducing a carbon tax and a border adjustment for carbon content of imported goods? **(Office of Air and Radiation)**

Budget

- Please discuss the potential implication of proposed funding cuts envisaged in the President's budget on EPA's delivery of grants, regulatory enforcement and staffing. **(Office of the Chief Financial Officer)**

From: Dravis, Samantha
Location: EEOB 238
Importance: Normal
Subject: OMB/EPA Clean Power Plan Meeting
Start Date/Time: Tue 5/16/2017 10:00:00 PM
End Date/Time: Tue 5/16/2017 11:00:00 PM

From: Middleton, Brandon (ENRD)
Location: Call-in 866-410-9426; conf code 1630612
Importance: Normal
Subject: CPP Litigation and Supplemental Briefing Conference Call
Start Date/Time: Wed 5/3/2017 8:00:00 PM
End Date/Time: Wed 5/3/2017 9:00:00 PM

;

From: Gunasekara, Mandy
Location: Pittsburgh
Importance: Normal
Subject: A&WMA CPP Panel
Start Date/Time: Thur 6/8/2017 12:00:00 PM
End Date/Time: Thur 6/8/2017 1:40:00 PM

From: Middleton, Brandon (ENRD)
Location: RFK 2143 (call-in Ex. 6 - Personal Privacy
Importance: Normal
Subject: CPP Conference Call
Start Date/Time: Mon 3/27/2017 6:30:00 PM
End Date/Time: Mon 3/27/2017 7:30:00 PM

Leader Pin: Ex. 6 - Personal Privacy

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Schwab, Justin
Sent: Tue 6/27/2017 3:43:29 PM
Subject: Re: Meeting with Biogenic CO2 Coalition and DOJ

Ok

Sent from my iPhone

On Jun 27, 2017, at 11:41 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

We need to brief the boss on Duke Title Vs today.

From: Schwab, Justin
Sent: Tuesday, June 27, 2017 11:40 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: Meeting with Biogenic CO2 Coalition and DOJ

Thank you.

Sent from my iPhone

On Jun 27, 2017, at 11:38 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

We are going to reschedule. Invite whoever wants to come. Alex will confirm the date/time with the calendar invite.

From: Schwab, Justin
Sent: Tuesday, June 27, 2017 10:46 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Fwd: Meeting with Biogenic CO2 Coalition and DOJ

See below & please advise

Sent from my iPhone

Begin forwarded message:

From: "Williams, Melina" <Williams.Melina@epa.gov>
Date: June 27, 2017 at 10:45:05 AM EDT
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>
Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Baptist, Erik" <baptist.erik@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>
Subject: RE: Meeting with Biogenic CO2 Coalition and DOJ

Thanks, all. My apologies, but I'm still unclear about a few things:

1) Could our DOJ staff attorney also attend the meeting? My sense

Ex. 5 - Attorney Client

I am available at 3 and will plan to attend, unless someone tells me otherwise. I will also let DOJ know that OGC is planning to attend.

Thanks,

Melina

Melina Williams | US EPA | Office of General Counsel | Air and Radiation Law Office | Mail Code 2344A | phone: (202) 564-3406 | fax: (202) 564-5603

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From: Minoli, Kevin
Sent: Monday, June 26, 2017 11:20 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Williams, Melina <Williams.Melina@epa.gov>
Subject: Re: Meeting with Biogenic CO2 Coalition and DOJ

That's great, thanks Justin. ARLO folks, please have DOJ let the Coalition's Counsel know we will be attending so he either can attend or give his consent for it to happen without him. Thanks, Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jun 26, 2017, at 9:25 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

> Mandy is fine with us going (and actually may not be able to attend herself).
>
> It is 3-4 tomorrow in 3528.
>
> Sent from my iPhone
>
> On Jun 26, 2017, at 8:47 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

I will talk to Mandy

Sent from my iPhone

On Jun 26, 2017, at 8:38 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Thanks Lorie. **Justin**, Erik and I committed to reaching out to Mandy again to see what understanding she has about the meeting.

Ex. 5 - Attorney Client

Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jun 26, 2017, at 5:11 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

One additional point.

DOJ's recommendation below assumes that the purpose of the

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Schmidt, Lorie
Sent: Monday, June 26, 2017 4:33 PM
To: Kevin Minoli (Minoli.Kevin@epa.gov) <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Meeting with Biogenic CO2 Coalition and DOJ

At reg review today, Kevin said that he would check with

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Jordan, Scott
Sent: Tue 6/27/2017 10:49:49 AM
Subject: Re: Drafts of next CPP status reports

Ex. 5 - Attorney Client

Thanks for your review. I will let DOJ know that EPA has signed off on these status reports.

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Gunasekara, Mandy
Sent: Monday, June 26, 2017 10:06 PM
To: Schmidt, Lorie
Cc: Minoli, Kevin; Jordan, Scott; Zenick, Elliott
Subject: Re: Drafts of next CPP status reports

Ex. 5 - Attorney Client

If yes, then these are both good.

Thank you

Sent from my iPhone

On Jun 20, 2017, at 10:26 AM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Mandy and Kevin,

Attached for your review are DOJ's draft status reports for the CPP and New Source Rule cases. Our deadline for filing these is next Thursday, June 29.

Ex. 5 - Attorney Client

Thanks

Lorie

<ENV_DEFENSE-#809672-v1-111(d)_-_6_29_17_status_report.DOCX>

<ENV_DEFENSE-#809671-v1-111(b)_-_second_status_report_-_6_29_17.DOCX>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Segal, Scott
Sent: Tue 6/27/2017 1:48:41 AM
Subject: Re: New Harvard PM 2.5 Study

Super - talk to you then.

Sent from my iPhone

SCOTT SEGAL
Partner
scott.segal@policyres.com
T: +1.202.828.5845 | F: +1.800.404.3970

BRACEWELL LLP
2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310
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On Jun 26, 2017, at 9:48 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> Ok- let's shoot for after. I'll be interested to see what all NPR asks. Good luck!
>
> Sent from my iPhone
>
> On Jun 26, 2017, at 9:47 PM, Segal, Scott <scott.segal@bracewell.com> wrote:
>
>> I am being interviewed by NPR about it tomorrow at 9:30! Could talk at 9:15 or 9:45, I bet.
>>
>> Sent from my iPad
>>
>> **SCOTT SEGAL**
>> Partner

scott.segal@policyres.com
T: +1.202.828.5845 | F: +1.800.404.3970

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2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310
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On Jun 26, 2017, at 9:40 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Yes- I was just forwarded a copy from our press folks. I'll plan to reach out tomorrow to discuss. Would 9:30 work on your end?

Sent from my iPhone

On Jun 26, 2017, at 9:17 PM, Segal, Scott <scott.segal@bracewell.com> wrote:

Mandy - have you seen this? Happy to discuss at your convenience, ss/

Sent from my iPad

_____
SCOTT SEGAL
Partner
scott.segal@policyres.com<mailto:scott.segal@policyres.com>
T: +1.202.828.5845 | F: +1.800.404.3970

POLICY RESOLUTION GROUP | BRACEWELL LLP
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[cid:image4f9f55.JPG@f3656477.499b9f80]<http://www.bgllp.com>

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Begin forwarded message:

From: "Segal, Scott"
<scott.segal@bracewell.com<mailto:scott.segal@bracewell.com>>
This new Harvard (NEJM) study is embargoed until 5pm on Weds, but could get splashy tomorrow. Purports to show 2.5 benefits below NAAQS level. Will be used to criticize CPP repeal, of course. And Paris. Big sample set.

Talkers might include the 88% drop in PM AQI days since 2001.
Or energy poverty concerns if zero PM tolerance were adopted. Including health tradeoffs based on resource diversion and unemployment.
The study itself doesn't seem to control enough factors, like the fact the poverty correlates with indoor air pollution more so than outdoor, making the ambient conclusions specious.

I predict you folks will need to address this in the next day or so!

<image4f9f55.JPG>

<air pollution.pdf>

<air pollution editorial.pdf>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]
Cc: Jordan, Scott[Jordan.Scott@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Schmidt, Lorie
Sent: Mon 6/26/2017 10:03:49 PM
Subject: RE: Drafts of next CPP status reports

Mandy

Kevin and Erik are OK with this.

Can I get confirmation either that you are not looking at this or that you are OK with this?

DOJ would like our response by COB Tuesday (I think).

Thanks

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Schmidt, Lorie
Sent: Tuesday, June 20, 2017 11:09 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Cc: Jordan, Scott <Jordan.Scott@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Subject: Re: Drafts of next CPP status reports

Looping in Erik Baptist, our new deputy GC. I understand he is the deputy GC who will be handling CPP litigation.

Sent from my iPhone

On Jun 20, 2017, at 10:26 AM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Mandy and Kevin,

Attached for your review are DOJ's draft status reports for the CPP and New Source Rule cases. Our deadline for filing these is next Thursday, June 29.

Ex. 5 - Attorney Client

Thanks

Lorie

<ENV_DEFENSE-#809672-v1-111(d)_-_6_29_17_status_report.DOCX>

<ENV_DEFENSE-#809671-v1-111(b)_-_second_status_report_-_6_29_17.DOCX>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Yamada, Richard (Yujiro)
Sent: Mon 6/26/2017 5:22:16 PM
Subject: Re: Few items

Ok - thanks will see u shortly!

Sent from my iPhone

On Jun 26, 2017, at 1:20 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> I'm going to jump out after region 6, but please stop by my office- Ex. 6 - Personal Privacy
>
> Sent from my iPhone
>
> On Jun 26, 2017, at 1:20 PM, Yamada, Richard (Yujiro) <yamada.richard@cpa.gov> wrote:
>
>> Happy to talk to you after our 1 pm meeting! Thanks Richard
>>
>> Sent from my iPhone
>>
>> On Jun 26, 2017, at 1:18 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:
>>
>>> Hey Richard (and Brittany, CC'ing you for awareness),
>>>
>>> I'm flagging a meeting that was raised to me in the OAR weekly report. The
>>>
>>> Ex. 5 - Attorney Client
>>>
>>> OAR Summary Excerpt:
>>>
>>> **Scientific Advisory Board (SAB) Meetings:** On June 29-30, OAR staff are

participating in two SAB meetings. The first meeting, beginning on Thursday, June 29, will be a technical panel of the SAB providing peer review updates to EPA's Screening Methodologies to Support Risk and Technology Reviews (RTR): A Case Study Analysis. The second meeting is an SAB teleconference to discuss EPA planned actions in the Fall 2016 semi-annual regulatory agenda and their supporting science.

Thanks,
Mandy (564-2314)
Sent from my iPhone

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Graham, Amy[graham.amy@epa.gov]
From: Bowman, Liz
Sent: Fri 6/23/2017 5:02:43 PM
Subject: Coral Davenport Article on SP

Hi Ryan—Do you have some time to discuss the email from Coral Davenport from the New York Times below, about a story she is doing on the Administrator. When you read

Ex. 5 - Deliberative Process

If you agree with this approach, I will craft a statement for your review/approval. I am copying Mandy so that I can gather her thoughts, especially on the Paris component. Thanks – Liz

From: Davenport, Coral [mailto:coral.davenport@nytimes.com]
Sent: Friday, June 23, 2017 11:04 AM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: Re: Pruitt's speech to Harvard club on Paris

Got it. Cld he speak by phone today?

The only quote I'd want to use from the earlier intvu is this one, where I asked him about staff employee complaints of low morale and not being included in major decisions.

"I spent the first couple of weeks running for Mayor here. But ultimately, these are my decisions."

Meanwhile, cld he address these qs?

Career employees in several policy shops say they have not been consulted on policy decisions they work on, such as revising the CPP and WOTUS, reconsidering CAFE, and the decision to reverse the ban on chlorpyrifos. Instead, they say a lot of this decision-making appears left to politically appointed staff and outsourced to lobbyists or state AGs. Is this a fair concern? What's your response?

How much are you consulting with the Republican AGs? How much weight does their counsel play in shaping regulatory rollbacks, particularly legal language and strategy?

The EPA's own staff scientists recommended against reversing the chlorpyrifos ban, saying that the chemical causes developmental damage in children, and EPA's own notice to stay the methane rule also noted that delaying the rule could dispropotionately harm children. Critics say these decisions undermine the EPA's own mission to protect public health. What's your response?

The President has tasked Admin. Pruitt with crafting the legal pathway to extracting the US from the Paris Agreement -- a task that would typically go to the State Department's international law efforts. It's not really within the purview E.P.A.'s portfolio or Pruitt's background or expertise. How is this work getting done? Who is he consulting with?

Could you send a list, even if partial, of environmental groups that the administrator has met with as he does outreach on crafting his regulatory policy agenda?

Thanks so much,

Coral

From: Lewis, Josh
Location: WJC North 4406 / Conf. Code Ex. 6 - Personal Privacy
Importance: Normal
Subject: FW: OAR ONLY - FY18 Meetings with Jason Gray (HAC Maj. Staff)
Start Date/Time: Thur 6/22/2017 4:00:00 PM
End Date/Time: Thur 6/22/2017 5:30:00 PM

-----Original Appointment-----
From: LaRue, Steven
Sent: Wednesday, June 21, 2017 4:44 PM
To: LaRue, Steven; Simon, Karl; Hengst, Benjamin; Keller, Jennifer; Charmley, William; Haley, Mike; Kocchi, Suzanne; Krieger, Jackie; Bullard, Pamela; Hopkins, Daniel; Whitlow, Jeff; Green, Marie; Koerber, Mike; Hyde, Courtney; Walters, Margaret; Wolfe, Michael; Salgado, Omayra; Lewis, Josh; Snyder, Carolyn; Gunning, Paul; Shaw, Betsy; Hall-Jordan, Luke; Ashley, Jackie
Subject: OAR ONLY - FY18 Meetings with Jason Gray (HAC Maj. Staff)
When: Thursday, June 22, 2017 12:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: WJC North 4406 / Conf. Code Ex. 6 - Personal Privacy

Updated agenda as of 730am on 6/22:

Office of Air 12:00-1:30

- Ozone strategy = implementation + resources via DERA/Targeted airshed grants (Karl Simon)
- California waiver (Karl Simon)
- Glider Kits/Truck rule (Bill Charmley /Ben Hengst)
- Resource for pre-construction and other permitting needs (Jeff Whitlow/Jackie Ashley)
- Status of Clean Power Plan review consistent with E.O. (Josh Lewis)
- Implementation of new FY17 Biomass language (Suzie Kocchi)
- EnergySTAR and other voluntary programs (Jacob Moss/Carolyn Snyder)
- SNAP (Luke Hall-Jordan)

Included below is a snapshot of the original appointment with invite list:

-----Original Appointment-----
From: Walsh, Ed
Sent: Tuesday, June 20, 2017 5:38 PM
To: Walsh, Ed; Terris, Carol; Fontaine, Tim; Shapiro, Melissa; Shapiro, Mike; Best-Wong, Benita; Robbins, Chris; Kavlock, Robert; Blackburn, Elizabeth; Showman, John; Noga, Vaughn; Williams, Maria; Hyde, Courtney; LaRue, Steven; Berkley, Bruce; Cunningham-HQ, Barbara; Keigwin, Richard; Cherepy, Andrea; Scheifele, Hans; Scott, Gregory; Layne, Arnold; Katz, Brian; Beck, Nancy; Standifer, Juanita; Wilbur, Jennifer; Woolford, James; Sebring, Meridith; Lloyd, David
Cc: Bloom, David; Greaves, Holly; Lyons, Troy; Cleland-Hamnett, Wendy; Wise, Louise; Morales, Oscar; Morris, Jeff; Mottley, Tanya; Schmit, Ryan; Forsgren, Lee; Fine, Steven; Simon, Harvey; Kelley, Sean; Grogard, Megan; Jones-Parra, Lisa; McKinney, Robert; Grevatt, Peter; Goodin, John; Sawyers, Andrew
Subject: FY 18 Meetings scheduled with HAC
When: Thursday, June 22, 2017 10:00 AM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: WJC North 4406

Agenda FY18 Meetings with House Appropriations
Call in Ex. 6 - Personal Privacy *Conference Code* Ex. 6 - Personal Privacy

I will continue to update this meeting invite as we learn more.

- Steve

202.564.1304

To: Jackson, Ryan[jackson.ryan@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Johnson, Kirk D.
Sent: Thur 6/22/2017 2:06:00 PM
Subject: Invitation to Administrator Pruitt - Oct 23

Dear Ryan and Mandy –

Thank you again for the opportunity for our Generation & Transmission cooperative CEOs to speak with the Administrator on Monday about the Clean Power Plan. We appreciate it very much.

Nationwide, there are about 65 G&Ts across the country that supply the power to most of the 865 retail distribution cooperatives. The CEOs of those G&Ts gather twice every year to compare notes, receive updates on key issues, and help plan for the future. EPA's regulations have always been a top issue for this group of our membership.

They have asked me to see if Administrator Pruitt would be willing and able to come speak at their next meeting, which will be Oct 23 (all day) and 24 (morning only) in Lexington, Kentucky. I am certain they would schedule around the Administrator's availability if he were able to make it. They begin with a reception on Sunday evening, and then get into the meeting first thing Monday morning.

If you would consider adding this request to the countless others in the Administrator's long-term scheduling list, we would greatly appreciate it!

Thanks so much!

-K

Kirk Johnson

Senior Vice President, Government Relations

703-907-5775 (office) | 703-887-0706 (mobile) | kirk.johnson@nreca.coop

Assistant: Erin Steverson | 703-907-5854 | erin.steverson@nreca.coop

NRECA Mission: To Promote, Support, and Protect the Community and Business Interests of Electric Cooperatives.

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Lyons, Troy[lyons.troy@epa.gov]
From: Palich, Christian
Sent: Tue 6/20/2017 8:09:40 PM
Subject: RE: Susan Bodine QFR's
Final Bodine QFRS 06.13.2017 v 1.docx

Here is another version where on the climate questions Patrick had suggested answers Mandy.

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

From: Gunasekara, Mandy
Sent: Tuesday, June 20, 2017 4:08 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Susan Bodine QFR's

Looking now

From: Palich, Christian
Sent: Tuesday, June 20, 2017 2:54 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: FW: Susan Bodine QFR's

Hi Mandy,

Here is the updated QFR's that we have done throughout the day, we have a hard deadline of 5pm for OMB. Appreciate any thoughts you might have on this.

Thank you,

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

From: Palich, Christian
Sent: Tuesday, June 20, 2017 9:06 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Susan Bodine QFR's

Climate/Air questions are: 1, 4, 20, 21, 22, 23, 25, 37, 75, 76, 77, 80

Thanks so much Mandy!

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

From: Palich, Christian
Sent: Tuesday, June 20, 2017 7:46 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: Susan Bodine QFR's

Good Morning Mandy!

Susan Bodine QFR's are attached, she has requested your review of the climate questions before we send to OMB. Sorry for the short notice but anyway you could do a quick review by noon today so we could get to OMB early afternoon would be incredibly appreciated.

Have a great day,

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

To: Dominguez, Alexander[dominguez.alexander@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Stephanie Salmon
Sent: Tue 6/20/2017 3:10:27 PM
Subject: RE: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

Alex

Thank you so much!!! Please let Mandy know how appreciative we are!!

I will plan to meet Mandy at the front door of the hotel – We will be in Congressional A on the lobby level near registration desk.
Could she highlight

1. Culture mind change taking place at EPA
2. Big picture of policy changes (ie WOTUS, Clean Power Plan) effecting manufacturers
3. Where EPA is headed/goals…

Thanks again,

Stephanie

Stephanie Salmon l Vice President Government Affairs **l American Foundry Society – Washington Office**

25 Massachusetts Ave, NW - Suite 800 **l** Washington, D.C. 20001

Ofc: 202-452-7135 - Cell: 571-242-0186 **l** ssalmon@afsinc.org

From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]
Sent: Tuesday, June 20, 2017 10:59 AM
To: Stephanie Salmon <ssalmondc@gmail.com>
Subject: RE: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

Ok let's do it. 7:30 would be best. If you can just send me any relevant information I'll start compiling everything.

From: Stephanie Salmon [mailto:ssalmondc@gmail.com]
Sent: Tuesday, June 20, 2017 10:47 AM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

She cancelled this morning.

Stephanie

From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]
Sent: Tuesday, June 20, 2017 10:45 AM
To: Stephanie Salmon <ssalmondc@gmail.com>
Subject: RE: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

Ok great. Hopefully last question then I will be able to get you an answer – I see on the website Samantha Dravis is listed to speak. Is she still participating or did she have to cancel as well?

From: Stephanie Salmon [mailto:ssalmondc@gmail.com]
Sent: Tuesday, June 20, 2017 10:20 AM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

Alex

Our event is taking place at the Hyatt Regency on Capitol Hill – 400 New Jersey Ave. The session can start at 7:30 or 7:45 or 8:00 – willing to work with Mandy – would any of the times work? Focus on reg reform efforts and issues that the Administrator will be focusing on –

including WOTUS, Clean Power Plan.
We have 100 foundry owners from over 20 states. Big Midwest concentration.

Thanks so much for considering!

Stephanie Salmon l Vice President Government Affairs l **American Foundry Society – Washington Office**

25 Massachusetts Ave, NW - Suite 800 l Washington, D.C. 20001

Ofc: 202-452-7135 - Cell: 571-242-0186 l ssalmon@afsinc.org

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Tuesday, June 20, 2017 9:47 AM
To: Stephanie Salmon <ssalmondc@gmail.com>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Re: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

I believe so- Alex, can you coordinate logistics and see if I can make this work?

Sent from my iPhone

On Jun 20, 2017, at 8:47 AM, Stephanie Salmon <ssalmondc@gmail.com> wrote:

Mandy

Samantha Greenwalt was supposed to speak to our group for breakfast tomorrow at 7:30 / 8:00 am on Wed and is now not available – is there any chance you could fill in?

We would be extremely grateful and appreciative.

Thanks

Stephanie

Stephanie Salmon l Vice President Government Affairs **l American Foundry Society – Washington Office**

25 Massachusetts Ave, NW - Suite 800 **l** Washington, D.C. 20001

Ofc: 202-452-7135 - Cell: 571-242-0186 **l** ssalmon@afsinc.org

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]
Cc: Jordan, Scott[Jordan.Scott@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Schmidt, Lorie
Sent: Tue 6/20/2017 3:08:54 PM
Subject: Re: Drafts of next CPP status reports

Looping in Erik Baptist, our new deputy GC. I understand he is the deputy GC who will be handling CPP litigation.

Sent from my iPhone

On Jun 20, 2017, at 10:26 AM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Mandy and Kevin,

Attached for your review are DOJ's draft status reports for the CPP and New Source Rule cases. Our deadline for filing these is next Thursday, June 29.

Ex. 5 - Attorney Client

Thanks

Lorie

<ENV_DEFENSE-#809672-v1-111(d)_-_6_29_17_status_report.DOCX>

<ENV_DEFENSE-#809671-v1-111(b)_-_second_status_report_-_6_29_17.DOCX>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Dominguez, Alexander
Sent: Tue 6/20/2017 2:49:41 PM
Subject: RE: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

You can make this work if you want to do it. Would just miss the 8:00 Chiefs meeting. Originally was supposed to be Samantha speaking but she canceled this morning. Based on their comments to their regulatory reduction comments submitted to EPA in May you could speak to 5-6 of the seven topics they addressed. Just need to be back for your 9:30. If you want to do it what time would prefer – 7:30, 7:45, or 8:00?

From: Stephanie Salmon [mailto:ssalmondc@gmail.com]
Sent: Tuesday, June 20, 2017 10:20 AM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

Alex

Our event is taking place at the Hyatt Regency on Capitol Hill – 400 New Jersey Ave. The session can start at 7:30 or 7:45 or 8:00 – willing to work with Mandy – would any of the times work? Focus on reg reform efforts and issues that the Administrator will be focusing on – including WOTUS, Clean Power Plan.
We have 100 foundry owners from over 20 states. Big Midwest concentration.

Thanks so much for considering!

Stephanie Salmon l Vice President Government Affairs **l American Foundry Society – Washington Office**

25 Massachusetts Ave, NW - Suite 800 **l** Washington, D.C. 20001

Ofc: 202-452-7135 - Cell: 571-242-0186 **l** ssalmon@afsinc.org

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Tuesday, June 20, 2017 9:47 AM
To: Stephanie Salmon <ssalmondc@gmail.com>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Re: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

I believe so- Alex, can you coordinate logistics and see if I can make this work?

Sent from my iPhone

On Jun 20, 2017, at 8:47 AM, Stephanie Salmon <ssalmondc@gmail.com> wrote:

Mandy

Samantha Greenwalt was supposed to speak to our group for breakfast tomorrow at 7:30 / 8:00 am on Wed and is now not available – is there any chance you could fill in?

We would be extremely grateful and appreciative.

Thanks

Stephanie

Stephanie Salmon l Vice President Government Affairs **l American Foundry Society – Washington Office**

25 Massachusetts Ave, NW - Suite 800 **l** Washington, D.C. 20001

Ofc: 202-452-7135 - Cell: 571-242-0186 **l** ssalmon@afsinc.org

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Ford, Hayley
Sent: Tue 6/20/2017 11:47:53 AM
Subject: FW: June 17-September 9, 2017 | Line x Line
EPA Cabinet 30 Day Report 6.13.17.docx

Any update?? Thanks!

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.haylcy@cpa.gov

Phone: 202-564-2022

Cell: Ex. 6 - Personal Privacy

From: Ford, Hayley
Sent: Monday, June 19, 2017 9:33 AM
To: Beck, Nancy <beck.nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron

<brown.byron@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>
Subject: RE: June 17-September 9, 2017 | Line x Line

See attached for last week's 30 Day report. Please send updates by COB today. Thank you!

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: Ex. 6 - Personal Privacy

From: Hupp, Sydney
Sent: Friday, June 16, 2017 2:37 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Boats, Brian <boats.brian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Caldwell, James <Caldwell.James@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greaves, Holly

<greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Jackson, Jennifer L. <Jackson.Jennifer@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Mickle, John <Mickle.John@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Perrotta, Pasquale <Perrotta.Pasquale@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Smith, Chris-L <Smith.Chris-L@epa.gov>; Su, Wendy <su.wendy@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Willis, Sharnett <Willis.Sharnett@epa.gov>; Woodward, Cheryl <Woodward.Cheryl@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>
Subject: June 17-September 9, 2017 | Line x Line

Hey everyone—there will be a Chief of Staff meeting on Monday morning at 8AM. Have a great weekend!

Sydney Hupp

Executive Scheduler

Office of the Administrator

Ex. 6 - Personal Privacy (C)

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Lyons, Troy[lyons.troy@epa.gov]
From: Palich, Christian
Sent: Tue 6/20/2017 11:46:08 AM
Subject: Susan Bodine QFR's
ALI Bodine QFRS 06.13.2017 v 1.docx

Good Morning Mandy!

Susan Bodine QFR's are attached, she has requested your review of the climate questions before we send to OMB. Sorry for the short notice but anyway you could do a quick review by noon today so we could get to OMB early afternoon would be incredibly appreciated.

Have a great day,

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jordan, Scott
Sent: Fri 6/16/2017 8:38:29 PM
Subject: Automatic reply: CPP - environmental group response to supplemental status report

I will be in a meeting all day on Friday, June 16, and so will not be checking email regularly.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Minoli, Kevin
Sent: Fri 6/16/2017 8:38:29 PM
Subject: Automatic reply: CPP - environmental group response to supplemental status report

Hello- I will be out of the office on Friday June 16th and will not be monitoring my email account regularly.

In my absence, you may contact Elise Packard, Justin Schwab, or David Fotouhi. If your message is time sensitive and you must reach me during that window of time please contact the OGC main office line at 202-564-8040.

Thank you, Kevin

To: Minoli, Kevin[Minoli.Kevin@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Zenick, Elliott[Zenick.Elliott@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]
From: Schmidt, Lorie
Sent: Fri 6/16/2017 6:18:35 PM
Subject: Fwd: CPP - environmental group response to supplemental status report
ENV_DEFENSE-#809532-v1-admin_su_cpp_response_to_supp_status_report.PDF
ATT00001.htm

See Jack's email.

Sent from my iPhone

Begin forwarded message:

From: "Lipshultz, Jon (ENRD)" <Jon.Lipshultz@usdoj.gov>
Date: June 16, 2017 at 1:02:09 PM EDT
To: "Middleton, Brandon (ENRD)" <Brandon.Middleton@usdoj.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Jordan, Scott" <Jordan.Scott@epa.gov>, 'Gautam' <Srinivasan.Gautam@epa.gov>, "Feigin, Eric (OSG)" <Eric.Feigin@usdoj.gov>
Cc: "Hostetler, Eric (ENRD)" <Eric.Hostetler@usdoj.gov>, "Miller, Wendy (ENRD)" <Wendy.Miller@usdoj.gov>, "Grishaw, Letitia (ENRD)" <Letitia.Grishaw@usdoj.gov>
Subject: CPP - environmental group response to supplemental status report

All – FYI. Today, the environmental intervenors in the CPP litigation filed a short response to our supplemental status report, Ex. 5 - Attorney Client
Ex. 5 - Attorney Client
Ex. 5 - Attorney Client A copy is attached. Jack

Jack Lipshultz

Assistant Section Chief

Environmental Defense Section

(202) 514-2191

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Greaves, Holly
Sent: Thur 6/15/2017 2:18:05 AM
Subject: RE: summary of what I need :)

Thank you – this is great, I have everything I need. I really do apologize for the late night after travel!

From: Gunasekara, Mandy
Sent: Wednesday, June 14, 2017 10:09 PM
To: Greaves, Holly <greaves.holly@epa.gov>
Subject: RE: summary of what I need :)

Regional Haze attached.

From: Greaves, Holly
Sent: Wednesday, June 14, 2017 8:58 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: summary of what I need :)

Mandy – I am going through my notes, and realize I've sent you multiple emails. Here is a summary of talking points we could use your help with – again, just a few talkers that he can quickly absorb. I am meeting with him tomorrow at 8:30 and need the hard copies then. THANK YOU!

New Talkers (nothing started, just use the templates form I have shared that is attached here)

- Targeted airshed grants/California waivers/ozone (Calvert)
- Regional Haze (Simpson)
- Clean Power Plan (Jenkins)
- new source review reform – see question from Jenkins in the "new source review" document

- mercury rule – see question from Jenkins in the "report card" document

-

Talkers I started – would like your review (attached here)

- Legal basis for delaying 2015 ozone rule (Jenkins)
- War on coal (Jenkins)
- DERA (Calvert)

-

Talkers edited based on what management provided (management's stuff attached)

- New Source Performance Standards for New Residential Wood Heaters (Pingree)
- Impact on West Virginia of the Cross State Rule (Jenkins)

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Greaves, Holly
Sent: Thur 6/15/2017 12:58:22 AM
Subject: summary of what I need :)
CROSS-STATE AIR POLLUTION RULE (CSAPR) UPDATE 6.14.17.docx
STANDARDS FOR NEW WOOD HEATERS 6.14.17.docx
Regional Haze.docx
Targeted airshed grants.docx
War on Coal.docx
2015 Delay Implementation of the 2015 Ozone Standards.docx
DERA.docx
New Source Review.docx
Report Card.docx

Mandy – I am going through my notes, and realize I've sent you multiple emails. Here is a summary of talking points we could use your help with – again, just a few talkers that he can quickly absorb. I am meeting with him tomorrow at 8:30 and need the hard copies then. THANK YOU!

New Talkers (nothing started, just use the templates form I have shared that is attached here)

- Targeted airshed grants/California waivers/ozone (Calvert)
- Regional Haze (Simpson)
- Clean Power Plan (Jenkins)
- new source review reform – see question from Jenkins in the "new source review" document
- mercury rule – see question from Jenkins in the "report card" document

Talkers I started – would like your review (attached here)

- Legal basis for delaying 2015 ozone rule (Jenkins)
- War on coal (Jenkins)
- DERA (Calvert)

Talkers edited based on what management provided (management's stuff attached)

- New Source Performance Standards for New Residential Wood Heaters (Pingree)
- Impact on West Virginia of the Cross State Rule (Jenkins)

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Greaves, Holly
Sent: Thur 6/15/2017 12:00:07 AM
Subject: Fwd: Pruitt hearing tomorrow
Report Card.docx
ATT00001.htm
New Source Review.docx
ATT00002.htm
Ozone NAAQS Compliance.docx
ATT00003.htm

Mandy, I don't think I have a fact sheet on the new source stds or the MATs. Could you help me with some talkers specific to these questions, attached?

Sent from my iPhone

Begin forwarded message:

From: "Ringel, Aaron" <ringel.aaron@epa.gov>
Date: June 14, 2017 at 4:42:10 PM EDT
To: "Greaves, Holly" <greaves.holly@epa.gov>, "Blizzard, James" <Blizzard.James@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Subject: Fwd: Pruitt hearing tomorrow

Here are the questions that were prepared for Rep. Jenkins, he should be real easy.

Sent from my iPhone

Begin forwarded message:

From: "Barnard, Brian" <Brian.Barnard@mail.house.gov>
Date: June 14, 2017 at 4:38:14 PM EDT
To: "Ringel, Aaron" <ringel.aaron@epa.gov>
Subject: Pruitt hearing tomorrow

Like I said, I doubt he will discuss NAAQS, but I could be wrong. Most likely he'll just do the "report card" status update questions, which will probably take up all 5 minutes of questioning anyway. Should be a softball for Administrator Pruitt. If he could add a couple words of support and acknowledge our past efforts that would go a long way with my boss.

Brian Barnard

Legislative Director

U.S. Representative Evan Jenkins

1609 Longworth House Office Building

Washington, D.C. 20515

(202) 225-3452

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Wehrum, William L.
Sent: Wed 6/14/2017 5:49:19 PM
Subject: RE: Speaking Invitation

Hi Mandy. Thanks for confirming. Let's plan on 2:00. I don't think we need anything else at this point.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Wednesday, June 14, 2017 12:31 PM
To: Wehrum, William L.
Subject: RE: Speaking Invitation

Hey Bill,

I hope all is well! I want to confirm the below request. 2 pm on Thursday works for me – I could even move it up a little early to 1:30 if needed. Do you need anything else?

Thanks,

Mandy

From: Wehrum, William L. [mailto:wwehrum@hunton.com]
Sent: Tuesday, May 23, 2017 10:41 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Speaking Invitation

Mandy – The Utility Air Regulatory Group is an ad-hoc coalition of the Nation's leading fossil energy producers. UARG focuses on Clean Air Act-related regulatory issues. UARG is holding a meeting here at Hunton's offices in DC on the afternoon of June 22 and the morning of June 23. We would like to invite you to speak to the group at some point during the meeting.

Our agenda is flexible, so you can pick the time that works best. If it works for you, we suggest 2:00 on Thursday the 22nd.

We are interested in any Clean Air Act regulatory issue that you are willing and able to address. Topics of interest include the Clean Power Plan, the Mercury and Air Toxics Standard, regional transport, regional haze, and NAAQS/NAAQS implementation. We are not asking you to address pending litigation on any of these issues. We are interested in discussing only possible future regulatory action.

Please feel free to contact me if you have questions or need more information. Thanks for your consideration.

HUNTON & WILLIAMS **Bill Wehrum**

Partner

wwehrum@hunton.com
p 202.955.1637

bio | vCard | blog | LinkedIn

Hunton & Williams LLP
2200 Pennsylvania Avenue, NW
Washington, DC 20037

hunton.com

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Greaves, Holly
Sent: Wed 6/14/2017 5:47:41 PM
Subject: budget help - templates you can use for talkers
2015 Delay Implementation of the 2015 Ozone Standards.docx
War on Coal.docx
New Source Performance Standards.docx
Targeted airshed grants.docx
CASPER and WV.docx
Regional Haze.docx
DERA.docx

Hi Mandy – to simply your life, I went ahead and created a placeholder fact sheet for each of your topics. Please just add the critical talking points to each.

Feel free to delete any that I used if they aren't appropriate.

Thanks,

Holly

- Legal basis for delaying 2015 ozone rule (Jenkins)
- New Source Performance Standards for New Residential Wood Heaters (Pingree)
- Targeted airshed grants (Calvert)
- Impact on West Virginia of the Cross State Rule (Jenkins)
- War on coal (Jenkins)
- Regional Haze (Simpson)
- DERA (Calvert)

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Schmidt, Lorie
Sent: Mon 6/12/2017 9:00:44 PM
Subject: Re: Draft Supplemental Status Report

Thanks for quick turn around!

On Jun 12, 2017, at 4:58 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

This looks good. Please move it forward.
Thanks,
Mandy

Sent from my iPhone

On Jun 12, 2017, at 10:37 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Just heard from DOJ.

The current plan is **Ex. 5 - Attorney Client**

Ex. 5 - Attorney Client

Mandy -/ please let me know if you are ok with this.

Lorie

Sent from my iPhone

On Jun 12, 2017, at 3:55 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Mandy and Kevin,

Ex. 5 - Attorney Client

The draft is attached, but we have excerpted the key new text below: First -- the second sentence in the opening text, which states:

Ex. 5 - Attorney Client

And Paragraph 5, which states:

Ex. 5 - Attorney Client

Please let me know if you have any questions.

Lorie

<ENV_DEFENSE-#808898-v1-CPP__June_12_Supplemental_Status_Report.docx>

To: Dravis, Samantha[dravis.samantha@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Szabo, Aaron L. EOP/OMB[Ex. 6 - Personal Privacy
From: Szabo, Aaron L. EOP/OMB
Sent: Wed 6/7/2017 11:06:24 PM
Subject: CPP Status

Hi Samantha and Mandy,

Ex. 5 - Deliberative Process

Please let me know if you have any questions.

Thanks.

Aaron L. Szabo

Policy Analyst

Office of Information and Regulatory Affairs

Office of Management and Budget

202-395-3621

Ex. 6 - Personal Privacy

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]; Patrick Currier[currier@s2cpacific.com]; Missy Mandell (Gmail)[missymandell@gmail.com]
From: John Di Stasio
Sent: Wed 6/7/2017 1:30:47 PM
Subject: Re: introduction

Thank you. I will plan to attend as well

John

John Di Stasio
President, Large Public Power Council
1050 Thomas Jefferson St, 5th Floor
Washington, DC 20007
202-298-3723 office
916-870-3563 cell
john@lppc.org
www.LPPC.org

On Jun 7, 2017, at 9:27 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Yes, you're more than welcome.

From: John Di Stasio [mailto:John@lppc.org]
Sent: Wednesday, June 7, 2017 8:20 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Patrick Currier <currier@s2cpacific.com>; Jackson, Ryan <jackson.ryan@epa.gov>; Missy Mandell (Gmail) <missymandell@gmail.com>
Subject: Re: introduction

Mandy

Is it possible for me to participate as well? My schedule will now allow it

Thanks

John

John Di Stasio

President, Large Public Power Council

1050 Thomas Jefferson St, 5th Floor

Washington, DC 20007

202-298-3723 office

916-870-3563 cell

john@lppc.org

www.LPPC.org

On Jun 5, 2017, at 10:01 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Great – thank you.

From: John Di Stasio [mailto:John@lppc.org]
Sent: Monday, June 5, 2017 9:47 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Patrick Currier <currier@s2cpacific.com>; Jackson, Ryan <jackson.ryan@epa.gov>; Missy Mandell (Gmail) <missymandell@gmail.com>
Subject: Re: introduction

Mandy

Here you go:

Mark Bonsall, CEO, Salt River Project, Phoenix, LPPC Board Chair

Phil Wilson, CEO, Lower Colorado River Authority, Austin, TX

Steve Wright, CEO, Chelan PUD, Wenatchee, WA

Kevin Nordt, CEO, Grant PUD, Ephrata, WA

And here are their e-mails:

: Bonsall Mark B <Mark.Bonsall@srpnet.com>, "Phil.Wilson@LCRA.ORG" <Phil.Wilson@LCRA.ORG>, "Wright, Steve" <Steve.Wright@chelanpud.org>, Kevin Nordt <Knordt@gcpud.org>

Please let me know if you need anything else.

Thank you

John

John Di Stasio

President, Large Public Power Council

1050 Thomas Jefferson St, 5th Floor

Washington, DC 20007

202-298-3723 office

916-870-3563 cell

john@lppc.org

www.LPPC.org

On Jun 2, 2017, at 4:48 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Hey John,

Thank you for your help. Can you send us their email addresses?

Sent from my iPhone

On Jun 1, 2017, at 2:11 PM, John Di Stasio <John@lppc.org> wrote:

Hi Mandy

Thanks again for the invitation for LPPC to participate. We have two CEOs committed and awaiting answers from two others.

Those interested include:

Mark Bonsall, CEO Salt River Project, Phoenix, AZ (Current LPPC Board Chair)

Phil Wilson, CEO Lower Colorado River Authority, Austin, TX

I will update you when I get the final word from the others.

Thank you

John

John Di Stasio

President, Large Public Power Council

1050 Thomas Jefferson St, 5th Floor

Washington, DC 20007

202-298-3723 office

916-870-3563 cell

john@lppc.org

www.LPPC.org

On May 31, 2017, at 10:42 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Thank you, Patrick.

John,

Nice to e-meet you. I'm setting up a roundtable with top utility CEOs and the Administrator on June 19th from 1 to 3 pm at EPA HQ. The purpose is to discuss next steps on CPP replacement with key stakeholders. Our current list of tentative attendees is listed below. We'd love to add some of your LPPC members. Please let me know who would be a good candidate to participate and is available as soon as possible.

Also, feel free to give me a call to discuss further. Ex. 6 - Personal Privacy

Best,

Mandy

Confirmed:

Nick Akins, AEP

Gerry Anderson, DTE

Warner Baxter, Ameren

Pat Vincent-Collawn, PNM

Chris Crane, Exelon

Leo Denault, Entergy

Tom Farrell, Dominion

Ben Fowke, Xcel

Lynn Good, Duke

Sean Trauschke, OGE

Invited:

Southern Co.

First Energy

NRECA (top 3 to 5)

Basin

TRI-State

APPA (top 3 to 5)

TVA

LGE-KU

LPPC (top 3 to 5)

Vistra - Luminant

From: Patrick Currier [mailto:currier@s2cpacific.com]
Sent: Wednesday, May 31, 2017 10:29 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; John Di Stasio <john@lppc.org>
Subject: introduction

Mandy and John,

Wanted to connect you guys. Mandy, meet John Di Stasio, president of the Large Public Power Council and long-time friend and mentor of mine. John, meet Mandy Gunasekara, current senior policy advisor to Administrator Pruitt and all around superstar.

Best,
Patrick

Patrick T. Currier

Partner | S2C Pacific

8730 Wilshire Blvd., Ste. 350 | Beverly Hills, CA | 90211

+1.310.596.5415 | currier@s2cpacific.com

www.s2cpacific.com

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Horton, Melissa H.[MHIGGINS@southernco.com]
From: Black, Noel W.
Sent: Sat 6/3/2017 12:05:52 AM
Subject: Re: Cell

That would be great. I will be away from the phone till around 1:00 on Monday.

How about Melissa and I call you around 2:00 Monday?

Thanks, Noel
Southern Company
202-578-8377

Please excuse any typos...this is coming from my iPhone.

On Jun 2, 2017, at 7:54 PM, Gunasekara, Mandy
<Gunasekara.Mandy@epa.gov<mailto:Gunasekara.Mandy@epa.gov>> wrote:

Hey Noel,

Sorry it's been hard to connect. The date is set for June 19 starting at 1 pm at EPA HQ.

I hate to call now as I hope you've started your weekend. Does it work to connect early on Monday?

Best,
Mandy

Sent from my iPhone

On Jun 1, 2017, at 11:13 AM, Black, Noel W.
<NWBLACK@southernco.com<mailto:NWBLACK@southernco.com>> wrote:

Mandy,

Running down the 19th. Fanning is not available but our COO Kim Greene is available...She has been very involved in the Kemper County Lignite Facility. Do you have a time and place?

Also when you have a moment give me a call...a couple of other questions.

Thanks, Noel Black
Vice President
Federal Regulatory Affairs
Southern Company
202.261.5024 office
202.578.8377 mobile

-----Original Message-----
From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Wednesday, May 31, 2017 10:37 AM
To: Jackson, Ryan; Black, Noel W.
Subject: RE: Cell

Hey Noel, Following up from our phone call below is the list of confirmed and tentative/invited attendees. I'll update as appropriate. Let me know if you have any follow-up questions.

Confirmed:
Nick Akins, AEP
Gerry Anderson, DTE
Warner Baxter, Ameren
Pat Vincent-Collawn, PNM
Chris Crane, Exelon
Leo Denault, Entergy
Tom Farrell, Dominion
Ben Fowke, Xcel
Lynn Good, Duke
Sean Trauschke, OGE

Invited:
Southern Co.
NRECA (top 3 to 5)
Basin
TRI-State
APPA (top 3 to 5 from Cory)
TVA
LGE-KU
LPPC
Luminant

-----Original Message-----
From: Jackson, Ryan
Sent: Wednesday, May 31, 2017 6:33 AM
To: Black, Noel W. <NWBLACK@southernco.com<mailto:NWBLACK@southernco.com>>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov<mailto:Gunasekara.Mandy@epa.gov>>
Subject: Re: Cell

Noel, we wanted to see if your CEO or appropriate representative could join a round table with the Administrator on June 19 at 1pm in EPA for a couple hour stakeholder meeting with the Administrator on next steps after the CPP.

We are happy to talk further on this. Much appreciated.

Ryan.

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

On May 30, 2017, at 10:21 PM, Black, Noel W. <NWBLACK@southernco.com<mailto:NWBLACK@southernco.com>> wrote:

Mandy,

Just seeing this my apologies.

My cell is Ex. 6 - Personal Privacy

I'll give you a call in the morning.

Looking forward to talking.

Thanks, Noel
Southern Company
202-578-8377

Please excuse any typos...this is coming from my iPhone.

On May 30, 2017, at 8:09 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov<mailto:Gunasekara.Mandy@epa.gov><mailto:Gunasekara.Mandy@epa.gov>> wrote:

Hey Noel,

I hope you are well. What's the best number to reach you? We are setting up the CEO utility round table with the Administrator for June 19th at EPA and we'd love Mr. Fanning to attend.

Give me a call when you have a sec: Ex. 6 - Personal Privacy

Best,
Mandy

Sent from my iPhone

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Thaker, Rahul
Sent: Fri 6/2/2017 2:33:54 PM
Subject: FW: Panel Session Summary - A&WMA's Annual Conference, Pittsburgh, PA, June 5-8, 2017
Sorted EPA List from ACE 2017 Registration List.xlsx

Mandy:

I have attached a sorted list for all EPA attendees at this conference. It looks to me that a total of ten EPA employees are registered to attend this conference.

If you want to use this list (if you do not have any success yet in recruiting one of EPA's Deputy General Counsels or anyone else from EPA for this session), specifically, if anyone from this list would be a good fit for this CPP litigation matter session. Let me know soon if you think that I should try anyone particular from this list. If you believe that you can contact someone suitable and get a quick conformation, that would be much appreciated.

I am short of time and anything you can do to help us that would be great.

Look forward to hearing from you soon.

Thank you.

Rahul

From: Thaker, Rahul
Sent: Friday, May 26, 2017 12:15 PM
To: 'Gunasekara, Mandy' <Gunasekara.Mandy@epa.gov>
Subject: RE: Panel Session Summary - A&WMA's Annual Conference, Pittsburgh, PA, June 5-8, 2017
Importance: High

Thank you Mandy for the information and I understand your situation. Good luck with your trip.

I definitely want EPA presence. It definitely helps in my session. We do want to hear what the new EPA under the Trump administration thinks about this CPP program going forward and its litigation, etc. Please certainly pursue your colleague and recruit one for me.

Please let me know the name and contact information of your colleague as soon as possible, and forward all pertaining email information I have sent to you to him/her.

Thanks again for all your help..

Rahul

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Friday, May 26, 2017 12:05 PM
To: Thaker, Rahul <rahul.thaker@ncdenr.gov>
Subject: Re: Panel Session Summary - A&WMA's Annual Conference, Pittsburgh, PA, June 5-8, 2017

Hi Rahul,

I apologize for the late notice and any associated inconvenience, but I've been pulled into the G7 trip with the Administrator and we will be heading out of the country on June 5, so I will not be able to attend the panel discussion.

Please let me know if you need additional information. Would it be helpful if I can find a colleague to fill in? One of our deputy general counsels may be available.

I do appreciate the opportunity and again, apologize for any inconvenience.

Best,

Mandy

Sent from my iPhone

On May 22, 2017, at 10:15 AM, Thaker, Rahul <rahul.thaker@ncdenr.gov> wrote:

Tauna, Mandy, and Lissa:

I am summarizing below information you need for the panel session on Clean Power Plan (CPP) Litigation Updates and Road Ahead, at the subject conference:

(i) The panel session timing is Thursday, June 8th, 8 am - 9:40 am. There will be a total of four panelists as below:

Mandy Gunasekara

Senior Policy Advisor, Office of the Administrator, EPA, Washington, D.C.

[providing EPA perspectives]

State Environmental Agency Official

[providing state agencies' perspectives, still in process of confirming the panelist, probably from PA environmental agency]

Tauna M. Szymanski

Senior Attorney, Hunton & Williams, Washington, D.C.

[providing electric power generation industry perspectives]

Lissa Lynch

Climate Litigation Fellow, Natural Resources Defense Council, Washington, D.C.

[providing environmental organizations' perspectives]

Each panelist will have a 20 minutes maximum for presentation. You need to talk / present on the assigned task as above, providing perspectives and latest information on various issues in this litigation. You need to also provide viewpoints on road ahead for everyone on this matter. You can also talk anything else if it is pertinent to this topic and if you have time available. You can have slides for presentation, but, it is not mandatory. The order of presentations will be as above. There will be a Q&A at the end of the session. The session abstract is attached with this message for your use.

(ii) The conference web page is https://www.awma.org/ace2017.

If you have not yet registered for the conference, please take care of it via the above page. If you are to come to this session only and do not attend any other sessions at the conference, it is possible to get a conference registration fees waiver.

In addition, the hotel accommodation information, technical program, etc. are also located at the same website.

(iii) I will be in Pittsburgh for the entire conference. If you need to contact me in Pittsburgh, my cellular number is Ex. 6 - Personal Privacy

(iv) If you are to have slides for your presentation, please remember to email me by June 2nd. Also, please send me your bio-sketch (1-2 paragraphs would be sufficient) by the same date, which would help in introducing you at the conference.

In summary, I thank each of you for your participation. I am delighted to have you on the panel. But, importantly, the conference attendees would benefit from your expert viewpoints.

Let me know if you have any other questions or if I can help.

Rahul

Rahul P. Thaker, P.E., QEP

Environmental Engineer

Division of Air Quality, Permitting Section

North Carolina Department of Environmental Quality

919 707 8740 office/fax

rahul.thaker@ncdenr.gov

217 West Jones Street

1641 Mail Service Center

Raleigh, NC 27699-1641

<image002.png>

Email correspondence to and from this address is subject to the

North Carolina Public Records Law and may be disclosed to third parties.

<FINAL EXTENDED ABSTRACT.docx>

To: Bennett, Tate[Bennett.Tate@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Fri 6/2/2017 12:56:00 PM
Subject: Re: US mayors, governors vow to stick with Paris accord

Yes

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

On Jun 2, 2017, at 6:57 AM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:

Ex. 5 - Deliberative Process

https://www.google.com/amp/s/amp.cnn.com/cnn/2017/06/01/us/trump-climate-deal-cities-states-defying/index.html

Only R is Charlie Baker

-- Charlie Baker, Massachusetts

-- Jerry Brown, California

-- Kate Brown, Oregon

-- Andrew Cuomo, New York

-- John Hickenlooper, Colorado

-- David Y. Ige, Hawaii

-- Jay Inslee, Washington

-- Dannel P. Malloy, Connecticut

-- Terry McAuliffe, Virginia

-- Gina M. Raimondo, Rhode Island

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Patrick Currier[currier@s2cpacific.com]; Jackson, Ryan[jackson.ryan@epa.gov]
From: John Di Stasio
Sent: Wed 5/31/2017 2:55:59 PM
Subject: Re: introduction

Mandy

It's nice to meet you too. I will get back to you shortly. Thank you for the opportunity.

John

John Di Stasio
President, Large Public Power Council
1050 Thomas Jefferson St, 5th Floor
Washington, DC 20007
202-298-3723 office
916-870-3563 cell
john@lppc.org
www.LPPC.org

On May 31, 2017, at 7:42 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Thank you, Patrick.

John,

Nice to e-meet you. I'm setting up a roundtable with top utility CEOs and the Administrator on June 19th from 1 to 3 pm at EPA HQ. The purpose is to discuss next steps on CPP replacement with key stakeholders. Our current list of tentative attendees is listed below. We'd love to add some of your LPPC members. Please let me know who would be a good candidate to participate and is available as soon as possible.

Also, feel free to give me a call to discuss further. Ex. 6 - Personal Privacy

Best,

Mandy

Confirmed:

Nick Akins, AEP

Gerry Anderson, DTE

Warner Baxter, Ameren

Pat Vincent-Collawn, PNM

Chris Crane, Exelon

Leo Denault, Entergy

Tom Farrell, Dominion

Ben Fowke, Xcel

Lynn Good, Duke

Sean Trauschke, OGE

Invited:

Southern Co.

First Energy

NRECA (top 3 to 5)

Basin

TRI-State

APPA (top 3 to 5)

TVA

LGE-KU

LPPC (top 3 to 5)

Vistra - Luminant

From: Patrick Currier [mailto:currier@s2cpacific.com]
Sent: Wednesday, May 31, 2017 10:29 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; John Di Stasio <john@lppc.org>
Subject: introduction

Mandy and John,

Wanted to connect you guys. Mandy, meet John Di Stasio, president of the Large Public Power Council and long-time friend and mentor of mine. John, meet Mandy Gunasekara, current senior policy advisor to Administrator Pruitt and all around superstar.

Best,
Patrick

Patrick T. Currier

Partner | S2C Pacific

8730 Wilshire Blvd., Ste. 350 | Beverly Hills, CA | 90211

+1.310.596.5415 | currier@s2cpacific.com

www.s2cpacific.com

To: Cassady, John M.[John.Cassady@nreca.coop]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Wed 5/31/2017 12:16:15 AM
Subject: RE: Re:

John, I may have accidentally erased your response. It is set now on Jun 19 at 1pm at EPA. We have over a dozen utility CEO's confirmed with another dozen likely. It will be a two hour meeting with the Administrator of a round table to talk about the next steps after CPP withdrawal. Much appreciated for your help on this. We would love to have NRECA local operators present as well as Matheson. Thanks.

From: Cassady, John M. [mailto:John.Cassady@nreca.coop]
Sent: Monday, May 22, 2017 3:25 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re:

Not June?

Are we on target with the number of attendees?

On: 22 May 2017 06:52, "Jackson, Ryan" <jackson.ryan@epa.gov> wrote:

John we are targeting July 19 now. Afternoon.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Schmidt, Lorie
Sent: Fri 5/26/2017 5:02:05 PM
Subject: CPP guidance needed today

Mandy

We need to file status reports on Tuesday in cases challenging the GHG rules for new power plants and the CPP.

I now understand that David and Justin are both recused, so I need guidance from you about how we should characterize the status of the CPP rule.

Ex. 5 - Attorney Client

CPP:

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

New Source Rule:

Ex. 5 - Attorney Client

Thanks

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

Sent from my iPhone

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: U.S. EPA Media Relations
Sent: Mon 5/22/2017 10:39:48 PM
Subject: EPA Administrator Meets With Congressional Coal Caucus

CONTACT:
press@epa.gov

FOR IMMEDIATE RELEASE
May 22, 2017

EPA Administrator Meets With Congressional Coal Caucus

Carries message from the President that the war on coal is over and highlights pro-environment, pro-energy independence agenda at EPA

WASHINGTON – EPA Administrator Scott Pruitt met with the Congressional Coal Caucus on Monday and carried with him the message from President Donald Trump that the war on coal is over. Additionally, Administrator Pruitt highlighted many of the changes EPA has made from the last administration including:

- On March 28, President Donald Trump visited EPA headquarters where he signed the Executive Order on Energy Independence, which calls for a review of the Clean Power Plan. The event signaled a commitment to the rule of law, cooperative federalism, and sound scientific rulemaking at EPA.

- Following the signing of the Executive Order, Administrator Pruitt sent a letter informing governors that EPA does not expect the states to dedicate resources to complying with the Clean Power Plan rule, a rule that has been stayed by the Supreme Court of the United States.

- On April 13, Administrator Pruitt toured the Harvey Mine, in Sycamore, Pennsylvania, the largest underground mine in the United States. Administrator Pruitt went underground to tour the mine and met with minors to learn firsthand about their work.

- On the same day he visited the Harvey Mine, EPA announced the agency's decision to review the final rule that amends the effluent limitations guidelines and standards for the steam electric power generating category under the Clean Water Act (ELG Rule), which has been estimated to cost $480 million per year and has a reported average cost of $1.2 billion per year during the first five years of compliance.

- Shortly thereafter, on April 20, Administrator Pruitt visited the Thomas Hill Energy Center in Missouri, a rural electric cooperative that supplies energy to a vast swath of Missouri, Arkansas and Oklahoma.

These actions and others by the Trump Administration and the new EPA provide coal-producing states more certainty and assurance that the United States will rely on a diversified portfolio of energy production to achieve greater energy independence and grow America's economy.

"The war on coal is over," **proclaimed EPA Administrator Scott Pruitt** after meeting with the Congressional Coal Caucus. "Those that generate energy across America are doing so with a commitment to being pro-environment and pro-growth. The days of having to choose between those two things are over. This administration says we can and we will achieve both a healthy environment and a growing economy."

These changes in policy and the new attitude at the EPA have been enthusiastically welcomed by Members of Congress and the Congressional Coal Caucus.

"After eight years of devastating attacks on the coal industry from the Obama administration, it is a great relief to have a leader like Scott Pruitt in charge of the EPA. He understands that we can protect our air, land, and water without picking winners and losers in our economy," **said Congressman David McKinley (WV-01).** "In our meeting with Administrator Pruitt, he articulated his vision to pursue environmentally friendly policies that won't attack the tens of thousands of coal miners who work so hard to power this great country. We are grateful for his willingness to work with our caucus and we look forward to strengthening our partnership on a wide range of issues that impact the coal industry." |

"I look forward to working with Administrator Pruitt, and others at the EPA, to make the EPA more efficient and to recognize that we can work towards cleaner air, cleaner water, and cleaner coal use without killing as many jobs in coal and other industries," **said Congressman Morgan Griffith (VA-09)** following Monday's meeting.

"Administrator Pruitt's eagerness to engage with lawmakers has been a breath of fresh air here on Capitol Hill," **commented Congressman John Shimkus (IL-15**). "I appreciate his willingness to meet with the Coal Caucus today, and to listen to our stories about the communities in our districts that have been devastated by the previous administration's anti-coal agenda. Working together both legislatively and through administrative actions, I'm optimistic that this Congress and this Administration can and will protect our air and water without sacrificing jobs and affordable energy."

EPA Administrator Pruitt (L) speaks with Members of the Congressional Coal Caucus in the U.S. Capitol on Monday.

R095

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

To: Jackson, Ryan[jackson.ryan@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Morrison, Jay A.[jay.morrison@nreca.coop]; Cassady, John M.[John.Cassady@nreca.coop]; Cromwell, Ted T.[ted.cromwell@nreca.coop]
From: Johnson, Kirk D.
Sent: Mon 5/22/2017 4:14:32 PM
Subject: Responses to Administrator Pruitt's questions
Final Pruitt Letter.pdf
NRECA Comments Identifying Burden Reduction Opportunities under E.O. 137....pdf

Dear Ryan and Mandy –

When we met with Administrator Pruitt earlier this month, he asked about specifics on CPP lost investment, Regional Haze specifics, and NRS ideas. The attached letter from our CEO to the administrator covers those issues and we would be happy to discuss further should you or others at EPA want to dig deeper.

Thanks so much for reaching out to us!

-K

Kirk Johnson

Senior Vice President, Government Relations

703-907-5775 (office) | 703-887-0706 (mobile) | kirk.johnson@nreca.coop

Assistant: Erin Steverson | 703-907-5854 | erin.steverson@nreca.coop

NRECA America's Electric Cooperatives

VOTE.COOP

NRECA Mission: To Promote, Support, and Protect the Community and Business Interests of Electric Cooperatives.

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Ringel, Aaron[ringel.aaron@epa.gov]
From: Palich, Christian
Sent: Thur 5/18/2017 1:58:12 PM
Subject: RE: Coal Caucus

Thanks Mandy!

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

From: Gunasekara, Mandy
Sent: Thursday, May 18, 2017 9:55 AM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Ringel, Aaron <ringel.aaron@epa.gov>
Subject: Re: Coal Caucus

I have time at 5. Can you send me a calendar invite to meet then. Please come to my office, 3315 A.

Thank you

Sent from my iPhone

On May 18, 2017, at 9:36 AM, Palich, Christian <palich.christian@epa.gov> wrote:

Hi Mandy!

I know you are busy, but would you have 15min today to go over a couple of these points with Aaron and I for the Administrators coal caucus meeting Monday evening? Ryan wants us to pass these actions we've taken on their top issues out and we just want to make sure everything is consistent.

Thank You,

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

From: Ringel, Aaron
Sent: Wednesday, May 17, 2017 5:33 PM
To: Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>
Subject: FW: Coal Caucus

Troy/Christian,

Attached is the Coal Caucus memo with 12 recommendations they sent to the President in December of last year. Many of these fall outside of our purview, i.e. stream protection rule and moratorium on federal coal leasing program in DOI, Paris Agreement at State etc. I've pasted the 7 relevant recommendations under EPA jurisdiction below.

I've highlighted number 10, since it may not be within our purview to limit judicial challenges to the construction of new coal fired plants or retrofits of an existing facility, and number 11 because it only deals with EPA tangentially regarding a national energy plan.

My thought is that we address the ones that we actually have taken concrete action on, so CPP, WOTUS and CAA. The others might be a bit more of a stretch. Make sense?

Recommendation 2: Overturn the Clean Power Plan.

Background: The Clean Power Plan will lead to the shuttering of about 90 GW of coal-fired production, more than twice the amount expected by 2040 without the new regulations. As such, many have warned, including a few current and former Commissioners at the Federal Energy Regulatory Commission (FERC), that the Clean Power Plan will be difficult, if not impossible, to implement without further degrading grid reliability.

Recommendation 3: Overturn the Cross-State Air Pollution Rule (CSPAR).

Background: On September 7, 2016, the U.S. Environmental Protection Agency (EPA) finalized an update to the CSPAR regulations. The rule is an attempt to reduce nitrogen oxides (NOx) so certain states can comply with the ozone rule. This new rule could result in a number of coal-fired power plants to shut down.

Recommendation 5: Overturn the Waters of the United States (WOTUS) Rule.

Background: The WOTUS rule will have disastrous effects on not only the mining industry, but on small business and agriculture across the country. The rule is drafted so vaguely that it encompasses nearly all water sources with any hydrologic connection to downstream navigable waters, including ditches, pipes, farmland ponds, and groundwater.

Recommendation 9: Amend and clarify the Clean Air Act (CAA).

Background: The Obama Administration has drastically expanded the purview of the Clean Air Act (CAA) in an effort to advance his anti-fossil fuel agenda. Since summer 2015, U.S. Supreme Court has twice ruled against the EPA when determining if the agency has went too far in its interpretation of the CAA. It is time to amend the CAA by clarifying certain provisions.

Recommendation 10: Place time limitations for judicial challenges to the construction of new coal-fired power plants or the retrofitting of an existing facility.

Background: One of the biggest challenges to retrofitting an existing coal-fired power plant or building a new one is third party lawsuits. Often these lawsuits are filed by anti-fossil fuel groups intended to advance their "keep it in the ground" agenda. These lengthy and cumbersome lawsuits discourage the building of a new plant or lead to the shuttering of an existing facility when it could potentially be upgraded to meet certain standards.

Recommendation 11: Support a national energy policy.

Background: Currently our nation's energy policy changes with each new administration. Prior to President Obama, previous Presidents offered realistic and scientifically achievable energy and environmental regulations and policies. But, President Obama waged a relentless and ideologically-driven war on coal. Establishing a national energy policy would transcend partisan politics and ensure a future for all energy sources.

Recommendation 12: Authorize the grandfathering in of new regulations for power plants.

Background: Coal Caucus member, Rep. Morgan Griffith, is working on legislation that would prevent power plants that make significant investments in upgrades or expansions from having to comply with new Clean Air Act regulations for number years. This would provide the regulatory certainty needed for additions that will improve plant efficiency and grid reliability.

From: Deeley, Blake [mailto:Blake.Deeley@mail.house.gov]
Sent: Wednesday, May 17, 2017 3:53 PM
To: Ringel, Aaron <ringel.aaron@epa.gov>
Subject: Coal Caucus

See attached

Blake Deeley| *Policy Advisor*

Congressman David B. McKinley (WV-1)
2239 Rayburn House Office Building

Washington, DC 20515

(202) 225-4172

<Letter to Trump Transition Team 12-13-16.pdf>

<Coal Caucus Recommendations to Trump Team 11-28-16.docx>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Dallas Baker
Sent: Tue 5/16/2017 7:50:51 PM
Subject: RE: A&WMA Annual Conference & Coffee

It's a plan! Talk in PA.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Tuesday, May 16, 2017 2:35 PM
To: Dallas Baker <dallas.baker@neel-schaffer.com>
Subject: RE: A&WMA Annual Conference & Coffee

I have yet to get my flight details, but let's plan to touch base immediately after the panel discussion. We can figure out where to meet once we get there.

I'm also just noticing that you are at a Neel Schaffer address – congrats on your new position as well!

Look forward to catching up soon,

Mandy

From: Dallas Baker [mailto:dallas.baker@neel-schaffer.com]
Sent: Tuesday, May 16, 2017 12:27 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: A&WMA Annual Conference & Coffee

Mandy: great to hear from you. Let's connect somehow in Pittsburgh. So much is going on. You're likely getting these handed to you, but just in case you're not….

I was a proud member of AAPCA, and am sure you saw this recent letter my friend Clint wrote, FYI: http://www.csg.org/aapca_site/documents/AAPCA-EPARegulatoryReform-DocketIDEPA-

HQ-OA-2017-0190-5-15-17.pdf

And a similar one written by ECOS: https://www.ecos.org/wp-content/uploads/2017/05/ECOS-Comments-on-EO-13777.pdf

.....

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202

Ridgeland, MS 39157

Office: 601.499.0653

Cell: 601.953.7146

Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com

Website: www.neel-schaffer.com

From: Mandy Gunasekara [mailto:mandy.gunasekara@gmail.com]
Sent: Tuesday, May 16, 2017 11:21 AM
To: Dallas Baker <dallas.baker@neel-schaffer.com>
Cc: Bonnie Morgan <bonnie.morgan@neel-schaffer.com>
Subject: Re: A&WMA Annual Conference & Coffee

Dallas- great to hear from you! Let's definitely plan for coffee. Can you shoot me an email to my official account: Gunasekara.mandy@epa.gov

Bonnie is great!

Sent from my iPhone

On May 12, 2017, at 10:36 AM, Dallas Baker <dallas.baker@neel-schaffer.com> wrote:

Mandy,

You may recall Alice Perry and I visiting you while accepting the Senators' invitation to testify in the summer of 2015. Quite the experience, and my how times have changed since then!

Congratulations on your new appointment with EPA. Our mutual friend Bonnie Morgan discretely gave me your gmail address; hope you don't mind. I wanted to reach out and see if you and I could have a few minutes together in Pittsburgh Thursday, June 8. I understand you are invited to speak at the morning session titled, "Clean Power Plan (CPP) Litigation Updates and Road Ahead." That should be a standing room only! If you're making the trip, perhaps afterwards we could grab coffee? As a former Air Director from Mississippi, and a Past President of A&WMA, my perspectives of implementing environmental policy at the state level, and how states vary in advocacy, would perhaps shed light into the amazing transformation the Administration is orchestrating. I commend the work, but have some cautions towards unintended consequences. I'm very impressed with Administrator Pruitt's first weeks in D.C. and would like to help in any way. (So does Bonnie, by the way!)

Coffee in PA?

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202

Ridgeland, MS 39157

Office: 601.499.0653

Cell: 601.953.7146

Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com

Website: www.neel-schaffer.com

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Jordan, Scott
Sent: Tue 5/16/2017 12:15:56 PM
Subject: CPP/New Source Rule Litigation Update - EPA and other parties file briefs on issue of Abeyance vs Remand
EPA FILED SUPPLEMENTAL BRIEF.pdf
EPA Supplemental Brief.pdf
PETITIONERS' SUPPLEMENTAL BRIEFS.pdf
ENVIRONMENTAL INTERVENORS.pdf
State Supplemental Brief.pdf
INTERVENOR POWER COMPANIES.pdf
TRADE ASSOCIATION INTERVENORS.pdf
Petitioners.pdf
State Respondent Intervenors.pdf
Environmental Supplemental Brief.pdf

Yesterday (May 15), EPA and the other parties filed supplemental briefs with the DC Circuit in the Clean Power Plan and New Source Rule cases, addressing the court's question of whether the cases should be held in abeyance or remanded to EPA.

EPA and the State and Industry Petitioners have requested an abeyance in both cases.

Ex. 5 - Attorney Client

EPA's and the other parties' briefs are attached, and summarized below.

Clean Power Plan case

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

New Source Rule case

Ex. 5 - Attorney Client

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; 'GUNASEKARA.'[MANDY@EPA.gov]
From: Leslie Ritts
Sent: Mon 5/15/2017 9:04:47 PM
Subject: Copy of NEDA/CAP Comments on Evaluation of Clean Air Act Regulations
NEDACAP Recommendations for Evaluation of Existing Clean Air Act Regulations.pdf

Dear Mandy,

I am sending you a copy of NEDA/CAP's CAA Recommendations for Regulatory Relief pursuant to EPA's April 13, 2017 Notice, as we have been told by various OAQPS officials that you are their life-line to Headquarters. NEDA/CAP is a coalition of U.S. manufacturers (listed on the comments) that focuses entirely on implementation of the Clean Air Act.

I have docketed these already. If you have any questions, don't hesitate to send an email or give me a call. It seems that virtually everyone I know has met you, but me. Hopefully that can be remedied in the near future.

With best regards and thanks,

Leslie

Leslie Sue Ritts

Ritts Law Group, PLLC for the

National Environmental Development Assn's
Clean Air Project

620 Fort Williams Parkway

Alexandria, VA 22304

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To: Hamill, Bobby[Bobby.Hamill@mail.house.gov]
From: Hamill, Bobby
Sent: Mon 5/15/2017 6:45:32 PM
Subject: FW: Congressman Griffith's Weekly E-Newsletter 5.15.17

FYI – thought you might be interested in Rep. Griffith's weekly column.

All the best,

Bobby Hamill

Legislative Director

Office of Rep. H. Morgan Griffith (VA-09)

(202) 225-3861 (O)

From: Congressman H. Morgan Griffith
Sent: Monday, May 15, 2017 2:29 PM
To: Hamill, Bobby
Subject: Congressman Griffith's Weekly E-Newsletter 5.15.17

May 15, 2017

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Congressı Griffith's Weekly E Newslette 5.15.17

America First Energy Policy

An international deal the Obama Administration and environmental activists joined

into has requirements that will cause the United States to voluntarily lose hundreds of thousands of jobs and significantly increase energy costs.

It's called the Paris Agreement. Not approved by Congress, no legal ramifications.

Why did the United States enter the agreement?

Good question.

It surely doesn't help put American energy first, make energy more affordable for Americans, or stabilize our power grid.

The agreement is aimed at lowering emissions and limiting climate change to 2°C above

pre-industrial levels, basically an arbitrary number.

Notably, developed countries like the U.S. are expected to dramatically reduce actual emissions, while developing nations, such as India and China, are asked to lower emissions corresponding with their economic output. In other words, America is asked to kill jobs and risk our power grid stability, even if China and India are contributing more emissions than we are!

A recent report states, "Remaining in the pact commits the U.S. to reducing our carbon emissions by

nearly 30% below 2005 levels — even though most of the world's major polluters will continue to emit massive amounts of greenhouse gases into the atmosphere. That is why some supporters of the Paris Agreement concede that the gains would be "symbolic."

It continues citing "estimates that, over the next decade, the agreement will cost Americans an extra $30,000 per family of four in higher energy prices and some 400,000 lost jobs."

The study compares the Paris Agreement to "a $2.5 trillion global tax on American

production. So the costs to America would be anything but "symbolic."

It would be crushing.

President Trump promised to focus on American energy independence to bring stability to the grid and boost our economy.

At the start of his Administration, he appointed Scott Pruitt to lead the Environmental Protection Agency (EPA) and Rick Perry to lead the Department of Energy (DOE), both of whom are determined to lead their respective organizations in a new direction. Both appointees are committed to taking bold actions that

reflect the will of the American people, and will result in long-term, positive impacts for our country.

Administrator Pruitt is focused on these goals and to achieve them, he has recommended President Trump pull out of the Paris Agreement.

Those who argue to stay are mostly environmental activists who want to defend Obama Administration policies. They defend the $1 billion Obama contributed and the $3 billion Obama pledged to the Paris Agreement. Our commitments to foreign nations should be negotiated for America's best interest.

not by activists with their own agenda.

Furthermore, staying in the Paris Agreement leaves environmentalists with a defense for the Clean Power Plan or similar detrimental policies. It opens the door to lawsuits from environmental activists to force the EPA to institute policies to meet our commitment. Exiting the agreement makes it clear there is no room for liberal interpretation leading to new regulations. An exit allows the EPA to continue the mission of undoing harmful, costly, and job-killing regulations and continue to work for an

America first energy policy.

In efforts to strengthen our power grid at home, in April, Secretary Perry commissioned a 60 day study to address the "concern about how certain policies are affecting, and potentially putting at risk, energy security and reliability."

In his memo commissioning the study, he notes the importance of sustaining baseload power. The textbook definition of baseload power is the "minimum level of demand on an electrical grid over a span of time. Baseload power sources are power stations which can economically generate the electric power

needed to satisfy this minimum demand."

We are lucky, in the U.S., to have many sources that can contribute to meeting power needs; like coal, natural gas, wind, hydro, and nuclear. The study will determine how federal policies, regulations, and subsidies have skewed the balance of baseload power. It will examine how this has jeopardized the reliability of the electric grid, affected jobs and economic growth, and possibly threatened our national security. Specifically, DOE will determine if "regulatory burdens, as well as mandates and

tax and subsidy policies, are responsible for forcing the premature retirement of baseload power plants."

Perry concludes the memo by reiterating that "the Trump Administration will be guided by the principles of reliability, resiliency, affordability, and fuel assurance-principles that underpin a thriving economy."

I will continue to support these policies of Administrator Pruitt and Secretary Perry "to ensure that we provide American families and businesses an electric power system that is technologically advanced, resilient, reliable, and

second to none."

If you have questions, concerns, or comments, feel free to contact my office. You can call my Abingdon office, 276-525-1405, or Christiansburg office, 540-381-5671. To reach my office via email, please visit my website at www.morgangriffith.house.gov.

###

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Beckham, Michael[Michael.Beckham@lakelandgov.net]; Bahtic, Nedin[Nedin.Bahtic@lakelandgov.net]; Dunham, Sarah[Dunham.Sarah@epa.gov]; shapiro@epa.gov[shapiro@epa.gov]; brenn.barry@epa.gov[brenn.barry@epa.gov]; Best-Wong, Benita[Best-Wong.Benita@epa.gov]
From: McGinnis, Sean
Sent: Mon 5/15/2017 2:47:04 PM
Subject: Evaluation of Existing Regulations - Lakeland Electric Comment Letter
Lakeland Electric Regulatory Reform Comments to EPA.pdf

Hi Mandy,

Lakeland Electric submitted our official comments today to the docket on the regulations.gov website regarding the evaluation of existing regulations. I didn't want our comments to get lost in the shuffle with the already 55,000+ comments, so I am attaching our comment letter. We really appreciate your consideration of our comments. If you have any questions or would like to discuss in further detail, please don't hesitate to call.

Warm regards,

Sean

Sean P. McGinnis, CHMM

Environmental Coordinator

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501 E. Lemon St. ◆ Lakeland, FL 33801

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sean.mcginnis@lakelandelectric.com

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To: Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Chris Van Atten
Sent: Fri 5/12/2017 6:28:39 PM
Subject: Clean Energy Group
CEG_RegReform_05_12_2017.pdf

Please find attached the comments of the Clean Energy Group on EPA's regulatory reform docket. Our comments have also been submitted to the docket. We appreciate the opportunity to comment.

Sincerely,

Christopher Van Atten

Christopher Van Atten,
Senior Vice President
M.J. Bradley & Associates LLC
47 Junction Square Drive
Concord, MA 01742
Phone: (978) 369-5533
Cell: (978) 844-3085
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To: gvsdoug@gmail.com[gvsdoug@gmail.com]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]
Cc: Bianco, Karen[Bianco.Karen@epa.gov]; Hupp, Sydney[hupp.sydney@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; 'Steve Sexton'[stevesexton@vocgen.com]; 'Mark Vermeer'[markvermeer@vocgen.com]; kevin_holmquist@keybank.com[kevin_holmquist@keybank.com]; tom@dadeyinsurance.com[tom@dadeyinsurance.com]
From: Mark Ranalli, Allegiance Energy Systems, LLC.
Sent: Wed 5/10/2017 7:13:40 PM
Subject: Follow-up from EPSI-VOCGEN Discussion Meeting of Wednesday 4/26 at 12:30pm EST

To:

Mandy Gunasekara – Senior Policy Advisor; Gunasekara.Mandy@epa.gov

Sarah Dunham – Acting Assistant Administrator of EPA's Office of Air and Radiation; Dunham.Sarah@epa.gov

Reid Harvey – Director, Clean Air Markets Division, Harvey.Reid@epa.gov

Scott Pruitt, Administrator

US Environmental Protection Agency

Re:

Wednesday, April 26, 2017 External Meeting

Request for Discussion Between Scott Pruitt and Steve Sexton

Proposal for Operating Permit Program for Vocgen

Dear US EPA Representatives:

Pursuant to our meeting on April 26, 2017 and on behalf of Steve Sexton and Environment and Power Systems International, LLC, we trust that you have found the Vocgen solution for industry including its business and market strategies to be closely aligned with the Administration's environmental and economic growth policies.

Kindly be advised that our April 27, 2017 External Meeting follow-up email was copied to Mr. Tom Dadey to assist him in the delivery of the Vocgen Plan to other chief policy advisors to the President.

It is again our sincere hope that Vocgen can help the Administration to advance an environmentally friendly and energy efficient economy.

Mr. Sexton is available to speak with Mr. Pruitt at the Administrator's convenience.

Lastly, unless you have any objection or reservation, Steve would like to contact as well the EPA Energy Star staff Walt Tunnessen and Elisabeth Dutrow, that EPSI can then begin dialogs with industry organizations.

Thank you again.

Best Regards

Doug and Mark

Doug R. Jarvis - President Green Visions Solar, and Co-Founder EPSI-VOCGEN New York, 315-415-5813

Mark A. Ranalli – Principal Allegiance Energy Systems, and Co-Founder EPSI-VOCGEN New York, 315-373-5055

cc:

Steven E. Sexton, President, CEO and Managing Director, Environment and Power Systems International; stevesexton@vocgen.com

Mark E. Vermeer, PE, MBA, Director of Operations Environment and Power Systems International; markvermeer@vocgen.com

Kevin A. Holmquist, Onondaga County Legislature Member, Manager Key Bank – Manlius; kevin_holmquist@keybank.com

Tom V. Dadey, Onondaga County GOP Chairman, Member Executive Committee of the President Trump Transition Team, President Dadey Insurance Agency; tom@dadeyinsurance.com

Karen Bianco, Office of General Counsel at US EPA; Bianco.Karen@epa.gov

Sydney Hupp, Office of the Administrator- Scheduling; hupp.sydney@epa.gov

Emily Atkinson, Management Analyst/Office Manager, Immediate Office of the Acting Assistant Administrator, Office of Air and Radiation, USEPA; Atkinson.Emily@epa.gov

Main Web Site: vocgen.com

Market/Sales Site: Environmental XPRT (*product information and publications)*

Partners: http://www.vocgen.com/partners.html

CV/Resume: https://www.visualcv.com/steven-sexton

Vocgen National Plan Download

LinkedIn Groups Managed by SE Sexton

The VOCGEN Energy Group - https://www.linkedin.com/groups/2740286

Oro Valley Energy Venture Group - https://www.linkedin.com/groups/6563219

LinkedIn Pulse - Posts By SE Sexton

1. **Advancing Environmental Health**
2. **Advancing Industrial Energy Efficiency Programs**
3. **Advancing Clean Power Plan Objectives**
4. **Manufacturing Sector Business Growth Intelligence**
5. **Advancing a Clean Power Economy**

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Gary Hart
Sent: Mon 5/8/2017 3:59:15 PM
Subject: Friend of Mike McKenna / Southern Co Retiree - Manager of Emissions Treading
Hart EPW 070909 CAIR.pdf

Amanda:

I also spoke at the East Coast Fuel Conf years ago on the CAIR Rule – Allison Wood, Seth and many others that were there in Orlando are friends

I am speaking to approx. 400 coop/muni execs in Indy on June 1

When Mike C was on EPW I testified before Carper on the CAIR Rule

Would love to chat or swap emails with you regarding issues on Administrators Pruitt's agenda that I could discuss with these smaller utility guys to assist in their LT planning efforts

Also sent a note to Mr. Wager on this same issue (below)

Thanks

Gary R Hart – Owner

Clean Air Markets LLC

2733 Paden Trail

Vestavia, AL 35226-2851

205 516 4294

gary@cleanairmarkets.com

From: Gary Hart [mailto:gary@cleanairmarkets.com]
Sent: Friday, May 5, 2017 9:41 AM
To: wagner.kenneth@epa.gov
Subject: Alabama Coal Coop Letter / Speaking to 400+ coop and muni executives - June 1

Mr. Wagner:

The Alabama Coal Coop reached out to me to assist them in crafting their recent letter to you on the impacts of the CCR and other EPA Regulations. I have known them for a long time and count Randy and Chris as friends.

I worked for the Southern Company for almost 30 years and retired as their Mgr. of Emissions Trading – where at one time I managed the largest bank of emission allowance instruments in the country. I now do environmental compliance consulting.

•□□□□□□□□ **The reason for my short note is that the ACES Energy Group (coops and munis) is again holding their annual managers forum on June 1 in Indianapolis for utility coop and muni executives. Last year I addressed 438 executives on the EPA CPP.**

•□□□□□□□□ **ACES has again asked me to address this group on June 1, 2017 in Indianapolis.**

•□□□□□□□□ **I would be grateful for the opportunity to chat with you briefly before my presentation to these coop and muni executives so I might pass on some of the thoughts of Administrator Pruitt's Office on the key goals and initiatives of the EPA as it impacts the utility sector in the future.**

•□□□□□□□□

I have testified before the Senate EPW Clean Air have worked with the EPA staff for many years, especially making the implementation of the US Acid Rain program a success.

One of my long- time friends in DC Mike McKenna who was on the Trump Transition team for Energy Issues – you can check me out with Mike at 703 801 6587 He has done lots of work for AEP, Southern Co, Williams Energy, GDF Suez in Houston, PSEG and many others and has appeared on Fox News and has tons of contacts on various senate and house committees. Mike is a really great resource for the utility/energy community in DC. You can also touch base with EPA staff such as Reid Harvey at EPA CAMD who has known me for some time.

Again, if you have the time, I would welcome the opportunity to chat at your convenience and be happy to pass on any key points or messages to this group of utility executives that you think they should hear.

Thanks,

Gary R Hart – Owner / President

Clean Air Markets LLC

2733 Paden Trail

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205 516 4294

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To: Mandy.Gunasekara@gmail.com[Mandy.Gunasekara@gmail.com]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Eugene M. Trisko
Sent: Sun 5/7/2017 1:40:52 PM
Subject: Labor comments on EPA Regs per EO 13777
UJEP Final EPA Comments on Regulations 050817.pdf

Hi Mandy - Hope you are doing well at EPA and enjoying your new role.

Attached fyi are comments (dated 5/8/17) filed today by the labor union members of UJEP on several EPA regs. Regulations.gov track number is 1k1-8w90-11x9.

They are cc'd to Administrator Pruitt, so please consider this as that service.

Some basic points elaborated in the comments:

1. Reconsideration of the 70 ppb ozone standard should be based on a review of the 2008 and 2014-15 science, with a view toward setting a revised standard within a range of 70 to 75 ppb;

2. Transport rules should be re-evaluated to change the focus from EGUs, and to revise the arbitrary 1% significance threshold - perhaps no need for another TR with a revised standard;

3. The MATS review should be limited to a technical review of EPA's 112 emission limits, with a new cost-benefit approach that eliminates cobenefits at air quality below the NAAQS;

4. Numerous issues are identified with the NSR and regional haze rules, both requiring EPA action;

5. CPP revisions should be based on building block 1, with more state discretion and consideration of subcategorization by coal type; and

6. A revised 111b rule should be based on supercritical or ultra supercritical coal units (not Boundary Dam).

My labor colleagues would be pleased to have an opportunity to meet with you and others at EPA to discuss in more detail.

Best,

Gene Trisko

--
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Eugene M. Trisko
Attorney at Law
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Berkeley Springs, WV 25411
(304) 258-1977
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emtrisko@earthlink.net

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Fotouhi, David
Sent: Thur 5/4/2017 12:44:20 AM
Subject: RE:

Ryan:

Ex. 5 - Attorney Client

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

-----Original Message-----
From: Schwab, Justin
Sent: Wednesday, May 3, 2017 8:17 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>
Subject: Re:

Ex. 5 - Attorney Client

Sent from my iPhone

> On May 3, 2017, at 7:48 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> We really need to move forward on the CPP draft.
>
> Ryan Jackson

> Chief of Staff
> U.S. EPA
> (202) 564-6999

LAKELAND ELECTRIC
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May 15, 2017

United States Environmental Protection Agency
Office of Policy Regulatory Reform
Mail Code 1803A
1200 Pennsylvania Ave NW
Washington, DC 20460

Subject: Evaluation of Existing Regulations
Docket ID: EPA-HQ-OA-2017-0190

Dear Sir or Madam:

On behalf of Lakeland Electric , thank you for the opportunity to provide comments regarding the evaluation of existing United States Environmental Protection Agency (EPA) regulations.

Lakeland Electric is a municipally owned utility located in central Florida. L akeland Electric, established in 1904 , is the third largest public power utility in Florida and serves over 125,000 customers. Power is generated at two main power plants, the 870-megawatt McIntosh Power Plant and the 1 43-megawatt Larsen Power Plant. L akeland Electric has a diverse fuel mix including coal, natural gas, fuel oil, diesel, and solar. It is this diversity that enables Lakeland Electric to consistently maintain some of the lowest prices for electricity in Florida. Lakeland Electric is committed to providing safe, reliable, competitive, and environmentally responsible energy solutions to enrich our customer's quality of l ife. Through the evaluation of existing regulations, L akeland Electric is looking to partner with the EPA to continue striving to meet these goals.

We appreciate the effort the EPA has already made on some of the following comments. However, more work is necessary to give businesses a regulatory certain environment , while maintaining environmental protection. Lakeland Electric respectfully submits the following comments in response:

1. Clean Power Plan
(40 CFR 60 Subpart UUUU)

Perhaps the most important regulation that the electric utility industry is facing is the Clean Power Plan. Lakeland Electric applauds the steps that the new EPA Administration has taken to revisit the rule as it contains numerous legal and technical flaws. It is Lakeland Electric's assertion that the benefits of this rule are overstated, costs are understated, assumptions about renewable energy contribution are overly optimistic, while CO2 emission standards and compliance timetables are unrealistic.

501 E. Lemon St. ✦ Lakeland, Florida 33801
Phone: 863.834.6300 ✦ Fax: 863.834.6344

FOIA: EPA-HQ-FOIA 008391 Production Set #8

2. Steam Electric Power Generating Effluent Guidelines (ELG) (40 CFR Part 423)

Indirect dischargers should not be subject to this rule. The EPA has been moving toward distribution of its power to the states. Accordingly, local authorities, through the Publicly Owned Treatment Works (POTW), should have the final authority to regulate all dischargers to their system. Local control authorities are in the best position to understand their local environment and the conditions that effect it. By having the POTW regulate all discharges through their pre-treatment permit, it will ensure that the final discharge to surface waters will meet all permitted water quality conditions. Indirect dischargers have been meeting pre-treatment standards for decades, which in turn allows the POTW's surface water discharges to meet their permitted standards. Therefore, additional regulation is not necessary. Because the standards required by the ELG are so small, the environmental benefit, if any, in the receiving water would be difficult, if not impossible, to measure.

If indirect dischargers must be included in this rule, then the following suggestions should be considered. The EPA should exempt those small generating units under 400 MW from the ELG rule, specifically as it pertains to bottom ash handling and flue gas desulfurization wastewater. The amount of pollutants discharged by these small generating units is very small and is nearly impossible to measure at the plant discharge point. Consequently, the receiving surface water quality will not be measurably improved.

Finally, compliance at individual plant processes, as dictated in the rule, substantially upstream of the final discharge point does not provide any environmental benefit. It only complicates compliance. Regulation of these wastewaters should come at the surface water discharge point and not be influenced by normal operations that may dilute the wastewater.

3. Disposal of Coal Combustion Residuals from Electric Utilities (CCR) (40 CFR Parts 257 and 261)

Groundwater monitoring compliance points at the edge of coal combustion residual stacks as required in the CCR rule do not enhance environmental protection. Rather, this part of the rule is duplicating State issued conditions of certification which require groundwater compliance at the property boundary. The property boundary standard is still protective of those neighboring properties. In fact, many of the property boundary wells are less than 100 feet from the CCR wells.

FOIA: EPA-HQ-FOIA 008391 Production Set #8

Another duplication in the CCR rule is related to the assessment of sinkhole probability. During the design phase of a State permitted coal combustion residual landfill, the carrying capacity of the proposed location is considered. If a professional engineer has signed and sealed a report certifying the design of the landfill and where it would be located, this should also satisfy the CCR provision without additional geotechnical surveys. If a facility is subject to State landfill permitting, then that facility should be exempt from many of the duplicative CCR requirements.

4. NESHAP for Reciprocating Internal Combustion Engines ("RICE Rule") (40 CFR part 63 Subpart ZZZZ)

Compliance with this rule is very costly and provides little environmental benefit. For example, the rule requires that the non-emergency engines be tested every 8,760 hours of operation or every three (3) years, whichever comes first. This essentially means that engines used primarily for peaking power must be tested every three (3) years despite very low operating hours. A more reasonable testing requirement would be one based exclusively on hours of operation. This would not force the units to run and bur n a significant amount of fuel solely for the purpose of compliance testing.

Also, the requirement to continuously monitor catalyst inlet temperature and pressure drop is excessive and provides little benefit. These two parameters should be recorded du ring periodic compliance testing to verify that they are within the allowable ranges during normal operation

5. Cross State Air Pollution Rule (CSAPR) (40 CFR Part 97)

Florida was regulated under the previous CSAPR and CAIR rules. Modeling performed for the 2008 ozone ambient air standard under the latest transport rule iteration known as "CSAPR Update" barely exempted our state, and primarily because marine chemistry effects (ozone pollution impact in downwind states is lower when air is transported over saltwater marine environments) being factored. Modeling for 2015 and future years should similarly include marine chemistry effects.

6. Startup, Shutdown, and Malfunction (SSM) (40 CFR Part 52)

With the SSM SIP (State Implementation Plan) Call, the EPA requires that emission limits be complied with at all times, including the periods of startup, shutdown, and malfunction. Previously, best practices were considered acceptable in most states, including Florida, but the SSM SIP Call found this approach inadequate, even

FOIA: EPA-HQ-FOIA 008391 Production Set #8

though Florida has had a long history of exceptional ambient air quality. States are supposed to have a significant autonomy in complying with EPA rules through SIPs, but this rule denies Florida's right under the Clean Air Act to design its own rules in addressing any air quality issues.

7. Mercury and Air Toxics (MATS Rule)
(40 CFR 63 Subpart UUUUU)

After the MATS rule was remanded by the U.S. Supreme Court to the EPA for failure to reasonably consider the costs, EPA issued a supplemental finding concluding that the rule remained appropriate and necessary. However, this finding relied largely on claimed "co -benefits" of PM2.5 emission reductions, not on the benefit of HAP emission reductions that this rule was designed to address. This is a perfect example of the inappropriate use of co -benefits to justify rulemaking. When determining whether a regulation is appropriate and necessary, EPA should only consider the benefits of emission reductions for the pollutant(s) that this regulation is targeting.

8. New Source Review (NSR) for Stationary Sources of Air Pollution

NSR was designed to address construction of new or modification of existing sources, but alleged NSR violations have been brought up for simple efficiency improvements at power plants. Although an exemption from NSR requirements exists for Routine Maintenance, Repair and Replacement (RMRR) projects, there should be more certainty as to what specific actions would trigger NSR. Electric utilities should be encouraged to undertake energy efficiency projects to be more economically competitive.

9. Clean Water Rule: Definition of "Waters of the United States"
(40 CFR 230.3)

We support the Administration's recent determination that the definition of navigable waters be interpreted in a manner consistent with the opinion of Justice Antonin Scalia in Rapanos v. United States, 547 U.S. 715 (2006). By using this interpretation of the rule, regulatory certainty is ensured. In previous years, very broad interpretations of the rule included waters with a significant nexus to navigable waters such as a manmade ditch or an ephemeral wet area. These are certainly not navigable waters as the rule is intended to regulate. By having a defined set of navigable waters, facilities can plan for potential expansion of operations without the worry of an agency holding up a permit based on an insignificant, unconnected ephemeral wet area.

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10. Criteria and Standards for Cooling Water Intake Structures (316(b) rule) (40 CFR Parts 122 and 125)

The main impetus for the 316(b) rule is the protection of fish and aquatic organisms. While the 316(b) rule has several compliance options, one that is not considered is an intake on a bod y of water without any threatened or endangered species that could be entrained or impinged. If studies have shown that no threatened or endangered species exist in the waterbody being used for cooling, then there is no reason a facility should be subject to this rule. The small amount of impingement or entrainment of healthy populations of fish and aquatic organisms will not have a detrimental effect on their populations.

Additionally, no credit is given to facilities that discharge water into waterbodies. The turbulent discharge of cooling water increases the dissolved oxygen in the receiving waterbody. Low dissolved oxygen in stagnant bodies of water can contribute to fish kills, especially during warm weather when the oxygen carrying capacity of water is reduced.

11. Chemical Data Reporting (CDR) under the Toxic Substances Control Act (40 CFR Part 711)

All manufacturers of chemicals in the United Statesare required to report under the chemical data reporting rule. This includes facilities that only produce byproducts from the combustion of coal. The EPA is supposed to use the data to help assess the potential human health and environmental effects of thes e chemicals. This is an important program for chemicals that may impact human health. However, this program also requires the tracking of coal combustion byproducts . Nearly all combustion byproducts have significant value as beneficial ingredients in pr oducts such as concrete and soil amendments. The exercise in reporting the manufacturing of byproducts that are used as ingredients in other beneficial processes is burdensome and does not produce any meaningful environmental benefit.

12. General Comments

In many instances, objectives of a rule have been exceeding the cost effective available technology. The rules being enacted have many times been ahead of where achievable technology currently is. The best rules provide flexibility on how to meet a standard rather than being prescriptive. Free market competition to meet reasonable compliance standards will result in greater economic independence , while still maintaining environmental protections.

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The EPA should only use readily available and reproducible scientific data to support the analysis of proposed rules. Additionally, models used to support the change of rules should be scientifically sound and reproducible by any person using that model.

The City of Lakeland, on behalf of its municipal utility Lakeland Electric, looks forward to the opportunity to work with the EPA to protect our environment, while providing a regulatory certain situation in which businesses can thrive. I can be reached at 863-834-6559 or Michael.Beckham@lakelandelectric.com. We appreciate the opportunity to comment on this very important EPA initiative.

Kindest Regards,

Michael Beckham
Assistant General Manager

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[EPA "Report Card"]

Mr. Administrator, thank you for joining us today.

West Virginians love our clean water. We love our clean air. We love our mountains and our forests.

However, your predecessor requested hundreds of millions of taxpayer dollars to spend on regulations, rules, and lawyers.

Regulations that have been extremely detrimental to West Virginia.

Rules that would make electricity more expensive.

Lawyers that would expand the EPA's reach and impose unrealistic standards on our communities.

Over the past six years, we lost over 10,000 good-paying coal jobs in West Virginia.

I'd like to applaud your leadership and your commitment to refocus the agency on its core missions.

If you wouldn't mind, could you briefly give us a status update on some of these regulations?

1) The Clean Power Plan, which picked "winners and losers" in the electric market and mandated unachievable emissions standards for American power plants.

   On this committee, we added riders to prohibit the EPA from implementing the Clean Power Plan.

   Even the Supreme Court correctly halted the plan's implementation in February 2016.

   What is the status of the administration's efforts to roll back this misguided, costly plan?

2) The Waters of the US rule, which would overhaul the permitting process, creating uncertainty and harming miners and farmers.

   For the past two years, we've included a provision in our bill to halt the use of funds on WOTUS.

   Thirteen states sued to block the rule, and the rule has been stayed by a federal judge.

3) The 2015 ozone standards, which will have major impacts on domestic manufacturing, agricultural, drilling, and mining operations?

   Here on the Committee, we adopted an amendment I

offered that barred the EPA from moving the goalposts and implementing new standards until 85 percent of counties in nonattainment comply with the 2008 standards.

4) The Mercury rule ("MATS"), which provides very little direct health benefits while requiring power plants to adopt costly upgrades?

   The Supreme Court obviously took issue with the rule, and required the EPA to look at the jobs impact and cost associated with the rules it issues.

NRECA
America's Electric Cooperatives

May 19, 2017

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Pruitt,

The National Rural Electric Cooperative Association appreciated the opportunity to have representatives of our Generating and Transmission Leadership group meet with you recently to discuss several high priority environmental issues.

As a follow up to our conversation, you had asked us to provide additional feedback on several topics, including: 1) economic impacts of the Clean Power Plan on the cooperatives' coal-based units, 2) our suggestions on how to improve the New Source Review program, and 3) recommendations for addressing the impacts of Regional Haze requirements on cooperatives. These topics are addressed in this letter. I've also attached a copy of NRECA's comments to EPA regarding your request for input under President Trump's Executive Order 13777.[1]

CLEAN POWER PLAN VALUE OF LOST CAPITAL RESULTING FROM PROJECTED ELECTRIC COOPERATIVE COAL PLANT RETIREMENTS

According to the EPA's IPM modeling of the Clean Power Plan Base Case and its Rate Case (embodied in EPA's modeling for the proposed Cross-State Air Pollution Rule Update), 4,862 MW of capacity at coal plants owned by electric cooperatives is projected to be retired by 2018. For reliability purposes, cooperatives would need to replace this capacity by either building or purchasing new capacity. The market value of this replacement capacity can be estimated based on projected regional electric generating capacity values. These values represent capacity market prices for regions with organized markets or, for other regions, the incremental revenue above energy margins that would be necessary for a new asset owner to enter the market. By multiplying projected annual $/kW regional capacity values, developed by IHS CERA, with the lost co-op capacity in each region, NRECA estimates the total

[1] NRECA Comments submitted May 15, 2017 to EPA Docket: EPA-HQ-QA-2017-0190: Identification of Regulations for Repeal, Modification or Replacement Under Executive Order 13777

market cost for replacing the 4,862 MW of lost coal capacity to be approximately $3.4 billion over the 2018-2030 period.

REGIONAL HAZE IMPACTS FOR COOPERATIVES ARE SIGNIFICANT

In recent years, EPA has become much more prescriptive by forcing states to impose high cost, low benefit pollution controls to drive the Regional Haze program towards a goal that is still 48 years away. Regardless of the states' extensive analysis and recommendations for their implementation plans, EPA has instead largely rejected the state recommended approaches and imposed the Federal preference for selective catalytic reduction technology to be installed at electric generating units to control NOx emissions. This technology can cost hundreds of millions of dollars per unit while the projected visibility improvements offered by the technology are often imperceptible as compared to what the states' lower cost recommendations would achieve.

In planning for Phase II of Regional Haze, EPA "doubled down" in 2017 by finalizing its regulation and accompanying guidance in ways that further erode state authority over their own programs. We urge EPA to redraft both the rule and guidance as the law intended, place the decision making back in the hands of the states, and allow them the time and discretion to manage their programs cost effectively.

In numerous examples of national rulemaking as well as individual states where EPA has imposed Federal Implementation Plans in lieu of the preferred state approach, NRECA supports the current Administration's decision to hold the litigations in abeyance and reevaluate its approach. Cooperatives face significant compliance burdens unless EPA makes needed changes. These include:

- EPA's Regional Haze rule for Texas and Oklahoma (State of Texas v. EPA, No. 16-60118). Not only does that rule exceed EPA's authority in those two states, but EPA's policy decisions in this rule established precedent that was used when EPA updated the nationwide Regional Haze rules and guidance that were issued in 2017. At a minimum, EPA needs to: 1) revise and decouple the Reasonable Progress Goals from the Long Term Strategy, 2) modify the guidance for interstate consultation requirements for state visibility plans, and 3) revise the rule to again allow states to rely on regional planning organization modeling and documentation.

- EPA's pursuit of a 90-Day Administrative Stay of Certain provisions of the Arkansas Regional Haze FIP. This is of particular concern to Arkansas Electric Cooperative and some distribution cooperatives in Arkansas and Texas where EPA justifies its imposition of high-priced control technologies on a $/ton basis even though it provides minimal visibility improvement – in this case not even perceptible to the human eye.

- In the litigation over EPA's January 2017 final Visibility Rule Revisions and Guidance, multiple parties are developing consolidated briefs. We do support EPA's recommendation to extend the Phase II planning by 3 years and we believe EPA should equally extend the compliance deadline. We have significant concern in this rulemaking with the same issues raised in the State of Texas case (above) as well as: 1) adding to state planning burdens by inserting consultation

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requirements with Federal Land Manager both before and after public hearings and 2) imposing on states in Phase II to require the most stringent controls for electric generating units that weren't required to adopt them in Phase I.

- In Utah vs. EPA, the litigation focuses on the agency again rejecting the state's plan and promulgating a plan requiring SCR technology even though analysis conclusively demonstrates that EPA's approach would achieve, at most, a 0.1 deciview improvement compared to the state's approach. Yet EPA's approach would increase costs by several hundred million dollars. If implemented, EPA's approach will have dire consequences for the local cooperative whose portion of capital cost ($45-50 million) would exceed their current financing capacity prior to 2025. The FIP deadline for full implementation is mid-year 2021. In Utah, EPA followed the rationale adopted in their policy decisions now under review in the Texas case (discussed above) In fact, EPA under the outgoing administration apparently wholesale discontinued traditional economic evaluations based on a $/ton removal or $/per deciview. Instead, EPA asserted it only determined "affordability" based on whether they believed the cost could be absorbed and the utilities remain in business. For the cooperative, the potential to be mandated to make this size of investment could threaten their viability as it would create severe stress to cash flows currently earmarked to sustain debt service payments on their restructured debt. Time is of the essence for EPA to reevaluate their approach and let the more cost-effective state SIP be adopted.

- In Wyoming, we support the Administrations' recent decision to back the mediated agreement reached for the Laramie River Station. We are asking that the consolidated litigation be put in abeyance until EPA finalizes all of these actions.

EPA SHOULD REMOVE NEW SOURCE REVIEW PROGRAM ELEMENTS THAT IMPEDE ELECTRIC GENERATING UNIT (EGU) EFFICIENCY IMPROVEMENTS

EPA may propose standards of performance for EGUs that require evaluation of unit-based heat-rate efficiency measures under revisions to the Clean Power Plan regulations. NRECA has previously filed comments and made suggestions relating to an inadvertent triggering of NSR requirements when undertaking many efficiency measures or improvements. There are numerous examples of EGUs identifying projects that could improve unit efficiency, yet these projects would almost certainly trigger NSR concerns as the program is currently implemented. This means that these projects cannot be pursued.

In 2005, EPA proposed to remedy some of the NSR program difficulties, but that effort was never finished and published as a final rule. NRECA believes that rulemaking held promise and we recommend EPA revisit their 2005 NSR reform proposal as a starting point for making much needed changes to this program.

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At a minimum, EPA needs to change the NSR rules to provide substantial certainty that efficiency improvement projects do not trigger a NSR review and do not create a reasonable apprehension of NSR review.

CONCLUSION

Thank you again for the opportunity to meet with you and to provide the electric cooperatives' perspectives on these important issues. Please contact me with any questions or clarification.

Sincerely,

Jim Matheson
CEO, NRECA

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NRECA
America's Electric Cooperatives

May 15, 2017

Via Email

Samantha Dravis
Senior Counsel and Associate Administrator for Policy
Regulatory Reform Officer for Executive Order 13777
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Re: Identification of Regulations for Repeal, Modification or Replacement Under Executive Order 13777 - Docket No. EPA-HQ-OA-2017-0190

Dear Ms. Dravis:

The National Rural Electric Cooperative Association (NRECA) submits these comments in response to EPA's request for input on regulations that may be appropriate for repeal, replacement, or modification under Executive Order 13777, "Enforcing the Regulatory Reform Agenda." EO 13777 furthers the policy goal of alleviating unnecessary regulatory burdens on the American people by directing the heads of federal agencies to establish Regulatory Reform Task Forces (RRTF) which, among other duties, is directed to seek input from entities significantly affected by Federal regulations including, among others, trade associations. NRECA appreciates the opportunity to recommend burden reduction candidates and incorporates by reference comments submitted by the Utility Air Regulatory Group (UARG), the Utility Solid Waste Activities Group (USWAG), and the Utility Water Act Group (UWAG).

NRECA is the national service organization for more than 900 not-for-profit rural electric cooperatives chartered to provide affordable, reliable electricity to approximately 42 million people in 80 percent of U.S. counties. Rural electric cooperatives are small businesses, most of which serve member-owners, especially those in rural areas, facing significant economic challenges.

Electric cooperatives and our member-owners value, and deserve, a healthy environment and cooperatives are proud of their environmental compliance. Nonetheless, the economic challenges faced by so many cooperatives and their member-owners underscore the importance of ensuring that these regulations are cost-effective.

NRECA appreciates the efforts already announced to reconsider several regulations of utmost concern to our members, specifically:

- The Clean Power Plan (80 Fed. Reg. 64661, October 23, 2015) to be reviewed per Executive Order 13783 (82 Fed. Reg. 16093, March 31, 2017);
- The Clean Water Rule, also known as the "Waters of the US" rule (80 Fed. Reg. 37054, June 29, 2015) to be reviewed per Executive Order 13778 (82 Fed. Reg. 12497); and
- The Steam Electric Effluent Limitation Guidelines rule (80 Fed. Reg. 67838, November 3, 2015) per EPA's notification and postponement of compliance dates (82 Fed. Reg. 19005, April 25, 2017).

4301 Wilson Blvd. | Arlington, VA 22203-1860 | tel: 703.907.5500 | nreca.coop

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Each of these rules has significant substantive and procedural deficiencies as discussed below and in the comments submitted by UARG regarding the Clean Power Plan and UWAG concerning the WOTUS and ELG rules. We look forward to working with EPA on these issues.

We also urge EPA to act quickly on USWAG's petition for reconsideration of the Coal Combustion Residuals (CCR) rule (80 Fed. Reg. 21302, April 17, 2015) submitted May 12, 2017. As discussed below and in the comments submitted by USWAG, the Water Infrastructure Improvement for America (WIIN) Act (P.L. 114-322, December 16, 2016), provides EPA with the authority, previously lacking, to implement and inforce the federal CCR criteria through state or federal permits and to incorporate risk-based approaches to achieving the protectiveness embodied in the CCR rule.

Air Issues:

1. EPA should remove New Source Review program elements that impede electric generating unit (EGU) efficiency improvements.

   EPA may propose that EGUs to make heat-rate improvements or efficiency-based modifications to existing EGUs under revisions to the Clean Power Plan regulations. NRECA has previously filed comments and made suggestions relating to an inadvertent triggering of NSR requirements when undertaking many efficiency improvements. There are numerous examples of EGUs identifying numerous projects that could improve unit efficiency by greater than 5%, yet these projects would almost certainly trigger NSR concerns as the program is currently implemented. This means that these projects likely won't be pursued.
   In 2005, EPA proposed to remedy some of the NSR program difficulties, but that effort was never finished and published as a final rule. EPA should revisit their 2005 NSR reform proposal as a starting point for making much needed changes to this program.

   EPA needs to change the NSR rule to provide substantial certainty that efficiency improvement projects don't trigger a NSR review or do not create a reasonable apprehension of NSR review.

2. EPA should re-evaluate their compliance testing requirements under the MATS program.

   MATS compliance testing is very expensive and in many circumstances testing results indicate that when HAP emissions exist, they are below the test method detection level. Compliance testing should not be punitive, nor should sources be discouraged from seeking testing waivers in situations where EPA has otherwise provided for them through guidance.

   A single battery of stack tests for MATS acid gas and particulate matter (PM) compliance can cost over $25,000 per calendar quarter, or $100,000 per year. "Low-emitter status" determination requires three years of quarterly stack testing, or a total of 36 individual data points at a cost of about $300,000. Once successfully completed, the low-emitter status still requires a stack test frequency every third year. The on-going testing and monitoring is excessive, burdensome and in some cases duplicative and provide little benefit. The following is suggested:
   - Some EGUs are inherently low-emitters given installed control technology and/or fuel choice.

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- EGUs that use Powder River Basin (PRB) coal have relevant information that fuel chloride concentration is frequently below 10 ppm. Ash from PRB fuel is highly alkaline and adsorbs the chlorine gases that would otherwise be emitted. HCl concentration at the boiler outlet, before any pollution control technology, is already at or below test method detection levels.
- Pre-status determination of nine tests, including the initial performance test, can provide statistically relevant indications of performance levels at relatively high confidence intervals.

Once the low-emitter status is confirmed a stack test of once in 3 years, as currently provided in MATS, should continue to be adequate.

Current EPA Clean Air Act National Stack Testing Guidance provides for certain testing waivers, including a relaxation of testing frequency, when multiple units at the same location have similar design and when they have exhibited similar traits relating to verified emissions. It seems reasonable that such guidance can be extended to coal-based EGUs when the same principles are applied.

The source should provide sufficient emissions data that, though the margin of compliance is not substantial, allow for a determination that the variability of emissions is low enough for confidence that the unit is in compliance. The national guidance provides three relevant factors for evaluating whether a waiver of testing may be appropriate.

The guidance further identifies that if a facility does not have the ability to emit a pollutant in excess of the prescribed emissions limit that a waiver may be granted on a case-by-case basis.
Finally, EPA should provide that an EGU undergoing maintenance (not an NSR major modification), upon submitting a reasonable request for an extension of time to perform a required periodic compliance test, be granted an extension, not to exceed 720 hours, to conduct such testing if the scheduled restart of such EGU does not provide for a 720-hour shakedown period prior to the end of the calendar quarter. This experience does not arise from a force majeure; not unlike and initial startup compliance with the requirements may be a reflection following major maintenance on systems that will likely require several days of shakedown.

EPA can maintain the stringency of MATS while also significantly reducing the compliance burden of the rule, by making these recommended changes.

3. <u>EPA should revise their SIP-call to the states relating to the treatment of startup, shutdown, and malfunction (SSM) in utility operations</u>.

Coal-fired EGUs are very large facilities with many complex and interconnected systems and components that generate electricity while maintaining compliance with both their environmental and power system regulations. Generally, pollution control technology performance cannot be optimized with changing operating levels or at levels of operation significantly below that designed for maximum pollution control technology performance.

Many coal-fired EGUs now operate at lower loads and at varying loads to accommodate the growth of renewable energy sources. Sudden changes in operating levels that are forced upon a particular facility by electric grid operation can and do significantly affect pollution control performance. Challenges to emission control performance are sometimes unavoidable and are always highest

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during periods classified as startup, shutdown, and malfunction.

A well-reasoned SSM program should consider whether an SSM event actually causes or contributes to any significant impacts on ambient air quality or ambient standards non-attainment. The growing nationwide attainment or maintenance of attainment with ever-tightening NAAQS suggests that existing SSM allowances in permits should be retained as they are not triggering adverse air quality issues. In fact any emission upsets have been calculated into 'normal' operation allowable emission rates in permits and AP-42 factors. With its current policy EPA has over-reached in the conclusions that some state programs are ineffectively managing their sources in situations involving SSM.

Accordingly EPA should withdraw its SSM SIP call and instead encourage state agencies to work with their sources to critically evaluate the implications of specific SSM events that can or may have previously occurred at a particular facility before establishing whether any new event of the same type is worthy of any action at all.

4. NAAQS attainment should be based on air quality monitoring and not modeling estimates.

EPA made a significant change when they decided to use computer modeling rather than actual air quality monitoring data to make 'non-attainment' determinations for the Sulfur Dioxide NAAQS. Any number of variables used in the model can have a significant impact on these determinations. This can then be compounded by EPA establishing non-attainment based on exaggerated modeled information and then applying "potential to emit" models to drive permitted emission limits well below what is needed to achieve attainment. This approach causes significant cost to economic development and can even prohibit business development in these areas. This can be easily remedied by EPA using actual monitored emissions data to establish nonattainment designations.

5. Return primacy for the Regional Haze program to the states.

Congress established Clean Air Act authority for EPA to set best available retrofit technology requirements with the goal of achieving natural visibility conditions in areas like National Parks and Wilderness areas by 2064. But Congress gave the *states* the primary role to determine where these determinations apply using a four part test as well as determining their 'glide-path'. Compliance with Phase I of this program will largely be achieved by 2018.

In recent years, EPA has become much more prescriptive in forcing states to implement the program exactly as EPA wishes, or else EPA rejects the state program and issues a Federal plan. For Phase II of the program, EPA appears to be doubling down on this approach with even greater prescriptiveness in their recent guidance and rulemaking. This will force states to impose high cost, low benefit pollution controls to drive a standard based on aesthetics rather than human health and the environment. EPA has largely demanded that states impose selective catalytic reduction technology on all utility units to control NOx emissions. This technology can cost hundreds of millions per unit for purported visibility improvements that are difficult to perceive. EPA also requires use of their outdated models which historically have over-estimated visibility impacts.

EPA should revise their recent guidance and rulemaking to put the decision making back in the hands of the states and to allow them the time and discretion to cost-effectively manage their

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program towards a goal that is still 48 years away. A good first step would be to extend the 2018-2028 planning and compliance cycle by at least 3 years, to give states and the regulated community added time to meet the next round of limits.

Specific to the Federal Implementation Plan(FIP) for Arkansas, EPA, by a Federal Register notice dated April 25, 2017, 82 Fed Reg. 18994, announced a 90 day stay of the rule and the convention of a proceeding for reconsideration of certain requirements contained in the final FIP rule published in the Federal Register on September 27, 2016.

EPA should evaluate the Arkansas FIP requirements for coal-fired EGUs referenced in the federal register notice and amend the requirements to reflect timing of controls, costs of controls, and overall impact on visibility improvement.

In Utah, the Regional Haze litigation focuses on the agency again rejecting the state's plan and promulgating SCR technology to be implemented by 2021 even though analysis conclusively demonstrates that EPA's approach would achieve, at most, a 0.1 deciview improvement compared to the state's approach. Yet EPA's approach would increase costs by several hundred million dollars. If implemented, EPA's approach will have dire consequences for the local cooperative whose portion of capital cost ($45-50 million) would exceed their current financing capacity prior to 2025. Time is of the essence for EPA to reevaluate their approach and let the more cost-effective state SIP be adopted.

6. <u>EPA should finalize proposed revisions to 40 CFR Part 60 App. F Procedure 2, section 10.4</u>

   On November 21, 2016 EPA issued a direct final rule (81 Fed. Reg. 83160) and an alternative proposed rule (81 Fed Reg. 83189) addressing quality assurance requirements for particulate matter (PM) continuous monitoring to demonstrate Clean Air Act NSPS compliance. These actions were necessary to correctly account for the installation of additional PM control devices and their effect on compliance with annual quality assurance/quality control criteria.

   Due to comment on the direst final rule the rule had to be withdrawn as required by legal procedure. EPA should complete the rulemaking process on the proposed rule by addressing any concerns with it and an issue final rule revising section 10.4 referenced above for reasons heretofore stated.

Waste Issues:

1. <u>Revise the Coal Combustion Residuals, or "CCR," rule to reflect the permitting and risk-based opportunities provided by the Water Infrastructure Improvement for the Nation WIIN) Act – 40 CFR 257 & 261 (80 Fed. Reg. 21302, April 17, 2015)</u>.

   In the absence of clear RCRA authority, the CCR rule promulgated in 2015 established self-implementing one-size-fits-all federal standards for coal ash and air pollution control scrubber sludge; standards that can only be enforced through citizen suits.

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The WIIN Act, signed into law last December, gives EPA new authority to implement the federal requirements through state permitting programs – the mechanism used to implement the current Municipal Solid Waste Landfill (MSWLF) requirements upon which the CCR criteria are based and even the federal *hazardous* waste rules. Most importantly, it allows those permits to reflect site-specific conditions and risks so long as the conditions in the permit are "as protective" as the federal criteria. The new law also allows EPA to establish a federal CCR permitting program for those states that do not adopt their own programs.

This new WIIN authority removes EPA's rationale for the current self-implementing approach as well as the Agency's justification for one-size-fits-all standards. EPA will be revisiting parts of the CCR rule under a settlement agreement which provides the perfect opportunity to reflect the new WIIN authority and incorporate site-specific, risk-based approaches into the federal standards.

Regulating CCR units under a state or federal permit that reflect site specific conditions and risks will significantly reduce the burden of complying with the CCR rule. In addition, implementing the requirement through permits will remove the burden of bringing, defending against, and adjudicating citizen suit – a burden reduction for everyone.

NRECA is a member of USWAG and wholeheartedly endorses the petition for reconsideration of the CCR rule submitted May 12, 2017, and to extend the upcoming CCR rule compliance deadlines. Owners and operators of CCR units are or will shortly be confronted with significant and irrevocable decisions or financial commitments to comply with the CCR rule – decisions or commitments that may be unneeded, inappropriate, or insufficient if the rule is modified. In addition, the CCR and ELG rules (see below) must work together and be implemented together. EPA has already stayed the ELG requirements while considering a petition submitted by UWAG. To make sure the two programs work together, compliance dates in the CCR rule should also be stayed.

2. Revise the PCB regulations to allow disposal of all wastes with PCB contamination of less-than 50 parts-per-million in modern, engineered landfills such as municipal solid waste landfills and other non-TSCA units.

EPA has determined that disposal of remediation wastes containing PCBs at less than 50 parts-per-million (<50 ppm) can be protectively managed in modern, engineered landfills such as municipal solid waste landfills (MSWLF) and other non-TSCA units. In fact, the PCB regulations already allow disposal of *most* < 50 ppm PCB-contaminated waste in non-TSCA facilities (*See* 68 Fed. Reg. 4934, January 31, 2003 acknowledging that < 50 ppm PCB remediation waste" has little inherent potential to pose an unreasonable risk to health or the environment."), but not all as-found remediation waste. EPA has issued approvals for NRECA and USWAG members to dispose of as-found < 50 ppm remediation wastes subject to conditions of the approval, including reporting to EPA, the state, and local authorities each time soil is disposed of under the approval. (Approval available online at https://www.epa.gov/pcbs/nationwide-risk-based-pcb-remediation-waste-disposal-approvals-under-title-40-code-federal#nreca, current as of May 15, 2017.)

While NRECA's members very much appreciate the approvals, we recommend that the PCB disposal regulations themselves be amended to reflect EPA's protectiveness determination and acknowledgement that PCB cleanup should be driven by the as-found concentration of PCBs (See 40

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CFR 761.50(b)(3), "PCB remediation waste ... is regulated for cleanup and disposal in accordance with 761.61" and 761.61 "Any person cleaning up and disposing of PCBs under this section shall do so based on the concentration at which PCBs are found."). EPA should allow *all* low-level (<50 ppm) PCB wastes to be managed in modern, engineered landfills such as MSWLF. We believe this change will encourage and significantly reduce the costs and regulatory burden of cleaning up low-level PCB contamination wherever it may be found.

3. Issue a Letter of Interpretation confirming that refined coal and boiler cleaning wastes do not trigger regulation of utility steam generation boilers as commercial and industrial solid waste incinerators (CISWI) – 40 CFR 60 and 241 (78 Fed. Reg. 9112, February 7, 2013).

   The commercial and industrial solid waste incineration (CISWI) rule established standards for units that "combust" solid waste. In comments on the proposed rule, the Utility Solid Waste Activities Group (USWAG) raised concern over potential application of the rule to boiler cleaning wastes and refined coal. The concerns were not resolved in the final rule or response to comments, and USWAG subsequently, on November 4, 2013, USWAG asked EPA to confirm that the introduction of refined coal and boiler cleaning waste into a utility boiler will *not* subject the unit to CISWI.

   In the course of operations, boiler cleaning wastes and refined coal may be introduced into a utility boiler as a practical way to manage materials without increasing emissions and even to reduce the emissions of certain contaminants. As explained in both the USWAG comments and the 2013 request, these materials are not combusted when introduced into utility boilers because these materials have no heating value are, therefore, not combusted. Consequently, they should not trigger the CISWI requirements.

   Since submitting the initial request for clarification, USWAG staff has provided additional justification for the request and has responded to additional questions from EPA's Office of Resource Conservation and Recovery (ORCR) staff, and have every reason to believe that the Agency is well underway toward issuing such a confirmation.

Water Issues:

1. Review and reconsider the Steam Electric Effluent Limitation Guidelines (ELG) rule with respect to the identification of best available treatment technology and the quality and public availability of information and data supporting the rule – 40 CFR 423 (80 Fed. Reg. 67838, November 3, 2015).

   The Steam Electric Effluent Limitation Guideline (ELG) rule prohibits discharge of waters used to transport coal ash and imposes unachievable standards for discharge of wastewaters from air pollution control systems (e.g. scrubbers). The rule is ripe for revision based on substantive and procedural deficiencies.
   - EPA significantly underestimated the costs of compliance and the actual availability of technologies undergirding the rule.
   - The rule will require many plants to redesign their ash and wastewater management systems at tremendous cost, yet with no assurance the technology EPA relied on will actually work.

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- EPA grossly over-classified information, methods, and analyses as confidential business information (CBI) in violation of the Data Quality Act and its own guidelines on transparency and reproducibility.

Plants that can't retrofit their systems or can't meet the limits could be forced to close. NRECA urges EPA to revisit the best available technology (BAT) limits for flue gas desulfurization (FGD) wastewater and bottom ash transport water (BATW).

NRECA greatly appreciates that EPA has announced that it is considering petitions for reconsideration submitted by the Utility Water Act Group (UWAG) and the Small Business Administration Office of Advocacy. The recent administrative stay of the effective dates of the ELG rule is testament to the seriousness with which the Agency is considering the petitions. This stay is especially important for facilities that otherwise would have been forced to make imminent, significant, and irreversible capital investment within the next few months to meet the rule's aggressive implementation deadline.

2. Withdraw and re-propose the Waters of the United States (WOTUS) rule – 33 CFR 328 (80 Fed. Reg. 37054, June 29, 2015).

The final WOTUS rule expanded Clean Water Act jurisdiction in a manner that affects electric cooperatives by delaying and increasing the costs for constructing new and maintaining existing power lines and by potentially increasing the costs to site, operate, and eventually decommission new and existing electrical generation facilities.

We appreciate and support Executive Order 13778, "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule" and look forward to working with EPA and the US Army Corps of Engineers in its implementation.

NRECA appreciates this opportunity to provide our initial recommendations for opportunities to reduce regulatory burden from certain regulations while protecting our environment. We particularly compliment EPA for the very public approach to soliciting burden reduction suggestions. We look forward to working with EPA and other stakeholders in implementing Executive Orders 13771 and 13777.

Respectfully submitted,

Dorothy Allen Kellogg
Sr. Principal – Environment Policy

CC: K. Bromberg, SBA Office of Advocacy

War on Coal - CONGRESSMAN EVAN JENKINS (R-WV-03)

Q. In your official role as the head of the EPA, what have you actually done to reverse the previous administrations war on coal?

A.

Ex. 5 - Deliberative Process

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ORAL ARGUMENT HEARD ON SEPTEMBER 27, 2016

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF WEST VIRGINIA, *et al.*, *Petitioners*, v. U.S. ENVIRONMENTAL PROTECTION AGENCY, *et al.*, *Respondents*.	No. 15-1363 (and consolidated cases)

RESPONDENT-INTERVENOR PUBLIC HEALTH AND ENVIRONMENTAL ORGANIZATIONS' RESPONSE TO EPA'S SUPPLEMENTAL STATUS REPORT

Public Health and Environmental Respondent-Intervenors submit this response to the supplemental filing of the Environmental Protection Agency, which reports that the agency "has transmitted a draft proposed rule to the Office of Management and Budget's Office of Information and Regulatory Affairs" and that the proposed rule is undergoing interagency review. EPA Suppl. Status Report, ECF No. 1679311, at 3-4 (June 12, 2017).

EPA's supplemental report does not support EPA's request that the case be placed in indefinite abeyance. First, EPA provides no timetable for when the interagency review process will be complete or when the agency will issue a

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proposed rule. Second, a proposed rule is merely the first step of a public rulemaking process that – particularly with rules as significant as this one – may stretch on for years. As we have previously explained, because the Clean Power Plan has been stayed pending resolution of the litigation, such a prolonged abeyance is improper. *See* Pub. Health and Envtl. Orgs.' Opp. to Mot. to Hold Cases in Abeyance, ECF No. 1669759, at 5-10 (Apr. 5, 2017); Pub. Health and Envtl. Orgs.' Suppl. Br., ECF No. 1675202, at 6-10 (May 15, 2017). Third, because the legal issues presented here will recur in litigation over a subsequent rule and because the rule now before the Court will remain in place if a repeal rule is found unlawful, a decision by this Court not to decide the fully aired legal issues presented could further delay, by years more, critical and already long-delayed protections for public health and welfare. *Id.* at 13-14.

The Court has before it a duly promulgated and presumptively valid regulation, which has been stayed solely for purposes of judicial review. Petitioners continue to maintain their challenges to it. Those challenges have been subjected to uncommonly thorough briefing and argument and months of judicial deliberation. Nothing in EPA's supplemental report diminishes the Court's obligation to decide this ripe and fully presented case. If it chooses not to do so,

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the Court should remand the case to EPA. *See* Pub. Health and Envtl. Orgs.' Suppl. Br., at 8-10.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing Response was printed in a proportionally spaced font of 14 points and that, according to the word-count program in Microsoft Word 2016, it contains 346 words.

CERTIFICATE OF SERVICE

I certify that on June 16, 2017, the foregoing Response was filed via the Court's CM/ECF system, which will provide electronic copies to all registered counsel.

/s/ *Sean H. Donahue*

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December 13, 2016

Revitalizing the U.S. Coal Industry

Congressional Coal Caucus Suggestions

Recommendation 1: Stop the Stream Protection Rule.

Background: The Department of Interior Office of Surface Mining Reclamation and Enforcement's (OSMRE) so-called Stream Protection Rule (SPR) is the single greatest threat to the jobs and family livelihoods of coal miners. If this rule is implemented then approximately 78,000 mining jobs will be lost in addition to the tens of thousands lost under the Obama Administration.

Recommendation 2: Overturn the Clean Power Plan.

Background: The Clean Power Plan will lead to the shuttering of about 90 GW of coal-fired production, more than twice the amount expected by 2040 without the new regulations. As such, many have warned, including a few current and former Commissioners at the Federal Energy Regulatory Commission (FERC), that the Clean Power Plan will be difficult, if not impossible, to implement without further degrading grid reliability.

Recommendation 3: Overturn the Cross-State Air Pollution Rule (CSPAR).

Background: On September 7, 2016, the U.S. Environmental Protection Agency (EPA) finalized an update to the CSPAR regulations. The rule is an attempt to reduce nitrogen oxides (NOx) so certain states can comply with the ozone rule. This new rule could result in a number of coal-fired power plants to shut down.

Recommendation 4: Overturn the moratorium on the Federal Coal Leasing Program.

Background: On January 15, 2016, the U.S. Department of the Interior (DOI) issued Secretarial Order 3338, imposing a three year moratorium on further coal lease sales pending the completion of a Programmatic Environmental Impact Statement (PEIS). Mining on federal lands account for 40% of the coal production in America and approximately 33% of U.S. coal reserves are located on federal lands.

Recommendation 5: Overturn the Waters of the United States (WOTUS) Rule.

Background: The WOTUS rule will have disastrous effects on not only the mining industry, but on small business and agriculture across the country. The rule is drafted so vaguely that it encompasses nearly all water sources with any hydrologic connection to downstream navigable waters, including ditches, pipes, farmland ponds, and groundwater.

Recommendation 6: Overturn regulations that intentionally decrease coal production on federal lands.

Background: Earlier this year, the Department of the Interior finalized rules that drastically increase royalties for coal produced on federal lands while overhauling the existing coal valuation process. The new regulations create unnecessary bureaucracy and impair the energy industry by stifling investment, reducing federal, state, and tribal royalty revenues, and decreasing critical job opportunities.

Recommendation 7: Withdraw from the Paris Agreement.

Background: The climate deal was drafted to deliberately by-pass Congress and effectively not giving the public a say in the matter. This agreement could result in serious harm to the United States economy, including significant job loss, increased energy and consumer costs, and grid reliability. The Congressional Coal Caucus has been urging a vote of Congress to highlight the people's opposition.

Recommendation 8: Support robust funding for fossil energy and clean coal technology R&D.

Background: It is important that we continue to the Department of Energy's (DOE) efforts in advancing carbon, capture, utilization, and storage (CCUS) technology. Also, we must continue to support DOE's efforts to advance technology that will enable the development of a highly efficient coal fleet both at home and around the world.

Recommendation 9: Amend and clarify the Clean Air Act (CAA).

Background: The Obama Administration has drastically expanded the purview of the Clean Air Act (CAA) in an effort to advance his anti-fossil fuel agenda. Since summer 2015, U.S. Supreme Court has twice ruled against the EPA when determining if the agency has went too far in its interpretation of the CAA. It is time to amend the CAA by clarifying certain provisions.

Recommendation 10: Place time limitations for judicial challenges to the construction of new coal-fired power plants or the retrofitting of an existing facility.

Background: One of the biggest challenges to retrofitting an existing coal-fired power plant or building a new one is third party lawsuits. Often these lawsuits are filed by anti-fossil fuel groups intended to advance their "keep it in the ground" agenda. These lengthy and cumbersome lawsuits discourage the building of a new plant or lead to the shuttering of an existing facility when it could potentially be upgraded to meet certain standards.

Recommendation 11: Support a national energy policy.

Background: Currently our nation's energy policy changes with each new administration. Prior to President Obama, previous Presidents offered realistic and scientifically achievable energy and environmental regulations and policies. But, President Obama waged a relentless and ideologically-driven war on coal. Establishing a national energy policy would transcend partisan politics and ensure a future for all energy sources.

Recommendation 12: Authorize the grandfathering in of new regulations for power plants.

Background: Coal Caucus member, Rep. Morgan Griffith, is working on legislation that would prevent power plants that make significant investments in upgrades or expansions from having to comply with new Clean Air Act regulations for number years. This would provide the regulatory certainty needed for additions that will improve plant efficiency and grid reliability.

Proposed Agenda Topics for EPA/ENRD Weekly Call

May 30, 2017

Rulemakings

Ex. 5 - Attorney Client -- Deliberative Process

Enforcement Cases

Ex. 5 - Attorney Client -- Deliberative Process

Mandatory Duty and other Defensive Cases

Ex. 5 - Attorney Client -- Deliberative Process d

Ex. 5 - Attorney Client -- Deliberative Process

Ex. 5 - Attorney Client -- Deliberative Process

Petitions for Review

Ex. 5 - Attorney Client -- Deliberative Process

Ex. 5 - Attorney Client -- Deliberative Process

NEDA CAP
CLEAN AIR PROJECT
The National Environmental Development Association's Clean Air Project

Members:
The Boeing Company
BP America
Eli Lilly & Company
Georgia-Pacific LLC
Invista S.a'r.l.
Koch Industries, Inc.
Merck & Co., Inc.
Occidental Petroleum Corporation
Phillips 66
Procter & Gamble

Counsel:
RITTS LAW GROUP, PLLC

May 15, 2017

Docket No. EPA–HQ–OA–2017–0190
Mr. Ryan Jackson, EPA Administrator Pruitt's
Chief of Staff
Ms. Samantha Dravis, Associate Administrator
EPA Office of Policy
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr Jackson and Ms. Dravis

NEDA/CAP, a coalition of American manufacturers, is responding to EPA's Notice requesting recommendations for repealing, replacing and/or modifying burdensome EPA regulations. 82 Fed. Reg. 17,793 (Apr. 13, 2017). The attached Table of NEDA/CAP recommendations lists over 40 Clean Air Act (CAA) regulations that impose mammoth costs on U.S. manufacturers with little or no environmental benefit. **The following CAA regulations and policies constitute "our top ten" candidates for repeal or replacement.** (Each candidate has a reference such as "A.2," "B.19", etc., that refer to the entry in the attached Table of Recommendations).

1. Modify the Exceptional Events Rule to *Include* High Background Ozone Levels and International Ozone Transport (See A.2);
2. Replace the New Source Review (NSR) exclusion for "Routine, Maintenance, Repair and Replacement (RMRR) following protracted enforcement litigation on this issue so that a reasonable man knows what changes at a plant are excluded from NSR (See B.3);
3. Repeal Revisions to the Refrigerant Rule that Illegally Regulate Substitutes for Ozone Depleting Substances Banned under the Montreal Protocol. (See D.1);
4. Repeal Federal "SIP Call" of State Rules Containing Affirmative Defenses or Exclusions from Violation for Excess Emissions During Startup, Shutdowns (See A.3);
5. Repeal and Replace EPA's "Major Source" and "Major Modification" Aggregation Policies (See B.1, B.2);
6. Modify the NSR "Offset Interpretative Ruling" (See B.4);
7. Modify NSR Atmospheric Air Dispersion Modeling Requirements in Appendix W for Secondary Pollutants Until EPA Approves a Sole Source Model (See A.4, B.6);
8. Repeal the NESHAPs "Once In Always In Policy" (See C.2);
9. Repeal 2016 Regional Consistency Revisions Rule and Ask the Court to Remand the Revisions Rule (See B.16).
10. Modify and expand the regulations authorizing Plantwide Applicability Limits ("PALS") (See B.14).

The attached table provides full citations to these candidate rules and policies, with a description of each and the burdens they entail, with a proposed solution that is consistent with the Clean Air Act.

Respectfully submitted,

Leslie Ritts on behalf of NEDA/CAP

Cc Dominic Mancini, Deputy Administrator, OMB
Amanda Gunasekara, HQ OAQPS Liaison

Attachment – Table of NEDA/CAP Recommendations

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NEDA CAP CLEAN AIR PROJECT

NEDA/CAP Recommendations
to Repeal, Replace or Modify Existing Clean Air Act Regulations and Policies
82 Fed. Reg. 17,793 (Apr. 13, 2017) - Docket No. EPA–HQ–OA–2017–0190

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
A. IMPLEMENTATION OF NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS): State Implementation Plan (SIP) Rules 42 U.S.C. Chapter 85, Subchapter I, Part A - Air Quality and Emission Limitations			
A.1 Repeal the SIP Requirements and Designation Rules for the 2015 Ozone NAAQS & Delay Implementation of the 2015 NAAQS Revisions.	**Clean Air Act (CAA) 42 U.S.C. §7410(b), 40 C.F.R. § 50.15 (*Ozone NAAQS*), 40 CFR Part 51 Subpart AA, and Proposed Subpart CC.** For the 2015 ozone NAAQS, final nonattainment designations and State Implementation Plan (SIP) revision requirements were proposed at 81 Fed. Reg. 81,276 (Nov. 17, 2016) and will be codified at 40 C.F.R. § 51 Subpart CC (*"Provisions for Implementation of the 2015 Ozone National Ambient Air Quality Standards"*). The 2008 Ozone NAAQS have not been fully implemented, nor have Judicial Petitions for Review of the 2008 NAAQS Implementation Rule, 40 C.F.R. Subpart AA, have not been adjudicated. *South Coast Air Quality Management District v. EPA,* D.C. Cir. Case No. 15-1115. The 2015 Implementation Rule should be repealed and reconsidered after the 2008 NAAQS has been implemented.	**(i) Eliminates jobs, or inhibits job creation;** **(iii) Imposes economic costs that exceed benefits** **(v) Relies in part on scientific information that has not been disclosed to the public**	As the Business Roundtable pointed out to the White House National Economic Council in its Feb. 22, 2017 letter, the 2015 Ozone NAAQS hampers economic growth in vast sections of the country without delivering additional, meaningful health benefits. Further, implementation of the 2015 rule would interfere with resources for implementing the 2008 rule for States, Industry and EPA Regions.
A.2 Modify the Exceptional Events ("EE") Rule to Exclude from Nonattainment Monitor "Design Values" High Biogenic Background Ozone Levels and International Ozone Transport	**CAA, 42 U.S.C. 7619(b); 40 C.F.R. § 50.14, last amended 81 Fed. Reg. 68,216 (Oct. 3, 2016).** The 2016 amended "EE" rule is an improvement and helps States exclude high monitored NAAQS values from area nonattainment designations (i.e., "NAAQS design values") if they resulted from exceptional events such as forest fires, natural calamities, stratospheric ozone intrusion into the troposphere, and other events beyond the control of regulators. EPA recognized in the rule the potential for high naturally occurring seasonal ozone from biogenic & other sources contribute to violations of the NAAQS, but declined to include these in the scope of the revised rule because they are "normally occurring events." 81 Fed. Reg. 68,228. EPA noted the availability of CAA Section 179B to exclude internationally-transported emissions but suggested it should be limited to Mexican and Canadian emissions.	**(i) Eliminates jobs, or inhibits job creation;** **(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	When U.S. human-caused sources account for but a small portion of a non-attainment event, it should be possible to aggregate all the other causes that cannot be controlled and exclude these from non-attainment determinations, thus relieving states of the burdensome/impossibletask of quantifying separately each non-human, non-U.S., or uncontrollable cause of the event

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
A.3. Repeal the 2015 FIP Call and Preserve Rights of States to Adopt Local Rules Containing Affirmative Defenses and/or Exclusions from Violation for Excess Emissions During Startup, Shutdown, and Malfunctions (SSM)	**42 U.S.C. §§ 7410 (a)(2)(H), (l); 40 CFR Part 52 (Approval of State-by-State SIP Provisions); 80 Fed. Reg. 33,839 (Jun. 12, 2015)** ("State Implementation Plans: Responses to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction; Final Rule" ("FIP Call"). The 2015 FIP call is inconsistent with States' flexibility to plan how each will attain and/or maintain the NAAQS and enforce their own laws. The FIP call disapproving 36 SIPs is not based on a finding, required by Clean Air Act (CAA) Section 42 U.S.C. § 7410(l), that these provisions interfere with timely NAAQS attainment. Petitions for Review of the FIP Call were accepted by the D.C. Circuit in *Walter Coke, Inc., et al., v. EPA,* D.C. Cir. Case No. 15-1166. The D.C. Circuit issued an Apr. 24, 2017 Order granting EPA's motion to remove oral argument from the May 8, 2017 calendar and holding the case in abeyance pending further proceedings. The "FIP Call" overrides improperly State authority to allow certain types of emissions to be excluded from CAA violation when they occur during startup, shutdown or malfunctions of process or pollution control equipment, including but not limited to instances where affirmative defenses explain why the emissions are not predictable or cannot be prevented (as is the case for certain technological malfunctions). States have primary authority over their air quality and regulation of emission sources, and EPA did not even attempt to demonstrate that exclusion of emissions from stationary source SSM events or the exercise of affirmative defenses resulted in violations or interfered with attainment of the NAAQS.	**(i) Eliminates jobs, or inhibits job creation; (iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies** to return authority over NAAQS Implementation to the States.	The importance of avoiding safety issues involved in startup, shutdown, and malfunction, including but not limited to startup of combustion equipment and purging of process equipment and pollution control equipment like oxidizers cannot be over-estimated. Moreover, exclusion of emissions during a reasonable period of startup, particularly for combustion equipment and fuel-fired control equipment like oxidizers that takes time to reach a steady state, do not interfere with ambient air quality or cause NAAQS exceedances except in rare instances Also, affirmative defenses in SIPs that can be administratively implemented save court resources, or if an issue proceeds to court review, as perhaps in the case of a citizen suit, amplifies a court's record of decision.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
A.4. Repeal applicability of CAA PM2.5 SIP Implementation (including PM2.5 NSR applicability) to VOCs and Ammonia and Reinstitute PM2.5 Surrogacy Policy until Air Dispersion Modeling for Secondary Air Pollutants is Available at a Reasonable Cost.	**Clean Air Act, 42 U.S.C. §§ 7410(m), 7475(c) (NAAQS Pollutants, SIP Modeling and PSD Modeling Requirements) 40 C.F.R Subpart Z—Provisions for Implementation of PM2.5 National Ambient Air Quality Standards §51.1000 Definitions; 81 Fed. Reg. 58,010 (Aug. 24, 2016) *("Fine Particulate Matter NAAQS: State Implementation Plan Requirements").* 40 C.F.R. § 51.1000 defines $PM_{2.5}$ precursors as sulfur dioxide (SO_2), oxides of nitrogen (NO_x), volatile), volatile organic compounds (VOCs), and ammonia (NH_3).** PSD single source air dispersion models are *not* available for modeling secondary PM2.5 formation from ozone and NH3 EPA's Technical Assistance Document (TAD), at https://www.epa.gov/nsr/draftguidance-comment-significant-impact-levels-ozone-and-fine-particle-prevention-significant is not sufficient and in fact underscores the difficulty of a case-by-case approach to air dispersion modeling for secondary pollutants such as PM2.5.	**(i)Eliminates jobs, or inhibits job creation;** **(iii) The implementation rule imposes economic costs that exceed benefits**	Until adequate evaluation tools exist to model secondary pollutants, EPA should not require air dispersion modeling on a case-by-case basis, particularly since the agency's prior surrogacy policies (e.g., evaluating $PM_{2.5}$ using PM_{10}) have about the same amount of accuracy as case-by-case modeling, and can be backstopped with other recordkeeping & reporting requirements without delaying or discouraging economic expansion and new products.
A.5 Repeal/Modify $PM_{2.5}$ Stack Compliance Testing for "Wet Stacks"	40 C.F.R. § 51, Appendix M recommends test methods for compliance with $PM_{2.5}$ (fine particulate) emissions limits, provided for states to implement into SIPs. "Artifacts" (i.e., fine particulate) are created by the EPA reference test methods, especially for wet stack plumes – which EPA acknowledges—and results in emission limit noncompliance. EPA should re-implement the $PM_{2.5}$ stack testing surrogacy policy until it fixes the compliance testing method. See S. Page, Implementation of New Source Review Requirements in PM-2.5 Nonattainment Areas" (April 5, 2005) at https://www.epa.gov/sites/production/files/2015-07/documents/pm25guid.pdf	**(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies** **(iii) Imposes costs that exceed benefits;**	Noncompliance with EPA and State NAAQS emission limits is intolerable when it is caused by EPA technical issues. Joint efforts by API, EPRI, and NCASI to address the test method issues are underway with EPA's blessing, so there is widespread recognition of the problem. A fix would reduce testing costs at facilities and reduce the costly likelihood of triggering PSD because of well-known testing problems.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
	B. NEW SOURCE REVIEW (NSR) & PERMITTING: 42 U.S.C. 85 Subchapter I Part C and Part D		
B.1 Repeal and Replace *All* "Major Source" 'Aggregation Policies' & Interpretations.	42 U.S.C. §§ 7410(a)(2)(C) & (I), 7479(1) [def. of *"major emitting facility"*]' 7501-7506 [*Nonattainment NSR Permitting]*; 7601(z) [*"stationary source]*; 77602(j) [def. of "major stationary source", "major emitting facility"]40 CFR §§51.165(b)(1)(ii)(A [*def. of "Building, structure, facility, or installation" in PSD areas*]; 52.166(b)(6) [*def. of "Building, structure, facility, or installation" in nonattainment areas*]; (i)(a), 70.2, 71.2. (CAA program *applicability definitions of "major stationary source" major source" and "major emitting facility").* See also *Summit Petroleum Corp., LLC v. EPA,* 690 F.3d 733 (6th Cir. 2012). There are dozens of EPA Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) applicability "guidance" documents and interpretations regarding when emissions activities under common ownership or operation must be "aggregated" and permitted as a single source. One controversial group of EPA applicability interpretations addresses when emissions of a pollutant from different pieces of equipment, even emissions units located as far as 30 miles apart and thus non-adjacent in a plain meaning sense of the word "adjacent," (i.e., physical proximity) must be "*aggregated*" to determine if the projects are part of the same "major source" or "major modification of a major source"—and require a major NSR permit. **EPA should withdraw prior aggregation policies and issue new rules on NSR applicability. Reasonable people should be able to agree when projects are part of the same "source" and are required to obtain a PSD or NNSR permit. States should be able to make these decisions with minimal EPA oversight**	**(i) Eliminates jobs, or inhibits job creation; (iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	Uncertainty in the applicability of the most basic CAA requirement of when a preconstruction permit or an operating permit is required costs the gross national product dearly by interfering with economic development of domestic manufacturing.
B.2 Repeal EPA Stay of Final 2009 "Project Aggregation" Rule and Finalize the 2010 "Proposed Reconsideration Rule"	*See* 74 Fed. Reg. 2,376 (Jan. 15, 2009), as amended by 74 Fed. Reg. 22,693 (May 14, 2009), ("Stay of PSD & Nonattainment NSR Aggregation" Rule published 74 Fed. Reg. 2,376 (Jan. 15, 2009); 75 Fed. Reg. 27.643 (May 18, 2010). See also "Applicability of NSR Review Circumvention Guidance to 3M - Maplewood, Minnesota (PDF)." Similar to the "major source aggregation" policy and guidance situation, a raft of EPA policies and interpretations exist regarding aggregating the emissions from individual projects at a	**(i) Eliminates jobs, or inhibits job creation; (iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	Uncertainty in the applicability of the most basic CAA requirement of when a preconstruction permit is required for projects undertaken at the same plant costs the gross national product millions of dollars

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
Project Aggregation Recommendation Cont'd.	manufacturing plant into a single project (in order to determine the applicability of "major modification" new source review permitting), based on EPA's judgment that some business projects are "substantially related." EPA stayed the 2009 aggregation interpretative rule and started a rulemaking to replace it. EPA should finalize the proposed 2010 rule that establishes bright line presumptions -- for instance that projects cannot be substantially related if they occur more than three years apart. EPA should create bright line test to eliminate EPA second-guessing and enforcement of business decisions that plant projects are independent, provided that these conclusions are reasonable and supported by businesses before projects are constructed (i.e., a project does not depend on construction of a succeeding business project to "pay back" expenses of the first project).		annually. Businesses plan new products, routine maintenance, non-routine maintenance, and new equipment installation and replacement on a project-by-project basis, but EPA applies the PSD/NSR permit requirements to groups of purportedly "related projects" based on a haphazard policy called "project aggregation."
B.3 Replace NSR Exemption for "Routine Maintenance, Repair & Replacement (RMRR)" Approach Utilized by EPA Enforcement with a Regulatory Definition on Which Reasonable People Can Agree.	**40 C.F.R. §§ 51.165(a)(1)(27)(A)*(2)(C); 51.*166(b)(3)(iii); §52.21(b)(2)(i);** EPA, 1990 (Draft) NSR Manual, at A.33; *New York v. EPA.*, 443 F.3d 880 (D.C. Cir. 2006)*("New York II") (vacating 2006 NSR equipment replacement process rule*). EPA has implemented a longstanding NSR Program rule exempting from the definition of a "major modification," physical changes that are routine maintenance, repair and replacement ("RMRR"). But the exemption has been re-defined in numerous EPA interpretative policies and enforcement actions against numerous U.S. manufacturers based on multiple EPA definitions of "RMRR." A number of federal courts repudiated EPA's interpretations of "RMRR." It is *critical* to manufacturers that EPA provides a clear and meaningful definition of RMRR that encourages maintenance and/or "like kind" replacement of process equipment. States and other stakeholders over the years have periodically urge EPA to formally adopt a rule that allows physical changes and changes in the method of operation that constitute less than 5 percent of the capital cost of brand new equipment used by the IRS. *See IRS Publication 534.* We also recommend that EPA add language that policies on equipment replacement be based on typical practices for the entire industry sector," (i.e., not what is typical at an individual source).	**(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies** EPA's enforcement policy of defining "RMRR" on a case-by-case application based on a number of factors repudiated by many federal district courts is improper and should be replaced by an EPA rulemaking that defines the longstanding exemption from a "major modification" subject to NSR in a predictable manner.	Enormous savings to companies who could maintenance equipment without the ambiguity and risk of EPA's enforcement office and citizen suits. If the rules would also encompass energy efficiency improvements in like-kind replacements using better materials to improve throughputs, additional savings for manufacturing, industry and the environment could be realized.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
B.4 Modify the Nonattainment NSR Offset Geographic Location Requirements.	40 C.F.R. § 51.165, 40 C.F.R. § 51 Appendix S, "Emission Offset Interpretative Ruling" at §§ IV, 3, D.1-2 ("Location of offsetting emissions") stipulates that offsets from other areas that impact the location of the proposed new source are not eligible unless the upwind location also is a nonattainment area for the pollutant. In order to obtain a NNSR permit, CAA Section 173 (c) requires a company to obtain emissions reductions from other sources within the same air quality control region that are equal to or greater than the "potential" new emissions from a new source or major modification. EPA has interpreted geographic boundaries in the offset provision very strictly, particularly in the face of well-understood science regarding emissions transport across multistate regions of the country and the relative contribution of certain precursor emissions such as NO_x, SO_2, and VOCs to the formation of ozone and $PM_{2.5}$. To facilitate company expansions and new products, EPA's rigid interpretation of the law can be relaxed (even without the amendments to the 1977 law that NEDA/CAP also believes are needed.) This Emission Offset Interpretative Ruling is scientifically inconsistent with EPA modeling used in the Cross-State Air Pollution Rule that EPA argues demonstrates that many upwind attainment area emission sources impact downwind monitors. See 1997 Cross State Air Pollution Rule (CSAPR); 2008 CSAPR and 2015 CSAPR modeling runs at 76 Fed. Reg. 48208 (July 6, 2011).	**(i) Eliminates jobs, or inhibits job creation;** **(ii) Is outdated, unnecessary, or ineffective;** **(iii) Imposes costs that exceed benefits;**	Companies cannot consider building in parts of the U.S. where eligible offsets are not available including rural nonattainment areas that often otherwise have no economic development potential and developed areas in States like Arizona). This issue particularly impacts facilities in the oil & gas and natural resource sectors.
B.5 Debottlenecking - Repeal EPA Withdrawal of 2006 Proposed Rulemaking and Clarify that Upstream & Downstream Debottlenecked Units Never are Subject to BACT Controls.	74 Fed. Reg. 2,460 (Jan. 15, 2009) (withdrawing proposed rule that attempted to clarify when emissions increases upstream or downstream of modified emission sources trigger NSR); 71 Fed. Reg. 54,235 (Sep. 14, 2006). Debottlenecking, like traffic control, is the removal of a constraint in a plant that allows it to increase production. Counterintuitively, EPA policy dis-incentivizes replacing old equipment with new process equipment that is more efficient because emissions increases from debottlenecked "upstream or downstream" process units are counted toward the determination of whether a project is major and must be permitted under NSR (even when the emissions from the new unit decrease, remain the same, have only a small increase, and/or the upstream/downstream emission increase is	**(i) Eliminates jobs, or inhibits job creation;** **(ii) Is outdated, unnecessary, or ineffective;** **(iii) Imposes costs that exceed benefits.**	NEDA members by themselves report projects worth hundreds of $ million have not moved forward due to EPA debottlenecking policies. The debottlenecking policy thwarts plant efficiency by subjecting commonsense changes to lengthy permit review and additional costs of

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
Debottlenecking Cont'd.	already allowed by permit). Notably, most but not all EPA interpretations exclude a debottlenecked emissions unit that has not undergone a physical or operational change from BACT. See 40 CPR §52.21(j)(3) (*stating that BACT applies to units that experience a net increase "as a result of a physical change or change in the method of operation in the unit"*). See, e.g., Director, Stationary Source Compliance Division, Office of Air Quality Planning and Standards, to Michael M. Johnston, Chief, Air Operations Section - Region X, titled "PSD Applicability Pulp and Paper Mill" July 28, 1983.		pollution control, and simply results in leaving these projects on the engineering floor or moving them abroad where efficiency and innovation is prized instead of punished.).
B.6 Modify Ambient Air Dispersion Modeling Requirements for Secondary Formation of Ozone and $PM_{2.5}$ and Replace Draft EPA Guidance and Requirement for Case-by-Case Modeling	**42 U.S.C. § 7475(a)(3); 40 C.F.R. §§ 51.166(k)(1), (m), and 52.21(k)(1); 40 C.F.R. § 51, App. W, §5.2.1(c).** App. W default models and data processors are periodically listed in Appendix W, which was revised on Jan. 17, 2017 (82 Fed. Reg. 5,182) after nearly 20 years. 40 C.F.R. § 51, App. W, §5.2.1(c) does not include an EPA-approved "single source" ozone model for ambient air impact demonstrations under PSD. Only a few models and their data processors are pre-approved for use without case-by-case approval by EPA's Modeling Clearinghouse. Included in these lengthy case-by-case determinations (assuming they even get State agency authority and EPA Regional Office approval to move forward) are model "fixes," "tweaking" model algorithms to better replicate case-by-case site emission conditions, or using beta-tested non-Appendix W-default processors." In lieu of selecting a single source model for secondarily-formed pollutants like ozone and $PM_{2.5}$, EPA published draft guidance in 2016, to assist new source review permit applicants: https://www.epa.gov/nsr/draftguidance-comment-significant-impact-levels-ozone-and-fine-particle-prevention-significant (a Technical Assistance Document or TAD). *Also see* 2015 Ozone Implementation Rule at 81 Fed. Reg. 81,276 (Nov. 17, 2016).	**(iii) Imposes costs that exceed benefits** PSD applicants were allowed to make qualitative comparisons of increases in ozone precursors to ozone values in an area to meet 40 C.F.R. §§ 51.166(k)(1) and 52.21(k)(1) or to use EPA's PM2.5 Surrogacy Policy (SEE A.4. *supra).* The Sierra Club petitioned EPA to establish a "single source" model for ozone. However, EPA acknowledges in the 2017 Appendix W revisions that it has been unable to establish a single source model for secondary pollutants like ozone and $PM_{2.5}$. Alternatively EPA can resume application of the PM2.5 surrogacy Policy	We estimate that the absence of an approved EPA single-source ozone and PM2.5 model for PSD applicants results in roughly eight to ten abandoned manufacturing expansions in the U.S. annually. A single source photochemical modeling run will cost at least $50,000 to $100,000, assuming States can provide an inventory of emissions from nearby facilities and acceptable meteorological data; if these data are unavailable, costs will increase significantly. agency's prior surrogacy policies (e.g., evaluating $PM_{2.5}$ using PM_{10}) have about the same amount of accuracy as case-by-case modeling, and can be backstopped with other recordkeeping & reporting requirements

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
			without delaying or discouraging economic expansion and new products.
B.7 Replace the Significant Impact Level ("SIL") for Nitrogen Dioxide.	CAA, 42 U.S.C. §§ 7410(m); 7475(c); 40 C.F.R. § 52.21(b)(23)(iii); 51.166(k), Part 51,Appendix;W 75 FR 6474 (Feb. 9, 2010)("*Revision of NO2 NAAQS*"); EPA, "*General Guidance for Implementing the I-hour NO2 NAAQS in Prevention of Significant Deterioration Permits, Including an Interim I-hour N02 Significant Impact Level*" (June 28, 2010). In order to obtain a NSR permit under the CAA, an applicant must demonstrate that the proposed emissions from a new major source or major modification will not violate a NAAQS or a NAAQS increment. If that cannot be done, a source, including a pollution control that is based on burning fuel and pollutants cannot be permitting in the U.S. Since the SIL is so low, EPA published the cited guidance to develop a modeling "work around" for the NSR ambient air quality analysis, but it costs thousands of dollars more in modeling resources and requires a case-by-case EPA approval *and importantly often fails.* The NO2 SIL should be raised. It is so low that new pollution control equipment, like an oxidizer for VOC pollution control, that has less than a 10 MMBTU/hr. heat input capacity and a 45' stack fails to pass the PSD model screening limits and must therefore obtain a PSD permit.	**(iv) Creates a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies** by interfering with new energy and pollution control projects.	In order to obtain a NSR permit under the CAA, an applicant must demonstrate that the proposed emissions from a new major source or major modification will not violate a NAAQS or a NAAQS increment. If that cannot be done, a source, including a pollution control that is based on burning fuel and pollutants cannot be permitting in the U.S. Since the SIL is so low, EPA published the cited guidance to develop a modeling "work around" for the NSR ambient air quality analysis, but it costs thousands of dollars more in modeling resources and requires a case-by-case EPA approval *and importantly often fails.* There are no NO2 nonattainment areas in the country, and no ambient air monitors can detect excess NO2 so the SIL can safely be increased to support domestic manufacturers with state of the art pollution equipment.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
B.8 Repeal and Replace the Definition of "Begin Actual Construction"	42 U.S.C. §§ 7475(a)(1); 7479(2)(1); 40 C.F.R. § 52.21(b)(), 40 C.F.R. 51.166(b)(11), 40 C.F.R. 51.165(a)(1)(xv); 40 C.F.R. § 51 Appendix S II.A.17 (definitions of "begin actual construction"); see also https://www.epa.gov/nsr/new -source-review-policy-and-guidance-document-index such as https://www.epa.gov/sites/production/files/2015-07/documents/19951213.pdf) PSD and a NNSR permits are "construction permits," and thus PSD applicants are not allowed to "begin actual construction" before a NSR permit is issued. Conflicting EPA and State guidance exists on what "begin actual construction" means, and EPA has issued CAA Notices of Violation (NOVs) for activities only peripherally related to an emissions unit, such as site lighting, demolition of emission units to be retired or replaced, electrical installation for a new building or section of a building, construction of building footings, digging drainage conduits, and building excavation (unrelated to the emission unit pad itself). Given the length of time it takes to get NSR permits, preconstruction (typically at least 10 to 18 months), pre-permit activities that are not "on an emission unit" (e.g., a boiler, or storage tank) can help expedite projects (particularly in parts of the country with severe weather), and should be allowed at the project proponent's own risk even though they may be directly related to a project to install or modify NSR affected emissions units. The construction of foundations, buildings, and tie-ins to existing process units are examples of activities that should be allowed prior to permit issuance. (A "tie-in" is piping and other equipment, including cut-off valves, used to connect or link (i.e., "tie-in") other equipment, either directly or indirectly.).	**(i) Eliminates jobs, or inhibits job creation;** **(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	The global market place and speed to market easily trump EPA's conjecture that it is more difficult for EPA or a State to disapprove a permit application if a company has not spent money on it yet. It also is easier, safer, and less expensive to install tie-ins during turnarounds, as opposed to hot tapping while the unit is running to facilitate installation of an emitting unit, once its PSD permit application is approved.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
B.9 "Project Netting" - Repeal and Replace Current Agency Policies	42 U.S.C. §§ 7475 (PSD Permit Applicability); "Project netting" would allow a company to replace a piece of equipment or a process with another piece of equipment or process quickly, -- provided that the new equipment has similar or lesser environmental impacts on a per-unit-of-production basis. In such instances, however, EPA requires a full facility-wide emission netting analysis, aggregating emissions increases and decreases for every project undertaken at a plant over a five-year period. This is unnecessary and discourages equipment replacement. EPA should streamline the procedures for project netting by finalizing a proposed September 14, 2006 rule (71 Fed. Reg. 54,235) that allowed certain types of project netting.	**(i) Eliminates jobs, or inhibits job creation; (ii) Is outdated, unnecessary, or ineffective;**	Project netting would keep domestic manufacturing jobs at home, and EPA can modify its regulations to assure that small energy efficiency improvements provided by like-kind replacements (e.g., provided by better metallurgy, etc.) by like-kind replacement equipment will protect production and the environment..
B.10 "Fugitive Emissions" – With-draw Illegal EPA Stay of Rule Exempting from NSR Applicability Determinations for Plant Expansions in Many Industry Sectors	**42 U.S.C. § 7602(j); 40 CFR 51.165 (a)(iv)(C) [excl. in def. of "major modification" in nonattainment areas]; 51.166(b)(2)(iv) [excl. in def. of "major modification" in PSD areas for fugitive emissions; 52.21(b)(2)(iv).** 75 Fed. Reg. 16,012 (Mar. 31, 2010); 76 Fed. Reg. 23,489 (Apr. 27, 2011). Fugitive emissions are defined by EPA guidance as emissions that can neither be readily captured nor prevented. See e.g., T. Curran, EPA, "*Interpretation of the Definition of Fugitive Emissions*" (Feb. 10, 1999). See also 40 C.F.R. §§ 51.166(b)(1) and 51.165(a)(iv). EPA violated CAA 7607(d)(7) and finalized an "Interim Final Rule" on Mar. 30, 2011, 76 Fed. Reg. 17,548 (Mar. 30, 2011), *without* notice and public comment rulemaking, indefinitely staying a Dec. 19, 2008 regulations (73 Fed. Reg. 77,881), which excluded consideration of fugitive emissions from certain manufacturing sectors in determining whether a plant expansion was a "major modification" and needed a NSR permit.	**(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies** The staying of 73 Fed. Reg. 77,881 and issuance of the Interim Final Rule (76 Fed. Reg. 17,548) violates CAA Section 307(d)(7)(B), which does not allow EPA to indefinitely stay effective final regulations without rulemaking as well as § 7602(j) that requires rulemaking for an industry before fugitives are included in "major source" determinations.	Some projects trigger NSR/PSD review, with lengthy delays to get permits and significant control costs, simply because of fugitive emissions (often from material handling like wood or chip piles, piles of agricultural materials used to make ethanol or seed oils, minerals, coal, etc.). If fugitive emissions were excluded, many more projects would move forward, and more quickly, improving domestic manufacturing's economic competitiveness.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
B.11 "Ambient Air" Interpretations - Repeal and Replace EPA to Provide a More Realistic Meaning Regarding Public Access and Potential Exposure to Emissions, Particularly in Air Modeling	CAA 42 U.S.C. § 7475(a)(3) ; ("PSD modeling requirements"). "Ambient air" is not defined by the CAA but is defined at 40 C.F.R. 50.1(c) as the "portion of the atmosphere, external to buildings, to which the general public has access. EPA has re-interpreted the definition many times--*see* EPA NSR DETTERMINATION Index: https://www.epa.gov/nsr/new-source-review-policy-and-guidance-document-index; - and made unreasonable determinations that the public has access to areas like a fenced train railroads, roads and rivers, and independent contractor-operated property in the middle of a "source" that is otherwise owned and operated by the same person (i.e., the definition of "major source"). The definition of "ambient air" is pivotal to PSD modeling outcomes because it delineates the location of receptors for which ambient air quality impacts must be analyzed. Placing air dispersion receptors in the modeling grid in the *middle of a source,* where the general public is *highly unlikely* to be exposed to pollutants for more than a few moments, greatly increases the likelihood that a source will be shown in air dispersion modeling to "cause or contribute to" a NAAQS violation, leading to unnecessary, but costly, control measures or abandonment of a proposed project.	**(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies** These modeling decisions defining "ambient air" should be left up to States and EPA should replace guidance	EPA's ambient air policy causes many projects to show modeled violations of NAAQS, meaning sources must install expensive controls or take other measures to reduce pollutant impacts or cancel projects because the needed controls make the projects uneconomic. Requiring placement of receptors where real exposures are likely to occur for relevant durations for the NAAQS in question, typically outside the boundaries of a source's property, would mitigate these negative economic impacts.
B.12 Combined Heat and Power (CHP) Projects – Replace Emission Netting Rules to Provide Incentives for CHP Projects.	40 C.F.R. §§51.165(b)(1)(a)(1)(i),40 C.F.R. § 52.166(b)(1); 52.21 (b)(1)[NSR Program Definitions of Major Stationary Source and/or "major emitting facility"] that include the requirement for a source to be owned or operated by the "same person" have thwarted dozens of energy-efficiency and environmentally beneficial CHP projects over the past three decades because a cogeneration plant is generally not owned or operated by the manufacturer, who wants to an independent power provider or municipal utility to provide steam to the manufacturing process at the same time the power plant is generating electricity to the U.S. power grid. Since the CHP plant therefore is not under "common control," emission decreases from the manufacturer's existing (higher-emitting) steam plant cannot be "netted" with emissions increases from the new (cleaner and more efficient) CHP plant, which would avoid PSD or NNSR permitting altogether (or at least greatly streamline permitting). EPA should reinterpret/redefine	**(iii) Imposes costs that exceed benefits** **(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	CHP projects that produce process steam for industrial lines and electricity for public consumption or to regional power grids are meritorious and could be allowed by modifying EPA's anachronistic netting rules to allow these projects, even if they are not under common control or ownership. Changing the rules as suggested could also result in emissions decreases, by including regulatory

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
	the first prong of the three-part definition of "major source" to redefine common control for CHP project review to treat the host and the owner/operator of the power plant as being "under common control."		mechanisms like discounts. CHP plants are inherently more efficient than utility units because the steam from a CHP unit is used twice. Plants that have added CHP are less costly to operate and less reliant on uncertain electricity grid pricing and is also consistent with smart grids promoted by DOE and the FERC for reliability.
B.13 Replace NSR Policies on NSR Application "Completeness Determinations" -	**42 U.S.C. § 7475(c) requires that States and the EPA grant or deny a NSR application *within one year. Avenal Power Center LLC v. EPA*, 787 F.Supp.2d 1 (D.D.C. 2011). S. Page, "*Timely Processing of Prevention of Significant Deterioration (PSD) Permits when EPA or a PSD-Delegated Air Agency Issues the Permit (Oct. 12, 2012).*** "Completeness determinations" are critical for establishing a bright line for grandfathering NSR applications when a NAAQS is revised or another critical CAA regulation changes and are high on the list of why American manufacturers take new product lines abroad to avoid typical lengthy permitting delays for new major sources and major source expansions in the U.S. EPA and state regulators "game the system" utilizing completeness determinations to control workflow (e.g., through belated and/or repeated requests for additional application information) in order to "re-start" the clock, thereby slowing the permit review process. Thus the 12-month period for obtaining a NSR permit can stretch for years. EPA must repeal old policies and establish a bright line test on which reasonable people can agree regarding "completeness determinations." An application which contains sufficient information for the permitting authority to begin work on the review should be considered to be complete, and only the failure of the applicant to provide additional information reasonably requested by the permitting authority within a reasonable time should stop (but not reset) the clock.	**(i) Eliminates jobs, or inhibits job creation; (iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	IF the PSD one-year time line were implemented as intended by Congress, it would accelerates economic benefits because projects are no longer delayed and likely to encourage more expansion of product lines in the U.S. discouraged by the long review periods typically associated with PSD review..

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
B.14 "Plantwide Applicability Limits (PALs)" - Modify NSR Regulations to Broaden Opportunities to Utilize PALs	**42 U.S.C. § 7602(z) (definition of "stationary source"); 40 C.F.R. § 51.166(b)(2)(v) and (w) (definition and rules applying to PALs*); Chevron USA Inc. v. Natural Resources Defense Council Inc.*, 467 U.S. 837 (1984)*; New York v. EPA*, 413 F.3d 3 (D.C. Cir. 2005) (upholding PALs).** There is no question that PALs are legal and that they result in emission reductions and innovative process and control technologies. The EPA regulations are too restrictive and thus many companies do not consider the use of PALs. One of the easiest and best ways to encourage PALs would be to allow "mini-PALs" instead of requiring "plant-wide" PALs, especially for logical equipment groupings like "all tanks in a tank farm" or "process heaters in specific production areas." Most plants are enormous – even allowing "west-side or south-side PALs would be environmentally and economically beneficial. In addition, eliminating requirements to reset PALs every 10 years, eliminating the ability of permit authorities or EPA to reopen PALs at any time, and eliminating restrictions on terminating PALs, would lead to a significant increase in their use, providing long-term certainty to domestic manufacturers.	**(i) Eliminates jobs, or inhibits job creation; (iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	See EPA's assessment of the cost savings and striking environmental benefits of approved PALs in "Evaluation of Implementation Experiences with Innovative Air Permits" (2002), which was cited with approval by the D.C. Circuit in *New York I.* https://www.epa.gov/sites/production/files/2015-09/documents/eval-implementation-experiences-innovative-air-permits.pdf.
B.15 Replace methods for calculating whether certain physical changes or changes in the method of operation of a source is subject to NSR.	**B.13 <u>BASIC "EMISSIONS INCREASE" MATH</u> -** The 2002 NSR Reform Rule provided needed clarifications and revisions to how manufacturers calculate whether a "physical change or change in the method of operation" to an existing "major source" resulted in a significant increase in emissions and is therefore subject to NSR. 67 Fed. Reg. 80,186 (Dec. 31, 2002). However, other revisions/ clarifications for calculating emissions increases under a Plantwide Applicability Limit (PAL) or for debottlenecked equipment and in other contexts were unclear and often unreasonable. **Clarifications to the method for calculating emissions increases are needed:** **(1) Eliminate the need to consider emissions increases from non-modified affected emission units;** **(2 (e.g., "debottlenecking)" (ii) Allow "project netting" so that emissions reductions associated with a project can be considered in Step 1 of the PSD applicability analysis;** **(3) Establish a more-flexible PAL program that includes a**	**(i) Eliminates jobs, or inhibits job creation; (iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	Encourages replacing old equipment with new, more efficient equipment; reduces permitting costs for domestic manufacturers; accelerates the benefits that accrue from expanded, modernized facilities; and/or allows projects that would be shelved due to NSR-required controls to move forward.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
	simplified "facility-wide actuals" emission test under which NSR is not triggered if facility-wide actual emissions for a given pollutant may not increase by greater than the respective significant emission rate; and **(4) Use a Baseline Actual-to-Post-Project Actual comparison or NSPS hourly increase methodology to determine whether PSD is triggered.** **B.13.a. EMISSION NETTING CALCULATIONS** – **EPA also should revise its guidance concerning the inclusion of actual-to-projected actual (ATPA) calculations in a netting analysis when the ATPA occurred within the netting contemporaneous project window.** The current approach discourages the retirement of older, higher-emissions manufacturing equipment that can be replaced with modern manufacturing processes that answer demands in the global marketplace. The current approach uses; this unnecessarily conservative environmental protectionism, which has been was discouraged by Congress in balancing environmental protection with economic development. 42 U.S.C. § 7470(3). **B.13.b. CURRENT REGULATIONS REGARDING THE CALCULATION OF EMISSIONS INCREASES ASSUME THAT ANY UNIT THAT HAS UNDERGONE A NON-ROUTINE PHYSICAL CHANGE** "has not begun normal operation", and hence the manufacturer may not compare projected actual emissions from that unit with historical emissions, but instead must base NSR applicability on the unit's potential to emit (because it has not begun normal operations). This is unreasonable and subjects manufacturers to NSR despite other constraints that limit projected actual emissions, leading results in manufacturers to abandon or relocating projects. EPA should amend 40 C.F.R. § 51.166(b)(47)(iii). **B.13.c Amend Plantwide Applicability Calculation Method to provide a comparison of "allowable [PAL] emissions" before and after a modification."**		

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
B.16 Repeal 2016 Agency "Regional Consistency Rule," Stay Current Rule, and Ask Court to Hold Litigation in Abeyance Pending Reconsideration	**42 U.S.C. § 7601(a)(2); 40 C.F.R. §§56.1-6;** 81 Fed. Reg. 51,102 (Aug. 3, 2016) ("*Amendments to Regional Consistency Regulations.*)" The CAA unambiguously requires EPA to make regionally consistent permit decisions to "level" the playing field for capital investment and permitting across all states Until 2016, following a unanimous decision by the D.C. Circuit Court of Appeals enforcing EPA's own regional consistency regulations, EPA regulations echoed the CAA. Following that decision, *NEDA/CAP v. EPA,* 752 F.3d 999 (D.C. Cir. 2014), which vacated an EPA directive to the ten EPA Regions to ignore a 6th Circuit ruling holding that EPA lacked authority under its own regulations to require a Title V operating permit for Summit based on the aggregated emissions from gas wells across 31 miles, EPA amended 40 C.F.R. § 56 regulations to erase the consistency requirement and allow the agency to engage in "intercircuit nonacquiescence." *The amendments have been challenged by industry as contrary to the consistency requirements of Section 301(a)(2) of the CAA and briefing will not be final until fall 2017.* (*NEDA/CAP v. EPA,* D.C. Cir. No. 16-1344).	**(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies** • **Violates the CAA**	Any inconsistency in permitting policy between regions creates uncertainty for manufacturers subject to Title V operating permits and preconstruction permitting, and favors certain states and regions over others potentially resulting in a misallocation of resources. EPA should request a remand of the 2016 regulation from the D.C. Circuit and withdraw the rule in order to prevent "forum shopping" and make preconstruction permitting consistent across the country.
B.17 Modify the Court-vacated NSR Exclusion for "Pollution Control Projects (PCPs)"	From 1994 until 2005, when the federal DC Circuit Court of Appeals held that the codification of the NSR PCP exclusion in the 2002 NSR Reform Rule was inconsistent with the Clean Air Act in *New York v. EPA,* 413 F.3d 3 (2005), PCPs were exempted from NSR even if incidental increases of other pollutants occurred that exceeded the NSR significance levels (i.e., generally NOx or CO increased from the energy required to run the pollution control devices). EPA should revise its regulations to provide presumptive NSR approval of PCPs if they meet the EPA 1994 PCP policy and the *New York v. EPA.* .https://www.epa.gov/sites/production/files/2015-07/documents/pcpguide.pdf	**(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	Modification of the PCP Policy/rule would allow net "environmentally beneficial" projects to proceed without undergoing NSR. EPA should be encouraging the use of PCPs; current policy does not.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
B.18 "Significant Emission Rate (SER)" for GHGs with a Higher Value - Repeal PSD BACT Review for GHG Emissions When a "Major Modification" Triggers PSD for Another "Regulated NSR Pollutant" or Replace Proposed GHG	**40 C.F.R. §§ 51.166 (b)(48); proposed 40 C.F.R. §§ 51.166 (b)(31) with parallel changes to 52.21(b)(31), 70.2 and 71.2 in §§ 51.166(b)(23) and 52.21(b)(23)(i);** 81 Fed. Reg. 68,110 (Oct. 3, 2016) ("Proposed *Revisions to the PSD and Title V GHG Permitting Regulations and Establishment of a Significant Emissions Rate (SER) for Greenhouse Gas (GHG) Emissions under the PSD Program: Proposed Rule*"). The Supreme Court ruled in *Utility Air Regulatory Group v. EPA*, 134 S.Ct. 2427 (2014), that EPA could not apply NSR or Title V Operating Permit requirements to "major sources" or "major modifications" based solely on emissions of GHG, but might still require NSR BACT review of "significant" GHG increases when NSR is triggered for other NSR-regulated air pollutants. The current GHG significant emission rate (SER) level is 75,000 tpy CO_2etons/year. Justice Scalia pointed out that there was no basis for the value, but EPA proposed to retain that value in the 2016 rulemaking when it is clear that GHGs do not affect ambient air quality and the value should be much, much higher if EPA continues to demand BACT review for GHGs.	**(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	Even though the Supreme Court found it to be within EPA's discretion, review of GHG BACT controls results in delays of NSR permits, added pollution control costs, and a disincentive to domestic manufacturing when there is .
B.19 Streamline NSR for Modifications at "Clean Units"	The CAA provides for special treatment of clean and innovative technologies under the provisions New Source Performance Standards (NSPS) at 111(j). In the 2002 NSR Reform Rule, EPA attempted to provide NSR relief for a certain number of years for "clean units" that met BACT and lowest achievable emissions rate (LAER), based on the agency's judgment that pollution control technology does not rapidly improve. The D.C. Circuit held that the "clean unit" exclusion from NSR violated the CAA in *New York I, supra.*	**(i) Eliminates jobs, or inhibits job creation; (iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies**	EPA should incentivize manufacturers to build in America and install "clean units," by adopting a conditional NSR exclusion for a set period of years for units that have undergone NSR and installed BACT or LAER; alternatively, EPA should streamline NSR applicability to changes that occur at clean units by not applying additional BACT review or modeling to reduce NSR/PSD permitting costs and provides regulatory certainty.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
C. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS ("NESHAPs") (a.k.a. "MACT Standards") and FEDERAL NEW SOURCE PERFORMANCE STANDARDS ("NSPS")			
C.1 Issue Revised Final Boiler MACT Emissions Limits As Soon As Possible.	**42 U.S.C. § 7412(d); 40 C.F.R. 63 Subparts JJJJJJ, DDDDD *U.S. Sugar v. EPA*, 830 F.3d 579 (D.C. Cir. 2016) (*ordering EPA to vacate and revise ICI boiler MACT limits*).** EPA has been working on boiler MACT since 1996 through at least three iterations; many companies have already "stranded" capital in the form of controls at least twice, and are ready for regulatory certainty. EPA should revise and reissue final standards as soon as possible.	**(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies** • **Expeditious issuance of the final MACT limits is required by law.** •	If EPA does not finalize this rule with recent emissions testing data, as required by the D.C. Circuit, it "new" stack testing (at a cost of $15,000-$30,000/each stack) could be required, which would be unnecessary and duplicative.
C.2 Repeal the MACT "Once In, Always In" Policy	**42 U.S.C. § 7412(d) (NESHAPS/a.k.a."MACT Standards"); J. Seitz, "Potential to Emit for MACT Standards – Guidance on Timing Issues" (May 16, 1995); 72 Fed. Reg. 69 (Jan. 3, 2007) (*Proposed rule to withdraw Once In Policy).*** Current EPA policy says that once you have triggered MACT, you are forever bound to all the requirements of the underlying MACT standard, even if you replace or retire equipment or otherwise reduce emissions by substituting non-Hazardous Air Pollutants (HAPs) in your process so that a source that you operate is no longer a MACT "major source." This acts as a disincentive to meeting market demands, responding to opportunities for use of innovative technologies, lowering or eliminating HAP emissions, and being a responsive corporate citizen.	**(iv) Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies** • **Not required by law.**	Maintaining compliance and recordkeeping when processes have eliminated HAP emissions or the source has controlled its HAPs below a NESHAPs applicability level is equivalent to the costs EPA quantified in the Regulatory Impact Analysis for each MACT. Since Title V permits can contain restrictions to maintain minor source status, there is no need for this policy.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
C.3. Replace *All* MACT and NSPS Standards Applicable to Small Reciprocating Internal Combustion Engines (RICE) and in the Interim, Enforce Only the Most Egregious Violations.	**42 U.S.C. § 7412(d); 40 C.F.R. Part 63, Subpart ZZZZ (RICE MACT); 40 C.F.R. Part 60, Subparts IIII and JJJJ (RICE NSPS):** All (NSPS)RICE are subject to EPA standards, including area sources, but the regulations have been amended so many times that it is difficult for owners and operators to understand the standards' application to equipment, including but not limited to emergency fire pump engines; gasoline engines; and uncontrolled emergency engines used for "demand response" to avert voltage sag and collapse of the U.S. power grid. Many of the requirements, besides being complicated to understand, provide very limited environmental benefit but place a large burden on manufacturers. Many of these requirements are unnecessary since the RICE manufacturers are already subject to separate certification requirements. Also replace RICE MACT work practice requirements – changing oil and filters and inspecting air cleaners, hoses, and belts should be based on actual run time of the units instead of calendar time. Using calendar time creates additional operating expenses and environmental impact (waste generation) with little environmental benefit. For example, the current rule requires and operator to • Change oil and filter every 1,000 hours of operation or annually, whichever comes first; • Inspect air cleaner every 1,000 hours of operation or annually, whichever comes first, and replace as necessary; • Inspect all hoses and belts every 500 hours of operation or annually, whichever comes first, and replace as necessary.	**(iii) Imposes costs that exceed benefits** The regulation is messy and unclear, creating potential enforcement vulnerability. The RICE Work Practice Standards requiring annual replacement of oil, filters, hoses and belts is unnecessary for equipment that only operates between 50-100 hours annually (mostly for readiness testing to assure that it *can* operate during an emergency)	Replacement of this rule with a clearer set of applicability provisions, reasonable testing & recordkeeping requirements for fire pumps and emergency engines, and organization to remedy the number of times the rule has been amended would increase clarity, certainty and compliance. While this rulemaking is going on, NEDA/CAP recommends that EPA enforcement stands down except in the case of egregious violation of the standards.
C.4 Withdraw Proposed NSPS if They are Not Finalized within Five Years.	**42 U.S.C. § 7411(a)(2), 40 CFR § 60** is interpreted to mean that after the day of proposal of a NSPS, a newly constructed or modified will be subject to the NSPS if and when finalized. This prevents new sources from circumventing "new" NSPS, but here are about a dozen, maybe more, proposed NSPS for various industries (e.g., 40 C.F.R. § 60, Subpart YY) that were proposed decades ago but have never been finalized. EPA should create a regulatory mechanism that withdraws these proposed NSPS rules expire if the agency does not take final action within a reasonable time.	**(iv) Creates a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies** *** 42 U.S.C. §§ 7607 (b), (d) require proposed rules become final before they can be adjudicated.**	A regulation that imposes emission limits and other conditions of operation on a "major affected source" has clear cost implications. If a final action on a proposed rule has not been taken after five years, fairness and equity demand it be withdrawn.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
C.5 Repeal or Replace the National Air Toxics Assessment (NATA).	See https://www.epa.gov/national -air-toxics-assessment/2011-national-air-toxics-assessment; NATA is not required by the CAA, and in some respects is a vestige of the failure of the Act up until the 1990 Clean Air Act Amendments to include air toxics. In 2015, EPA released the results of its 2011 national-scale assessment of air toxic emissions, which is the first problem – NATA is always based on data that is "old." The purpose of NATA is to identify and prioritize air toxics, emission source types, and locations that are of greatest potential concern in terms of contributing to population risk. EPA uses NATA (1) to work with communities in designing their own local-scale assessments, (2) to set priorities for improving data in emissions inventories, and (3) to help direct priorities for expanding and improving the network of air toxics monitoring. Use of the outdated data for these purposes is inappropriate. (NATA is not required by law, is substantially weak when compared with toxics data collected and reported by industry under the NESHAPs (MACTs) for existing sources of hazardous air pollutants under the 1990 amendments, and the data it provides is old and misleading to the public.)	**(ii) Are outdated, unnecessary, or ineffective.** **(iii) Imposes costs that exceed benefits;** **(iv) Creates a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies**	It is unclear how much the EPA Offices of Research and Development and Air Quality Planning and Standards invest annually in maintaining NATA in terms of resources, but expenditure of any more money on this program is far in excess of its usefulness.
C.6 Repeal/Withdraw Proposed Revisions to Site Remediation Rule.	**42 U.S.C. § 7412(d); 81 Fed. Reg. 29,821 (May 13, 2016)** (Proposed Amendments to 40 C.F.R. 63 Subpart GGGGG including the proposed removal in 40 C.F.R. § 63.7881 is amended by: a. Revising paragraphs (a)(2) introductory text, (a)(2(i) and (ii), (a)(3) introductory text, and (b) introductory text; b. Removing paragraphs (b)(2) and (3); and c. Redesignating paragraphs (b)(4) through (6) as (b)(2) through (4)). The proposed revisions to the site remediation NESHAP would remove exemptions from the rule for site remediation activities performed under authority of the Comprehensive Environmental Response and Compensation Liability Act (CERCLA) and for site remediation activities performed under a Resource Conservation and Recovery Act (RCRA) corrective action or other required RCRA order.	**(iii) Imposes costs that exceed benefits;** • **Duplicative and Inconsistent Regulation with 40 C.F.R. § 264-265 RCRA Onsite Waste Management Requirements (TSDF Standards)**	The additional CAA costs of compliance are entirely unnecessary when these activities are regulated under RCRA and/or CERCLA, and there is potential additional liability for dual federal regulations of the same activity.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
C.7 Modify Proposed Risk & Technology Rule (RTR) for Publicly Owned Treatment Works (POTWs).	**42 U.S.C. §§ 7412(d)(6), (f); 40 C.F.R. § 63 Subpart VVV, 81 Fed. Reg. 95,352 (Dec. 27, 2016).** In the proposed revisions to the POTW RTR Rule, EPA determined that under § 7412(f), that the Section 112 MACT category of POTWs does not represent any residual risk, but also proposed significant new requirements, including but not limited to pretreatment requirements for direct and indirect dischargers into POTWs requiring dischargers to adopt VOC pretreatment programs as a condition of the MACT. The proposed new standard is not only unnecessary but it is in violation of the Clean Water Act (CWA) and 40 C.F.R. § 403 (development of pretreatment standards). EPA's basis for this costly and significant change is that this revision would be consistent with future changes in CWA regulations. See 81 Fed. Reg. 95,373. Please note that a POTW may already develop a local limit to reduce or eliminate a discharge of a pollutant from a particular discharger *without setting a nation-wide air standard.*	**(iii) Imposes costs that exceed benefits;** EPA erroneously concludes that this new POTW requirement will not cost anything. See 81 Fed. Reg. at 95,373.	Implementing the proposed changes to the POTW RTR Rule would potentially cost indirect and direct discharges millions of dollars in capital and up to $1 million for annual maintenance and operation, depending on the size of the facility. A POTW may already develop a local limit to reduce or eliminate a discharge of a pollutant from a particular discharger *without setting a nation-wide air standard.*
C.8 Repeal or Replace Modify NSPS and NESHAPS Methane Monitoring Requirements.	**42 U.S.C. § 7411(b); 40 C.F.R. 60 Subpart OOOOa; 81 Fed. Reg. 35,824 (June 6, 2016)** (*Methane Leak Detection and Repair (LDAR) program revisions*); **77 Fed. Reg. 49490 (Aug. 16, 2012)** (VOC NSPS Part OOOO). EPA's 2016 "methane LDAR program" regulates the same emission points as the 2012 NSPS Subpart OOOO. There is little or no evidence that the 2016 rule's incremental benefits provide regulatory justification for revisions, particularly since implementation of the 2012 NSPS has resulted in a decline of methane emissions by 13.3% despite a 400% increase in U.S. shale gas production.	**(iii) Imposes costs that exceed benefits;** • **Unnecessarily duplicative with 2012 rulemaking for VOC sources.**	EPA "conservatively" estimated that capital cost of the 2016 revisions will be $250 mm in 2020 and $360 mm with O & M and recordkeeping/reporting costs of $390- $640 mm in 2020 - 2025. See, 81 Fed. Reg. at 35886.
C.9 Modify RTR Rule for Refineries and Other Industries Requiring "Fenceline Monitoring."	42 U.S.C. §§ 7412(d)(6), (f); 40 C.F.R. § 63 Subpart CC at 40 CFR §63.658; 80 Fed. Reg. 75,177 (Dec. 1, 2015). EPA determined in the RTR Rule that there was no residual risk from Group 1 and Group 2 refineries, see page 75,187-8, but nonetheless the agency adopted expensive fenceline monitoring requirements for affected refineries, ostensibly to study fugitive emissions from facilities and because such monitors would make surrounding communities feel safer. There are not rigid monitoring protocols for such fugitives monitoring, and there are no compliance emission limits from the monitors.	**(iii) Imposes costs that exceed benefits; not the least of which is the potential to suggest improperly to the public that emissions levels are not incompliance with law.** • **Not required by law.**	EPA estimated the total capital cost of fenceline monitoring to be $ 12.5 million with $6.36 million in annual maintenance and operation costs. See 80 Fed. Reg. 75,226 Table 2. Industry believes the overall sector costs will be higher.

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
C.10 Amend NSPS and NESHAPs to Include High Pressure Ground Flares	**42 U.S.C. §§ 7411(b); 7412(d); 40 CFR 60.18 (NSPS) and 63.11 (NESHAP).** Currently, high pressure ground flares are not covered by NSPS or NESHAP standards and thus require EPA's approval of an Alternative Monitoring Emission Limitation for each flare, which inhibits new project developments since approval can take months or years and currently requires a federal register notice proposal, public comment and final federal register approval in addition to those associated with NSR permitting public notice requirements.	**(i) Eliminate jobs, or inhibit job creation; (ii) are outdated, unnecessary, or ineffective**	Questions regarding ground flares and approval of case-specific alternative monitoring methods for ground flares weigh in decisions to site projects in the US and lead to less efficient control technology selection.
			Continued on Next Page

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
	D. CAA TITLE VI - OZONE DEPLETING SUBSTANCES ("ODS") AND NON-ODS SUBSTITUTES		
D.1 Repeal or Reconsider the Regulation of Non-Ozone Depleting Substitutes under CAA Title VI Section 608 Refrigerant Management Rule and Section 612 Significant New Alternatives Policy ("SNAP") Program Based Solely on their GWP.	**Montreal Protocol; Clean Air Act Title VI, 42 U.S.C. §§ 7671-7671q ("Regulation of Ozone Depleting Substances (ODS)"); [1] 40 C.F.R. §§ 82.151 (def.); 156-157 as amended by 81 Fed. Reg. 82,272 (Nov. 18, 2016)** (*"Protection of Stratospheric Ozone: Update to the Refrigerant Management Requirements Under the Clean Air Act"*) ***and*** **[2] 42 U.S. C. § 612;40 C.F.R. Part 82, Subpt G (SNAP Program), App B42 81 Fed. Reg. 86,778 (Dec. 1, 2016) (SNAP Rule #21; 81 Fed. Reg.70,029 (Oct. 11, 2016).** [1} The Revised 2016 Refrigerant Management Regulations 40 CFR Part 82 Subpart F impose significant new regulatory requirements, including but not limited to leak detection and repair and reporting programs and retrofit/retirement planning requirements for equipment using non-ODS Substitutes (based on their GWP potential). The new regulations also impose very harsh consequences for units on which leaks have been repaired but recur. [2] Under the SNAP program, 40 CFR Part 82, App. G, EPA listed non-ODS substances as unacceptable alternatives based on their GWP. Substitutes that are non-ODS should not be listed as an unacceptable alternative for any use, based in whole or in part on their GWP. **Note, h*owever, that NEDA-CAP supports the acceptable alternatives determinations in each of these rules, including but not limited to:*** *For Fire suppression and explosion protection end-uses*, subject to use conditions, as of January 3, 2017 for : • 2-bromo-3,3,3-trifluoroprop-1-ene (2-BTP) as a total flooding agent for use in engine nacelles and auxiliary power units (APUs) on aircraft; and • 2-BTP as a streaming agent for use in handheld extinguishers in aircraft.	**(iii)imposes economic costs that exceed benefits** **(vi) derives from or implements Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.** CAA Sections 608 and 612 are designed to implement the Montreal Protocol in the 1990 Clean Air Act Amendments, and the recent "amendment" to the Protocol agreed to by the U.S. in Kigali, Rwanda in Fall 2016 must be presented to the U.S. Senate for ratification before the Congress can amend the Act to regulate non-ODS substitutes under the refrigerant management and/or SNAP program.	Without consideration of benefits using the social cost of carbon, the Regulatory Impact Assessment indicates that the costs of these rules far exceed their benefits. Replacement of comfort cooling, industrial refrigeration process units for manufacturers who relied on agency assurances that replacement of non-leaking equipment with non-ODS substitutes would provide long-term assurances and certainty to industry. EPA should however incentivize the use of non-ODS refrigerants by expanding the list of exempt refrigerants because it is not clear that substitutes like propane and other flammable VOCs are either safe or provide reliable cooling needs to current non-ODS. Also note that this regulation applies to institutional (hospital, church, school, government, etc.-owned air conditioners).

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
	E. OTHER CAA REGULATONS		
E.1 Modify Proposed Revisions of CAA Risk Management Rule	42 U.S.C. § 7412(r); 40 C.F.R. § 68; 82 Fed. Reg. 4,594 (Jan. 13, 2017), as delayed at 82 Fed. Reg. 8,499 (Jan. 26, 2017) and 82 Fed. Reg. 13,968 (Mar. 16, 2017). Specifically the "Safer Technology & Alternatives Analysis" ("STAA") at §68.67(c)(8) and in §68.3 (definitions) exceeds EPA's authority as does disclosure of information (particularly information required to be managed as sensitive security information under the Chemical Facility Assessment rules administered by the U.S. Dept. of Homeland Security). Further, in §§ 68.79-80, EPA has dramatically and unnecessarily expanded audits to require review of ALL records and ALL procedures versus allowing for the use of recognized audit protocols, which is wasteful and unnecessary.	**(iii) Imposes costs that (far) exceed benefits**	EPA estimates that the annualized costs for the STAA analysis is $70 million, with little or no economic benefit form this "make work" provision
E.2 Apply Good Faith Policy to the Use of EPA Emissions Factors, Including WebFIRE & AP-42 Factors.	Emission factors, compiled by EPA on WebFIRE, https://cfpub.epa.gov/webfire/index.cfm?action=fire.SearchEmissionFactors, are commonly used to estimate emissions from proposed new sources for purposes of New Source Review preconstruction permitting and to calculate compliance with CAA requirements, particularly where such emissions cannot be accurately measured. EPA's emissions reporting tools, part of the 21st Century Emissions Reporting Project, continuously update new emission factors for industry sectors based on a variety of reported emissions data, including but not limited to stack-testing. Thus, a source that was literally in compliance based on yesterday's emission factors may not be in compliance based on tomorrow's emission factor. The CAA Enforcement Office should issue a good faith policy on industry's reliance on AP-42 and emission factors while it continues to clean up the "old" ("C"- & "D" graded AP.42 emission factors) through ERT & WebFIRE.	**Good public policy.**	EPA's civil policy includes daily fines of almost $50,000/per day per occurrence and, in some jurisdictions, operating without a valid preconstruction permit is viewed as a continuing violation.
E.3 Modify the Title V Permit Objection Policy by Removing Retroactive NSR Applicability Issues from Consideration.	42 U.S.C. § 7661(2)(b); 40 C.F.R. §§ 70.8(d), 71.8. 81 Fed. Reg. 57,822 (Aug. 24, 2016) (Proposed Rule to Improve Title V Petitions): CAA Title V operating permits must be renewed every five years, which affords the public to opportunity to comment on all applicable Title V requirements. Environmental advocacy groups take advantage of this opportunity to make—and renew—objections regarding a Title	The courts apply the general federal 5-year statute of limitations to NSR, (i.e., the failure to obtain a required NSR permit), so EPA should apply the same	Requiring EPA's Administrator to review historical NSR applicability is not constructive, especially as memories fade and personnel change. It has

NAME OF REGULATION – Brief Description	CITATION to C.F.R. & FED. REG. Issue Description	(i)-(vi) criteria listed at 82 Fed. Reg. 17,793, Col.3	Savings/economicimpact information
	V source's historic NSR compliance, including whether a source implemented BACT at the time when the permit was issued, which may be decades before. These are two separate EPA programs, and NSR applicability review is not appropriate in the context of Title V permit renewal.	Statute of Limitations to Title V review of historic NSR applicability. Further, with respect to projects for which an NSR permit was obtained, any objections should be brought in a timely, direct, and procedurally proper challenge to that permit and not in a Title V renewal proceeding.	become a tremendous drain on state permitting authorities, EPA, regulated entities, and the courts.
E.4 EPA Should Automatically Issue "§ 705 Stays" with Notices of Agency Reconsideration of Rules that are Also Under Judicial Review.	**5 U.S.C. §705.** The Administrative Procedures Act provides that "When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings." While EPA, on a case-by-case basis, can postpone effective date of any action taken by it pending judicial review, the reconsideration process and judicial review process can take years and frustrate the process for reconsidering regulations that the Administrator has agreed are appropriate for reconsideration, *unless the regulation itself is stayed.* Adoption of an agency rule or policy automatically staying the implementation of a rule on which the Administrator has granted reconsideration would promote expeditious reconsideration of such regulations and save millions of dollars spent on implementation of some regulations that are ultimately reconsidered.	**Good public policy.**	Millions of dollars in costs imposed by implementing regulations that are administratively and judicially challenged and reconsidered by EPA, could save the U.S. economy $$ millions.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Fotouhi, David
Sent: Wed 5/3/2017 9:32:06 PM
Subject: RE: Have you told Brandon about the plan for the CPP rulemaking?

Got it; thanks.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

-----Original Message-----
From: Gunasekara, Mandy
Sent: Wednesday, May 3, 2017 4:57 PM
To: Fotouhi, David <fotouhi.david@epa.gov>
Subject: Re: Have you told Brandon about the plan for the CPP rulemaking?

Ex. 5 - Attorney Client

Sent from my iPhone

> On May 3, 2017, at 4:29 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:
>
>
>
> Sent from my iPhone

To: bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]; Grant, Eric (ENRD)[Eric.Grant@usdoj.gov]; Vaden, Christopher (ENRD)[Christopher.Vaden@usdoj.gov]; Lipshultz, Jon (ENRD)[Jon.Lipshultz@usdoj.gov]; Hostetler, Eric (ENRD)[Eric.Hostetler@usdoj.gov]; Kolman, Chloe (ENRD)[Chloe.Kolman@usdoj.gov]; Lynk, Brian (ENRD)[Brian.Lynk@usdoj.gov]; Rave, Norman (ENRD)[Norman.Rave@usdoj.gov]; Berman, Amanda (ENRD)[Amanda.Berman@usdoj.gov]; Grishaw, Letitia (ENRD)[Letitia.Grishaw@usdoj.gov]; Miller, Wendy (ENRD)[Wendy.Miller@usdoj.gov]; Wardzinski, Karen (ENRD)[Karen.Wardzinski@usdoj.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Middleton, Brandon (ENRD)[Brandon.Middleton@usdoj.gov]
From: Owens, Angela (ENRD)
Sent: Wed 5/3/2017 6:53:50 PM
Subject: 4:00p CPP Litigation and Supplemental Briefing today...

This 4:00 meeting today will just be a **conference call**. There has been some confusion in scheduling of the conference room and therefore will only be a conference call.

Sorry for any confusion.

Angela Owens

Environment & Natural Resources Division

US Department of Justice

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Washington, DC 20530

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Johnson, Kirk D.
Sent: Wed 5/3/2017 3:13:00 PM
Subject: NRECA follow-up

Hi Mandy –

Thanks so much for joining so many electric co-ops with Administrator Pruitt last week while we had our annual legislative Conference! I wanted to follow-up with you to make sure we had the right list of "to do" items as a result.

Per the Administrator's request:

We will be getting you our stranded assets (or "lost capital" as Administrator Pruitt called it) information resulting from the CPP.

We will also follow-up with specific Regional Haze issues our members are still having.

And we are developing specific suggestions for NSR reform.

Please do not hesitate to reach out at any time we can provide information or assist you and the Administrator as you organize the Agency to tackle several of these key issues.

Thanks so much!

-K

Kirk Johnson

Senior Vice President, Government Relations

703-907-5775 (office) | 703-887-0706 (mobile) | kirk.johnson@nreca.coop

Assistant: Erin Steverson | 703-907-5854 | erin.steverson@nreca.coop

NRECA
America's Electric Cooperatives

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NRECA Mission: To Promote, Support, and Protect the Community and Business Interests of Electric Cooperatives.

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To: Dravis, Samantha[dravis.samantha@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]
From: Fotouhi, David
Sent: Tue 5/2/2017 10:19:37 PM
Subject: FW: Call with DOJ re: CPP

I just wanted to circle back with you all on this. Based on my quick look at calendars, the best option may be to do 4:00-4:30 p.m. tomorrow (and push our SSM OGC meeting from 4:15 to 4:30). Let me know if that would work for you and I'll confirm with DOJ.

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Middleton, Brandon (ENRD) [mailto:Brandon.Middleton@usdoj.gov]
Sent: Tuesday, May 2, 2017 6:10 PM
To: Fotouhi, David <fotouhi.david@epa.gov>
Subject: FW: Call with DOJ re: CPP

From: Middleton, Brandon (ENRD)
Sent: Tuesday, May 02, 2017 1:34 PM
To: 'Srinivasan, Gautam' <Srinivasan.Gautam@epa.gov>; 'Minoli, Kevin' <Minoli.Kevin@epa.gov>; 'Gunasekara, Mandy' <Gunasekara.Mandy@epa.gov>
Cc: 'Fotouhi, David' <fotouhi.david@epa.gov>; 'Schmidt, Lorie' <Schmidt.Lorie@epa.gov>;

'Dravis, Samantha' <dravis.samantha@epa.gov>
Subject: RE: Call with DOJ re: CPP

Just got asked to attend another meeting at 3 tomorrow, so we have 12-3, and 4-5 for availability. Let us know, thanks!

From: Middleton, Brandon (ENRD)
Sent: Tuesday, May 02, 2017 10:01 AM
To: 'Srinivasan, Gautam' <Srinivasan.Gautam@epa.gov>; 'Minoli, Kevin' <Minoli.Kevin@epa.gov>; 'Gunasekara, Mandy' <Gunasekara.Mandy@epa.gov>
Cc: 'Fotouhi, David' <fotouhi.david@epa.gov>; 'Schmidt, Lorie' <Schmidt.Lorie@epa.gov>; 'Dravis, Samantha' <dravis.samantha@epa.gov>
Subject: RE: Call with DOJ re: CPP

Tomorrow between 12 and 2 would be best. Anytime in the afternoon would work though. Not available in the morning. Thanks.

From: Middleton, Brandon (ENRD)
Sent: Tuesday, May 02, 2017 9:51 AM
To: 'Srinivasan, Gautam' <Srinivasan.Gautam@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: RE: Call with DOJ re: CPP

I will check with our folks to get a better sense of availability tomorrow.

BMM

From: Srinivasan, Gautam [mailto:Srinivasan.Gautam@epa.gov]
Sent: Tuesday, May 02, 2017 9:47 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Gunasekara, Mandy

<Gunasekara.Mandy@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Middleton, Brandon (ENRD) <BMiddleton@ENRD.USDOJ.GOV>
Subject: RE: Call with DOJ re: CPP

Wednesday at noon is similarly not ideal for us, but we can make it work if that is the only option. Is there another time that might work for everyone?

++++++++++++

202-564-5647 (o)

202-695-6287 (c)

From: Minoli, Kevin
Sent: Tuesday, May 02, 2017 9:34 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Middleton, Brandon (ENRD) <Brandon.Middleton@usdoj.gov>
Subject: Re: Call with DOJ re: CPP

I've got a meeting with outside parties at that time and David should be in that as well. Lorie and Gautam, what is your availability?

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On May 1, 2017, at 7:17 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> Hi All –
>
> DOJ would like to touch base on CPP this Wednesday at noon. Are you all available to join a call?

Best,

Mandy

To: Fotouhi, David[fotouhi.david@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
From: Greenwalt, Sarah
Sent: Tue 5/2/2017 5:09:21 PM
Subject: Re: Weekly Cabinet-Level Department/Agency Policy and Scheduling Reports

Fine with me.

Sent from my iPhone

On May 2, 2017, at 10:58 AM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

Mandy, Sarah,

We suggest substituting you all as the contacts for the ELG and CPP rulemakings. Do you agree?

Sent from my iPhone

Begin forwarded message:

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: May 1, 2017 at 11:21:33 PM EDT
To: "Munoz, Charles" <munoz.charles@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Freire, JP" <Freire.JP@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Brown, Byron" <brown.byron@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>, "Fotouhi, David" <fotouhi.david@epa.gov>, "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Davis, Patrick" <davis.patrick@epa.gov>, "beck.nancy@epa.gov" <beck.nancy@epa.gov>
Subject: FW: Weekly Cabinet-Level Department/Agency Policy and Scheduling Reports

This week is the first week to turn in the weekly Cabinet Agency 30-day look aheads. This is something which the WH Staff Secretary has requested so Cabinet Affairs is requiring from each agency.

This will be a good organizing and targeting exercise for us.

I've attached the draft format and a draft version of the beginning of an initial submission from EPA.

Charles is handling the daily calls with the WH as our WH liaison, and has initially

volunteered to handle collecting information for this exercise.

Thank you all for your quick contributions to this exercise. I'm looking for reports for Congress, notable grants, in addition to big ticket policy actions and rulemakings.

Ryan.

-----Original Message-----
From: McGinley, William J. EOP/WHO [mailto: Ex. 6 - Personal Privacy
Sent: Monday, April 24, 2017 12:12 PM
To: McGinley, William J. EOP/WHO < Ex. 6 - Personal Privacy
Cc: Porter, Robert R. EOP/WHO < Ex. 6 - Personal Privacy
Subject: Weekly Cabinet-Level Department/Agency Policy and Scheduling Reports

Greetings,

This email follows up on the new policy outlook program that was unveiled at last week's Chiefs of Staff meeting by Rob Porter, Assistant to the President for Policy Coordination and White House Staff Secretary. As explained below, this new policy and scheduling initiative by Staff Sec and Cabinet Affairs requires the active participation of each Cabinet-level Chief of Staff by submitting weekly reports containing specific policy and scheduling information.

Please review the information below carefully and let us know if you have any questions or comments.

NOTE: The weekly report is in addition to the daily agency action calls conducted by Cabinet Affairs. Please make sure that your Department or Agency continues to participate in the daily agency action calls. Further, this program applies to only unclassified policy initiatives and scheduling information. All classified policy initiatives and scheduling information should continue to be conveyed by secure systems to the appropriate White House departments.

PURPOSE: The purpose of the weekly look-ahead is to provide the White House with information necessary to plan effectively, prioritize key elements of the Administration's policy agenda, and ensure that the policy development process includes consideration of all relevant viewpoints and information.

REPORT CONTENTS: The weekly report contains two primary components: (1) policy items and (2) upcoming events. Please provide a 30-day look ahead for your

Department or Agency. A template is attached for your review and convenience.

For policy items, please provide information for issues that will require as Presidential decision, as well as initiatives including reports to Congress, jobs reports or other Department/Agency reports that generate press interest, significant rulemakings, release of high-profile grants, and other similar initiatives.

For scheduling items, please provide information for major policy speeches, events, and travel by your Secretary, Director, or Administrator.

WEEKLY DEADLINE: Each Cabinet-level Department and Agency must submit its report no later than close of business every Tuesday. The first report will be due May 2, 2017.

WHERE TO FILE: Please submit each report to Bill McGinley, John Mashburn, and Matt Flynn in Cabinet Affairs and to Staff Sec at staffsecretary@who.eop.gov.

Thank you in advance for participating in this important program.

Please do not hesitate to contact us with any questions.

Best,
Bill

William J. McGinley
Cabinet Secretary
The White House
Cell: Ex. 6 - Personal Privacy | E: Ex. 6 - Personal Privacy

<Cabinet 30 Look Ahead Report Template.docx>

<EPA 050217 Cabinet 30 Look Ahead Report Template.docx>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: U.S. EPA Media Relations
Sent: Tue 5/2/2017 2:57:38 PM
Subject: ICYMI...EPA Is Putting American Workers First

IN CASE YOU MISSED IT ...

EPA is Putting American Workers First

EPA Administrator Scott Pruitt
The Washington Times
May 2, 2017
http://www.washingtontimes.com/news/2017/may/1/epa-is-putting-american-workers-first/

When President Trump came to EPA to sign an executive order ending the "war on coal," he was flanked by Pennsylvania coal miners. Hosting coal miners at EPA headquarters in Washington served as a stark contrast to the past administration, to be sure.

President Trump's action was a moment in which a promise became an economic reality. As EPA Administrator, I immediately ordered my Agency to comply with the March 28 executive order, and signed four new rules, which included a review of the Clean Power Plan. Relief — and prosperity — is on the way.

The "war on coal" stemmed from the previous administration's regulations aimed at removing coal from our nation's energy mix. This approach, sanctioned by EPA and other agencies, divided Americans and strengthened Washington's grip on our economy. Thankfully, President Trump has made clear: The regulatory assault on American workers is over. We should not have to choose between supporting jobs and supporting the environment.

Now, opponents of President Trump's new executive order claim that this action means that our federal government is turning its back on a clean environment and regulation altogether. This argument is wrong.

First, the Clean Power Plan was never implemented, and was unable to do a single thing for our environment. Twenty-seven states sued, recognizing the threat this regulation posed to their economies and the rule of law. The Supreme Court granted a stay to halt implementation of the Clean Power Plan.

Rather than take its lumps, the Obama administration still demanded compliance from the states, claiming that the stay was only temporary (a technique that was frequently used by the Agency to extract compliance during litigation). The result was lost jobs and an uncertain regulatory environment, without any environmental gain to show for it.

Second, the Clean Power Plan was expected to yield very little for what it cost the American taxpayer. For the price of American jobs, EPA had promised a reduction of sea level rise by the thickness of two sheets of paper and reduction of atmospheric CO2 concentrations by 0.2 percent by 2100, according to an analysis by the National Economic Research Associates. Emissions growth in China and India, of course, would continue unchecked. This plan put America last.

Third, congressional testimony by my predecessor, former Administrator Gina McCarthy, made it clear that the goal of the Clean Power Plan was far less about achieving a measurable result than it was about providing leadership in the world. The federal government sought to kneecap American workers, while countries like India and China were not held to the same rules.

Americans who want a healthy and clean environment expect lawful, effective and economically sound

regulation — the Clean Power Plan failed on all three counts. EPA can and should now focus on getting real results in the fight for clean air, land and water.

President Trump made it clear that we should put America first. We are not going to allow EPA to pick winners and losers through regulation. EPA should work within the framework that Congress has established. And we should provide regulatory certainty and write rules that make sense for the states and the businesses they affect.

The "war on coal" is over. Now EPA can focus on its mission and deliver real results.

R068

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

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: U.S. EPA Media Relations
Sent: Fri 4/28/2017 11:08:20 PM
Subject: EPA Kicks Off Updates to Website

CONTACT:
press@epa.gov

FOR IMMEDIATE RELEASE
April 28, 2017

EPA Kicks Off Website Updates

WASHINGTON – EPA.gov, the webpage for the United States Environmental Protection Agency, is undergoing changes that reflect the agency's new direction under President Donald Trump and Administrator Scott Pruitt. The process, which involves updating language to reflect the approach of new leadership, is intended to ensure that the public can use the website to understand the agency's current efforts. The changes will comply with agency ethics and legal guidance, including the use of proper archiving procedures. For instance, a screenshot of the last administration's website will remain available from the main page.

"As EPA renews its commitment to human health and clean air, land, and water, our website needs to reflect the views of the leadership of the agency," said J.P. Freire, Associate Administrator for Public Affairs. "We want to eliminate confusion by removing outdated language first and making room to discuss how we're protecting the environment and human health by partnering with states and working within the law."

The first page to be updated is a page reflecting President Trump's Executive Order on Energy Independence, which calls for a review of the so-called Clean Power Plan. Language associated with the Clean Power Plan, written by the last administration, is out-of-date. Similarly, content related to climate and regulation is also under review.

R066

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

To: Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Jackson, Ryan
Sent: Fri 4/28/2017 6:05:45 PM

Can we all meet with Pruitt after the last governor's call of the day about 4pm to ensure he's good with the approaches on CPP and WOTUS so OP can make the finishing touches and we can get the process started with OMB?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Wilcox, Jahan
Sent: Fri 4/28/2017 5:36:53 PM
Subject: FW: Statement on DC Circuit granting EPA's request for a stay in Clean Power Plan

Yes.

From: Freire, JP
Sent: Friday, April 28, 2017 1:35 PM
To: Press <Press@epa.gov>
Subject: Statement on DC Circuit granting EPA's request for a stay in Clean Power Plan

Folks you can use the following from me:

"Pursuant to the President's Executive Order, Administrator Pruitt has already announced that EPAis reviewing the Obama Administration's Clean Power Plan. We are pleased that this order gives EPA the opportunity to proceed with that process."

J.P. Freire

Environmental Protection Agency

Associate Administrator for Public Affairs

Ex. 6 - Personal Privacy

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Wilcox, Jahan
Sent: Fri 4/28/2017 5:14:17 PM
Subject: FW: Here is our statement, can you update?

From: Wilcox, Jahan
Sent: Friday, April 28, 2017 12:03 PM
To: 'Timothy Cama' <tcama@thehill.com>
Subject: Here is our statement, can you update?

"Last year, the Supreme Court granted a stay on the Clean Power Plan, so we always knew there were serious legal problems with this initiative from the Obama Administration and we welcome this news from the D.C. Circuit."
EPA spokesman, Jahan Wilcox

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: 202.309.0934
Work Email: wilcox.jahan@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Middleton, Brandon (ENRD)
Sent: Fri 4/28/2017 3:26:14 PM
Subject: FW: CPP order issued
ENV_DEFENSE-#804486-v1-admin_su_cpp_order_april_28_2017.PDF

Good news!

From: Lipshultz, Jon (ENRD)
Sent: Friday, April 28, 2017 10:54 AM
To: Middleton, Brandon (ENRD) <BMiddleton@ENRD.USDOJ.GOV>; Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>
Subject: CPP order issued

Brandon and Bruce – the DC Circuit just issued an order in the CPP litigation. Copy attached.

Ex. 5 - Attorney Client

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Fotouhi, David
Sent: Thur 4/27/2017 9:34:08 PM
Subject: Re: CPP Litigation - DOJ thoughts on CPP Repeal impact on Abeyance Motions

Perfect--me too!

Sent from my iPhone

On Apr 27, 2017, at 5:17 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> Need to push our meeting 10 min
>
> Sent from my iPhone
>
> On Apr 27, 2017, at 5:04 PM, Fotouhi, David <fotouhi.david@cpa.gov> wrotc:
>
> > Great
> >
> > **David Fotouhi**
> >
> > Deputy General Counsel
> >
> > Office of General Counsel
> >
> > U.S. Environmental Protection Agency
> >
> > Tel: +1 202.564.1976
> >
> > fotouhi.david@epa.gov
> >
> > **From:** Gunasekara, Mandy
> > **Sent:** Thursday, April 27, 2017 4:02 PM
> > **To:** Fotouhi, David <fotouhi.david@epa.gov>
> > **Subject:** RE: CPP Litigation - DOJ thoughts on CPP Repeal impact on Abeyance Motions

Yes 5:30?

From: Fotouhi, David
Sent: Thursday, April 27, 2017 2:56 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Fwd: CPP Litigation - DOJ thoughts on CPP Repeal impact on Abeyance Motions

Mandy: can we set aside some time late this afternoon or tomorrow to discuss the CPP litigation and its impact on the rulemaking?

Sent from my iPhone

Begin forwarded message:

> **From:** "Jordan, Scott" <Jordan.Scott@epa.gov>
> **Date:** April 27, 2017 at 2:11:15 PM EDT
> **To:** "Fotouhi, David" <fotouhi.david@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>
> **Cc:** "Skinner-Thompson, Jonathan" <Skinner-Thompson.Jonathan@epa.gov>, "Conrad, Daniel" <conrad.daniel@epa.gov>, "Marks, Matthew" <Marks.Matthew@epa.gov>, "Vijayan, Abi" <Vijayan.Abi@epa.gov>
> **Subject: CPP Litigation - DOJ thoughts on CPP Repeal impact on Abeyance Motions**
>
> I had a conversation with Eric Hostetler at DOJ. He is going to raise this to his management chain, but Eric had the following initial reactions:

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

To: DJarvisLEG@yahoo.com[DJarvisLEG@yahoo.com]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]
Cc: 'Steve Sexton'[stevesexton@vocgen.com]; 'Mark Vermeer'[markvermeer@vocgen.com]; kevin_holmquist@keybank.com[kevin_holmquist@keybank.com]; tom@dadeyinsurance.com[tom@dadeyinsurance.com]; Bianco, Karen[Bianco.Karen@epa.gov]; Hupp, Sydney[hupp.sydney@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]
From: Mark Ranalli, Allegiance Energy Systems, LLC.
Sent: Thur 4/27/2017 8:26:13 PM
Subject: Draft Meeting Minutes - EPSI-VOCGEN Discussion Meeting Wednesday 4/26 at 12:30pm EST
Vocgen National Plan Message.pdf
10-laitner-sexton-2005-final-copyright-2010.pdf
External Meeting Request Form 3-31-2017 EPSI-VOCGEN SteveSexton.pdf
EPA,Jarvis,Ranalli,MeetingNotes 4-26-2017,Re EPSI-VOCGEN.pdf

Hello All,

Thank you again for permitting Doug and I your time to quickly discuss the External Meeting Request Form we submitted.

Below & attached are, as promised, the Draft Minutes from yesterday's call. To perhaps prompt our first next follow-on dialog.

I refer to these notes as "Draft" minutes for two reasons: I didn't take notes - It's from memory, and I added some content for clarification or emphasis;

Plus I'm we probably shouldn't classify this as minutes without your all approval.

Thank you again for your time. It was a pleasure to have met you all, and thank you very much Karen, Sydney and Emily for making this happen !

Talk to you soon.

Best Regards

Doug and Mark

Draft Meeting Notes (with some added editorial – for emphasis or clarity purposes)

Date: Wednesday 4-26-2017

Time: 12:30 pm to 1:00 pm

Venue: Conference Call

Attendees:

- Doug R. Jarvis - President Green Visions Solar and Co-Founder EPSI-VOCGEN New York
- Mark A. Ranalli – Principal Allegiance Energy Systems, and Co-Founder EPSI-VOCGEN New York
- Mandy Gunasekara – Senior Policy Advisor
- Sarah Dunham – Acting Assistant Administrator of EPA's Office of Air and Radiation
- Reid Harvey – Director, Clean Air Markets Division

Purpose: To review and discuss *US EPA External Meeting Request Form* completed/submitted April 1 2017, on behalf of Environment & Power Systems International (EPSI), by Doug Jarvis and Mark Ranalli, to request a short meeting for EPSI President to present and discuss with Administrator Pruitt the EPSI VOCGEN National Implementation Plan and the EPSI proposed VOCGEN Operating Permit Program. A program that, once in place; can enable the speedy retrofit and construction of new manufacturing facilities with no net increase in Ozone precursors, toxics, or global warming gases. And a national plan, that with the national permitting program, offers the opportunity to leverage the increase of American manufacturing operations without limitation, or opposition by environmentalists, and in full compliance with the presently stayed CPP.

Agenda:

1. Doug and Mark's (D&M) few questions toward guiding our 30 minute conference call:

a. D&M Question: Have you had a chance to review the completed "EPA External Meeting Request Form" we sent back to Sydney Hupp, along with two documents attached to it? . . .

and, . . .

b. D&M Question: have you any immediate or specific questions for us to address regarding our input on the External Meeting Request Form (EMRF) or the attachments ?

M/S/R Answer: to Qa and Qb – yes we did review the material, and yes we would like to know, summarily from D&M, an overview from those documents, along with a statement about what D&M would like our team to consider.

D&M Response: Agreed, we plan to address your questions and cover basically:

- Who we are,
- What is VOCGEN, and
- the Purpose of this conference call meeting, such that at the end of the call, you and your team would be sufficiently satisfied and comfortable submitting to Administrator Pruitt:

o the External Meeting Request Form (EMRF) with attached two documents, plus

o the two documents we emailed to Emily just before this call; and,

o with your recommendation that Administrator Pruitt and President Trump will be delighted to:

A. know that the VOCGEN technology, is:

o a proven, vetted and patented combined Air Pollution Control (APC) / Combined Heat and Power (CHP) technology, that is the quintessential optimal and only effective *market-based solution*, the world, that will cost-effectively transform and help revitalize industrial manufacturing in America,

while

o also being the revolutionary disruptive APC technology that becomes the means to achieve

and exceed the requirements of the presently stayed Clean Power Plan (CPP);

thereby, precluding the Trump Administration's need to modify or denounce the stayed CPP, and in fact leverage their keeping of the Democratic Party's CPP (without destroying the American economy), i.e, toward:

- eliminating the age-old "cost-to-economy" vs. "Environment / Climate Change / regulatory compliance" paradigm, and thus neutralizing the commonplace environmentalist's anti-climate criticism/rhetoric.

- building increased and additional American Manufacturing – product, revenue, jobs and careers - in America;

- repatriation of American manufacturing operations;

- monetizing emissions to America's advantage; and

- being a means to

•□□□□□□□□ levelize the taxation of Imports, and

•□□□□□□□□ affecting a new NAFFTA program

while,

- increase American Exports and concerns;

- reversing the American Trade Deficit; and,

- decreasing per-capita taxes, yet increasing tax revenue.

and,

B. briefly meet, as requested in the EMRF, via Conference call with EPSI President Steven E. Sexton, to discuss the development of Sexton's proposed Federal Operating Permit Program, toward the creation of a streamlined, standardized yet comprehensive (i.e. optimal) permitting program that can be helpful to and adopted by the States.

c. D&M Question: have you had any recent communication with either Tom Dadey or Senator Thad Cochran?

M/S/R Answer: None, in regard to VOCGEN or EPSI; and, we are not familiar with the name Tom Dadey

D&M Response: if or as time permits we'll explain the reason for this question.

2. What is Vocgen:

In one sentence: *VOCGEN is a revolutionary, disruptive technology and market-based solution that represents the future of clean, efficient and competitive American manufacturing and a vibrant American economy based on wealth creation.* –Steven E. Sexton

Briefly – and from attached or referenced documents:

a. VOCGEN is an Air Pollution Control (APC) technology/system that outperforms and is unlike any other APC technology in the world – because it can abate emissions 100% while also cost-effectively perform Combined Heat and Power.

The VOCGEN system's performance exceeds the requirements of the Clean Air Act (CAA) Title I, the National Ambient Air Quality Standards (NAAQS), and the CAA Title V air operating permit requirements for major sources.

b. Moreover, VOCGEN is also a dispatchable, clean energy, Combined Heat and Power (CHP) technology/system – for manufacturing - that outperforms and is unlike any other CHP technology in the world – because it can cost-effectively perform Combined Heat and Power - for the Industrial Sector affording an unheard-of 2 year return on capital investment**, while also most effectively performing Air Pollution Control – Notably, a single VOCGEN power generator (with an output of 560kWe/hr and 6.4MMBtu/hr high quality waste heat) offsets ≈20,000 metric tons CO2e and toxics annually from regional coal-fired generation; representing high value emissions for trade.

**Each VOCGEN System will save its Manufacturer in excess of $1,000,000 annually in operating costs, as a secondary benefit of eliminating its emissions – to comply with regulations.

c. At the heart of the patented VOCGEN technology is the gas turbine oxidizer (GTO), having an off-the-shelf robust industrial gas turbine engine (i.e. combustion turbine or "jet engine") that has over 45 years of highly reliable operations in marine, desert and Arctic environments; which is coupled with a generator set, to produce 560 kWh/hr electric and 1,876 kWh/hr (or 6.4

MMBtu/hr) heat energy.

d. The VOCGEN is the only cost effective clean energy technology capable of achieving – exceeding - the proposed standards of the CPP Ruling. The VOCGEN is shovel-ready to be made commercially available (i.e. to be mass produced), to fulfill a US industrial sector demand/market of nearly 40,000 facilities. Many of these facilities will install multiple VOCGEN units.

e. The EPSI VOCGEN has been vetted by:

- U.S. DOE - Department of Energy, Berkeley National Labs
- U.S. EPA – Environmental Protection Agency (reference the attached White Paper co-authored by Steve E. Sexton (EPSI) and John A. Skip" Laitner (U.S. EPA))
- U.S. DARPA – Defense Advanced Research Projects Agency,
- GTI - Gas Technology Institute,
- EPRI - Electric Power Research Institute
- ACEEE - American Society for an Energy-Efficient Economy
- CEC – California Energy Commission

3. Our Goal for this Meeting:

That we, Doug and Mark, will have provided you and your team sufficient information and discussion points to:

◆ support your due diligence review of the attached and referenced documentation, and following that review and follow-up meeting(s) or clarifications you require from us, to

◆ recommend to Administrator Pruitt that a brief meeting (perhaps too with Secretary Rick Perry) be arranged for EPSI President Steve E. Sexton to discuss among other things, the proposed National VOCGEN Operating Permit Program – preferably before President Trump's policy team votes to determine the fate of the presently stayed CPP.

4. EPA's (M/S/R) questions of or from the aforementioned:

a. M/S/R Question: can you provide us an example from the list of organizations that have vetted the EPSI VOCGEN technology?

D&M Answer: Yes, reference the attached white paper co-authored by Steve E. Sexton (EPSI) and John A. Skip" Laitner (U.S. EPA)

b. M/S/R Question: describe the state of play of the VOCGEN – in the US and/or internationally, e.g. are there presently systems deployed in other countries?

D&M Answer: to our knowledge Steve Sexton has resisted or deferred responding to current requests from other countries until he first discusses the VOCGEN program with the Trump Administration; so, there are no deployed systems, monitored by EPSI, outside the US.

An initial, generation I, VOCGEN GTO/CHP commercial prototype operated successfully for a 3.5 year period on a mixture of waste pentane air emissions (VOC) and natural gas, in compliance with the requirements of a Class 1 air quality operating permit issued by the San Joaquin Valley Air Pollution Control District.

c. M/S/R Question: are there currently regulatory barriers, in the States or at the Federal level, that are stifling the marketing or precluding deployment of VOCGEN systems?

D&M Answer: EPSI has Letters of intent to purchase from a number of manufacturing concerns headquartered and/or having operations in U.S.A.

As you may know there are nearly 40,000 facilities of approximately 104 industrial categories, that are subject to Title I of the Clean Air Act (CAA); the National Ambient Air Quality

Standards (NAAQS) for ground level Ozone; the CAA Title V air operating permit requirements for major sources; and the US EPA Clean Power Plan Guidelines.

The Automobile industry is one of those groups, and many manufacturing concerns, like the Automobile industry, have operations in multiple states.

These firms have advised EPSI that not only do they need and want multiple units for their multiple facilities, they expressed that they need too assurance from EPSI that:

A. EPSI can have the infrastructure in place to affect and respond to high production requirements that would come from the demand for the VOCGEN technology/systems –from their multiple plants and from that of their competitors; and

B. That the various State permitting processes won't slow or stifle project implementation; i.e. the Manufacturing concerns need uniformity (or standardization) w/r/t the permitting process.

In regard to the deployment of VOCGEN with respect to interconnection of the VOCGEN systems for grid-tied Distributed Generation (DG or DG/CHP) applications, as you may know each States' Utility Commission has different interconnection requirements – some more onerous than others, and are particularly more complex and onerous in deregulated States where the investor-owned utilities are threatened by DG. However, we believe from experience, that EPSI and the aforementioned EPSI-VOCGEN targeted industrial customers will not, in any way, find Utility interconnection requirements to be a hurdle or barrier to VOCGEN project implementation.

d. M/S/R Question: we would like to continue this conversation via a follow-up dialog if that works for D&M and EPSI.

D&M Answer: Agreed, and we hope these minutes as well as any of the information and data from documents we submitted, referenced, or to be submitted for you review, will prompt more questions & answers toward your satisfaction and conclusion that *the EPSI VOCGEN is indeed the most revolutionary, most documented, most vetted, and the only market-based solution offering a wealth generating economic model that will significantly improve manufacturing industry growth, production, revenue and profits; creating jobs and careers, and vastly improve the American economy, while simultaneously improving energy security, protecting human health, and directly benefiting environmental health – thereby providing the*

environmentalist the quintessential solution that until now was not ever expected or known to exist.

-

Moreover we would like to again encourage visiting the following websites, for more information about EPSI, the VOCGEN technology, and Mr. Steve E. Sexton:

- Main Web Site: www.vocgen.com and

http://vocgen.businesscatalyst.com/publications.html

- Market/Sales Site: Environmental XPRT (product information and publications) https://www.environmental-expert.com/AllContent/?keyword=VOCGEN

- Partners: http://www.vocgen.com/partners.html

- Steve E. Sexton's CV/Resume: https://www.visualcv.com/steven-sexton

- Vocgen National Plan Download: https://www.environmental-expert.com/companies/environment-power-systems-international-32306/downloads

- LinkedIn Groups Managed by EPSI's SE Sexton:

· The VOCGEN Energy Group - https://www.linkedin.com/groups/2740286

· Oro Valley Energy Venture Group - https://www.linkedin.com/groups/6563219

- LinkedIn Pulse - Posts By SE Sexton:

1. Advancing Environmental Health

https://www.linkedin.com/pulse/psalm-environmental-health-steven-e-sexton?trk=prof-post

2. Advancing Industrial Energy Efficiency Programs

https://www.linkedin.com/pulse/advancing-industrial-energy-efficiency-programs-steven-e-sexton?trk=prof-post

3. Advancing Clean Power Plan Objectives

https://www.linkedin.com/pulse/advancing-clean-power-plan-objectives-steven-e-sexton?trk=prof-post

4. Manufacturing Sector Business Growth Intelligence

https://www.linkedin.com/pulse/manufacturing-sector-business-growth-intelligence-steven-e-sexton?trk=prof-post

5. Advancing a Clean Power Economy

https://www.linkedin.com/pulse/advancing-clean-power-economy-steven-e-sexton?trk=mp-reader-card

Thank you again Ms. Bianco, Ms. Hupp, Ms. Atkinson, Ms. Gunasekara, Ms. Dunham, and Mr. Harvey for your efforts, time and consideration of this terrific technology and revolutionary solution - for the Trump Administration to make American Manufacturing and America Great Again – Together - with and to the favor to the Democratic Party and Environmentalist.

It was a pleasure speaking with you all, and we look forward to talking with you again in follow-up dialogs.

Best Regards

Doug and Mark

Attachments

cc:

- Steven E. Sexton, President, CEO and Managing Director, Environment and Power Systems International
- Mark E. Vermeer, PE, MBA, Director of Operations Environment and Power Systems International
- Kevin A. Holmquist, Onondaga County Legislature Member, Manager Key Bank – Manlius

- Tom V. Dadey, Onondaga County GOP Chairman, Member Executive Committee of the President Trump Transition Team, President Dadey Insurance Agency

- Karen Bianco, Office of General Counsel at US EPA

- Sydney Hupp, Office of the Administrator- Scheduling

- Emily Atkinson, Management Analyst/Office Manager, Immediate Office of the Acting Assistant Administrator, Office of Air and Radiation, USEPA

From: Atkinson, Emily [mailto:Atkinson.Emily@epa.gov]
Sent: Wednesday, April 26, 2017 11:29 AM
To: Mark Ranalli, Allegiance Energy Systems, LLC. <MARanalli@AllegianceEnergy.com>
Cc: DJarvisLEG@yahoo.com; kevin_holmquist@keybank.com
Subject: RE: VOCGEN Discussion Meeting Confirmed 4/26 at 12:30pm EST

Thank you for sending these over. I will make sure Sarah Dunham gets a copy.

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850

Email: atkinson.emily@epa.gov

From: Mark Ranalli, Allegiance Energy Systems, LLC.
[mailto:MARanalli@AllegianceEnergy.com]
Sent: Wednesday, April 26, 2017 11:20 AM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: DJarvisLEG@yahoo.com; kevin_holmquist@keybank.com
Subject: FW: VOCGEN Discussion Meeting Confirmed 4/26 at 12:30pm EST

Hello Emily,

Looking forward to conference-call meeting with Sarah shortly;

And, I thought It'd be worthwhile to add yet 2 more document tot the two we had attached to your External Meeting Request Form.

While the documents are straight forward, if time permits we may want to go over these with you and/or Sarah.

Thank you again

Mark and Doug

315-373-5055

315-415-5813

From: Mark Ranalli, Allegiance Energy Systems, LLC.
[mailto:MARanalli@AllegianceEnergy.com]
Sent: Tuesday, April 25, 2017 12:05 PM
To: 'Atkinson, Emily' <Atkinson.Emily@epa.gov>
Cc: 'DJarvisLEG@yahoo.com' <DJarvisLEG@yahoo.com>; 'kevin_holmquist@keybank.com'

<kevin_holmquist@keybank.com>; 'Steve Sexton' <stevesexton@vocgen.com>
Subject: RE: Confirmed 4/26 at 12:30pm EST

Hello Emily,

Thank you.

We look forward to talking with Sarah.

Best regards

Doug and Mark

From: Atkinson, Emily [mailto:Atkinson.Emily@epa.gov]
Sent: Tuesday, April 25, 2017 9:16 AM
To: Mark Ranalli, Allegiance Energy Systems, LLC. <MARanalli@AllegianceEnergy.com>
Cc: DJarvisLEG@yahoo.com; kevin_holmquist@keybank.com; gvsdoug@gmail.com
Subject: Confirmed 4/26 at 12:30pm EST

Hi Doug and Mark,

Wonderful, so you are confirmed for a 30 minute conference call with Sarah Dunham on Wednesday, April 26 at 12:30pm EST. Call in details outlined below.

1-866-299-3188

Participant Code: 202-756-4743

Emily

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Atkinson, Emily
Location: WJC-N 5400 + 1-866-299-3188; Participant Code: 202-756-4743
Importance: Normal
Subject: Conf. Call with EPSI President Steve Sexton (Confirmed)
Start Date/Time: Wed 4/26/2017 4:30:00 PM
End Date/Time: Wed 4/26/2017 5:00:00 PM
External Meeting Request Form 3-31-2017 EPSI-VOCGEN SteveSexton.pdf
Confirmed 4/26 at 12:30pm EST: upcoming telephone meeting between EPA Administrator Pruitt and EPSI President Steve Sexton

Delegated to OAR by the Administrator
To: Dunham, Sarah; Gunasekara, Mandy; Harvey, Reid
Outside Attendees (by phone):

- Steve Sexton, EPSI President
- Mark A. Ranalli, Principal - Allegiance Energy Systems, LLC.
- Doug R. Jarvis, President, Green Visions Solar

To: Mandy Gunasekara[mandy.gunasekara@gmail.com]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Byers, Dan
Sent: Mon 4/24/2017 3:05:49 PM
Subject: RE: Pruitt's link between carbon rule and Paris deal draws scrutiny

One more:

Clinton could issue 'Clean Power Plan 2.0' -- consultant

A more attractive option for environmentalists would be for Clinton to use the Clean Air Act's international provision to put in place an economywide carbon reduction program. Section 115 allows EPA to compel states to reduce air pollution emissions that contribute to health or welfare problems in other countries -- if those other countries reciprocate with like protections.

Supporters of using the section to impose a carbon dioxide program argue that the Paris climate deal fulfills the reciprocity requirement (***Greenwire***, Jan. 15).

"It is the silver bullet de jour of the enviros, and they are dead serious about this," Bookbinder said. "There is no doubt that the environmental community is pushing this on the Clinton people right now and will lay it down as one of their markers."

From: Byers, Dan
Sent: Monday, April 24, 2017 11:04 AM
To: 'Mandy Gunasekara'; 'Gunasekara.mandy@epa.gov'
Subject: RE: Pruitt's link between carbon rule and Paris deal draws scrutiny

In case you haven't seen:

Center for American Progress: How The Paris Climate Agreement Super-Charges The Clean Air Act

A group of leading law professors who work on climate have published a game-changing new

legal analysis. It finds that the Paris climate agreement unlocks a previously unused Clean Air Act provision that enables broad authority to use market-based mechanisms to reduce carbon pollution nationwide.

This is also good:

https://twitter.com/Chris_C_Horner/status/855041417231695872

From: Mandy Gunasekara [mailto:mandy.gunasekara@gmail.com]
Sent: Tuesday, April 18, 2017 7:23 PM
To: Byers, Dan
Subject: Re: Pruitt's link between carbon rule and Paris deal draws scrutiny

Thank you! So you have it, my EPA contact info is Gunasekara.mandy@epa.gov.

This is great. Not sure where this all ends up but we are doing our best.

Sent from my iPhone

On Apr 18, 2017, at 10:54 AM, Byers, Dan <DByers@USChamber.com> wrote:

Hi Mandy,

I hope is well at EPA. I don't have your work email address yet so sending to the Gmail you shared before leaving EPW. I thought the story below was a little confusing, but to the extent I understand where Administrator Pruitt is coming from, I wanted to share with you this exchange between then-Rep Pompeo and Gina McCarthy in 2013.

In my opinion, McCarthy makes the case that the Administrator is making with the WH, which is that the Obama Administration **explicitly** said the purpose of the Climate Action Plan, NSPS/CPP etc was to "leverage international action" ie get other countries to sign on to Paris.

I've always kept this in my back pocket because I think it was a moment of incidental candor that exposes both Paris and the Climate Action Plan. Video and relevant transcript below.

https://youtu.be/hVRbldAGsag?t=2m

McCarthy: "I think that the President was very clear. What we're attempting to do is put together a comprehensive climate plan across the administration that positions the U.S. for leadership on this issue, and that will prompt and leverage international discussion and action.

Pompeo: "So you're putting regulations in place for the purpose of leadership, and not to impact the indicators that you, the EPA, says are the indicators of climate change. I'm deeply puzzled by that."

Good luck!

Dan

From: POLITICO Pro Energy [mailto:politicoemail@politicopro.com]
Sent: Monday, April 17, 2017 6:37 PM
To: Byers, Dan
Subject: Pruitt's link between carbon rule and Paris deal draws scrutiny

Pruitt's link between carbon rule and Paris deal draws scrutiny

By Eric Wolff and Alex Guillén

04/17/2017 06:26 PM EDT

EPA Administrator Scott Pruitt's effort to pull the U.S. out of the Paris climate pact is part of his strategy to ensure the administration has a clear path to killing the Clean Power Plan — but experts say there is no clear legal link between the two climate change actions.

President Donald Trump's top advisers, including Pruitt, are expected to convene on Tuesday to decide whether to recommend that Trump withdraw from the agreement struck by nearly 200 countries in December 2015. Trump is expected to announce a position on the Paris deal before the G-7 meeting in late May.

While some Trump advisers are pushing to remain in the deal but to weaken the U.S. commitment to reduce carbon emissions, Pruitt has emerged as a force for exiting the Paris agreement, calling it "a bad deal for America" in an interview last week. White House sources have said that, privately, Pruitt has cited another reason for wanting to pull out of Paris: So that it cannot interfere with his effort to halt litigation over the Clean Power Plan and repeal the regulation.

The idea that the Paris agreement and the Obama administration's carbon rule — or the Endangerment Finding underpinning EPA's climate regulation — are legally connected appears to be novel even among conservatives who opposed the international pact.

"Nothing in the Paris Agreement is dependent on either the Endangerment Finding by U.S. EPA or on the Clean Power Plan," wrote Sheila Harvey, Jeff Merrifield, and Meghan Claire Hammond, all attorneys in the energy practice at the law firm Pillsbury Winthrop Shaw Pittman, wrote in a memo published last week.

Scott Segal, who leads the policy division of Bracewell, said in a memo released on April 7 that the Paris agreement "is silent on what mechanisms" countries can use to reduce their emissions, and therefore neither the Clean Power Plan nor the endangerment finding are mandated by the agreement.

"In short, the Paris Agreement imposes no enforceable obligations on the United States that would require particular regulatory outcomes or strategies," he writes.

Pruitt's legal argument surprised legal experts when POLITICO reported it on Friday.

Nick Loris, an energy and environment fellow for the conservative Heritage Foundation, which has called for Trump to pull the U.S. out of Paris, said he hasn't seen anyone else raise that concern. Even environmental groups have not cited a link between the power plant regulation and the Paris deal in their attempts in recent weeks to keep the CPP lawsuit alive, essentially guaranteeing the court won't factor it into their decision.

Some experts said Pruitt's argument appears to have significant flaws.

For starters, the Clean Power Plan was conceived well before the Paris deal was struck, and has a legal justification based on Section 111 of the Clean Air Act, which requires EPA to take action on pollutants not addressed elsewhere in the act — including carbon dioxide.

In addition, the carbon reduction commitments in the Paris deal are not legally binding in large part because international negotiators knew any binding treaty would be blocked in

the Senate by Republicans.

The agreement also falls under the "non-self-executing treaty doctrine," meaning Congress or the president have to take action to put it into effect. Without such action, courts are unlikely to take the deal into account, said Dan Bodansky, law professor and expert in international climate law at Arizona State University's Sandra Day O'Connor School of Law.

Sean Donahue, an attorney who is helping greens to defend the Clean Power Plan, agreed while it was not directly tied to the Paris deal, repealing the carbon rule would affect the U.S. pledge to lower emissions under the Paris framework, he added.

"There's not a formal legal link between Paris and CPP, but the CPP is an important part of the United States' Paris commitment, the emissions reductions," Donahue said. "So if you are going to abandon the CPP, you would need to find those big emissions reductions somewhere else."

Trump made withdrawal from the international agreement to combat climate change one of his campaign promises, but White House aides have been divided on the issue, with chief Trump adviser Steve Bannon and Pruitt at odds with Secretary of State Rex Tillerson and Jared Kushner, who are said to favor remaining in the pact.

Still, Pruitt's position has a few allies. Mike McKenna, a former member of Trump's transition team, released a lengthy statement over the weekend pressing the case for withdrawal.

"Remaining in Paris poses a significant and ongoing legal risk," he said. "The Agreement requires signatories to routinely increase the level of greenhouse gas reductions. There is little doubt that if left in place, the Agreement will be used both in litigation (immediately) and by the next Democratic Administration (at some point) to argue for and justify expanding new and aggressive regulatory regimes."

This isn't the first time that the Paris deal and the Clean Power Plan have been connected.

In December 2015, just as the Paris talks kicked into high gear, the Obama administration urged the court not to freeze the regulation. It included a statement from Todd Stern, then the State Department's climate negotiator, saying the Clean Power Plan was helping the global pact come together by demonstrating America's resolve.

A group of utilities that support the regulation briefly cited the Paris talks in urging the Supreme Court not to stay the rule.

Clinton-era Secretary of State Madeleine Albright later brought up the climate deal in April 2016 when she filed a brief arguing that the rule's "successful implementation will support U.S. efforts to ensure that others follow through on those commitments" made under the Paris deal.

It remains unclear to what extent, if any, the judiciary was persuaded by those arguments. The D.C. Circuit did not explain its decision not to stay the rule, nor did the Supreme Court when it did stay the rule, which has left experts in the dark about precisely what legal justifications the justices relied upon.

To view online:
https://www.politicopro.com/energy/story/2017/04/pruitts-link-between-carbon-rule-and-paris-deal-draws-scrutiny-155368

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1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Grantham, Nancy
Sent: Mon 4/24/2017 12:01:32 PM
Subject: RE: Responses to emails and letters to Administrator Pruitt

Hi Mandy,

Just checking in on these paragraphs.

Thanks ng

From: Gunasekara, Mandy
Sent: Monday, April 17, 2017 11:00 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Reeder, John <Reeder.John@epa.gov>; Konkus, John <konkus.john@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Re: Responses to emails and letters to Administrator Pruitt

Nancy, I apologize for the delayed action on this. I'll send you info tomorrow.

Best,

Mandy

Sent from my iPhone

On Apr 17, 2017, at 3:47 PM, Grantham, Nancy <Grantham.Nancy@cpa.gov> wrote:

<image001.gif>

Just checking in with folks on the short paragraphs below.

Thanks ng

From: Jackson, Ryan
Sent: Tuesday, April 11, 2017 5:11 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Reeder, John <Reeder.John@epa.gov>; Konkus, John <konkus.john@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: Responses to emails and letters to Administrator Pruitt

Looks good. Just need short paragraphs on each.

Please farm out to the following staff:

California Emissions Standards – Mandy

Chlorpyrifos – Ryan

Clean Power Plan – Mandy

Climate Change – Mandy

EPA budget – ryan

Fuel Efficiency Standards – Brittany

TSCA – Ryan

From: Grantham, Nancy
Sent: Tuesday, April 11, 2017 4:09 PM
To: Reeder, John <Reeder.John@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Konkus, John <konkus.john@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: Responses to emails and letters to Administrator Pruitt

Hi –

In response to the email chain with Ryan and John Reeder regarding email and mail inquiries to the Administrator, below you will find drafts of 3 reply pieces: a simple courtesy response card; a longer response letter with more substance on priorities and direction; and an email auto reply.

We have also identified a number of areas where we have a large number of inquiries, where we would draft an additional paragraph to include in a response letter. These are:

•□□□□□□□□ California Emissions Standards

•□□□□□□□□ Chlorpyrifos- Support and Opposition to Recent EPA Action

•□□□□□□□□ Clean Power Plan Support

•□□□□□□□□ Climate Change – CNBC Interview and Encourage EPA Support and Action

•□□□□□□□□ EPA Budget – Opposed to Cuts

•□□□□□□□□ Fuel Efficiency Standards

•□□□□□□□□ TSCA

We are aiming to have drafts for these topic areas this week.

Please let us know if you have suggested edits to the base response card and letter.

Thanks ng

==========

EPA Seal

Ex. 5 - Deliberative Process

E. Scott Pruitt

Administrator

==========

Mr./Ms. Firstname Lastname

Title

Company

Street

City, State ZIP

Dear Mr./Ms. Lastname:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

<image006.png>

Respectfully yours,

E. Scott Pruitt

==========

Email Autoreply

Subject

Your Message to EPA Administrator E. Scott Pruitt

Text

Ex. 5 - Deliberative Process

Respectfully yours,

E. Scott Pruitt

EPA Administrator

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Mon 4/24/2017 2:16:10 AM
Subject: Re: RE:

It would be awesome to have the withdrawal of CPP in the first SP 100 days.

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

On Apr 23, 2017, at 9:25 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Yes.

Sent from my iPhone

On Apr 23, 2017, at 9:06 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Can we find out on both tomorrow so we can report good news to the Administrator?

From: Schwab, Justin
Sent: Sunday, April 23, 2017 9:05 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Sent from my iPhone

On Apr 23, 2017, at 8:48 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

I could use help on getting the CPP withdrawal scrubbed up to present to Pruitt Tuesday as if it's ready to send to OMB.

Ex. 5 - Deliberative Process

Thanks. I'll be out tomorrow and just trying to get things tee'd up.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Schwab, Justin
Sent: Mon 4/24/2017 1:38:21 AM
Subject: Re: RE:

Ex. 5 - Deliberative Process

Sent from my iPhone

On Apr 23, 2017, at 9:36 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Ex. 5 - Deliberative Process

Sent from my iPhone

On Apr 23, 2017, at 9:33 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Ex. 5 - Deliberative Process

Sent from my iPhone

On Apr 23, 2017, at 9:27 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Let's split these 2 things up:

Ex. 5 - Deliberative Process

Which would you rather take?
Sent from my iPhone

On Apr 23, 2017, at 9:06 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Can we find out on both tomorrow so we can report good news to the Administrator?

From: Schwab, Justin
Sent: Sunday, April 23, 2017 9:05 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re:

Ex. 5 - Deliberative Process

Sent from my iPhone

On Apr 23, 2017, at 8:48 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

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Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thanks. I'll be out tomorrow and just trying to get things tee'd up.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: U.S. EPA Media Relations
Sent: Thur 4/20/2017 5:08:57 PM
Subject: EPA Administrator Brings Back-to-Basics Agenda to Missouri Power Plant

CONTACT:
press@epa.gov

FOR IMMEDIATE RELEASE
April 20, 2017

EPA Administrator Brings *Back-to-Basics Agenda* to Missouri Power Plant

CLIFTON HILL, Mo. – U.S. Environmental Protection Agency Administrator Scott Pruitt visited the Thomas Hill Energy Center in Clifton Hill, Mo. today to discuss EPA's *Back-to-Basics* agenda, which aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local and tribal partners. Administrator Pruitt spoke with more than 300 power plant workers, electric cooperative members and agriculture leaders about balancing environmental protection with affordable energy and jobs.

"Rather than regulating an entire industry out of business, I'm committed to working in coordination with states to create a healthy environment where jobs and businesses can grow. That's the purpose of my *Back-to-Basics* agenda," **said Administrator Pruitt**. "Last week I went underground in a Pennsylvania coal mine, and today I got a firsthand look at a Missouri coal-fired power plant. Coal is, and will continue to be, a critical part of America's energy mix. I saw today just how important this fuel source is to affordable electricity and economic development in the region, especially in the agriculture community."

Administrator Pruitt also spoke with workers and co-op members about the President's recent Energy Independence Executive Order and his Executive Order directing EPA to review the 2015 Waters of the United States rule, known as WOTUS.

"When EPA asked for comments from the public on its Clean Power Plan in 2013, Missouri electric cooperative members responded with more than 300,000 comments, all with a common theme: 'Don't raise our rates, and we want an all-of-the-above energy strategy that keeps electricity affordable and creates jobs.' Those comments fell on deaf ears. We are encouraged to see that the Trump Administration understands the concerns of people in rural America and is committed to bringing the change they want. We look forward to working with Administrator Pruitt and other administration officials as they work to ensure Washington regulations don't harm the people who can least afford it — our members — and help rural communities create jobs," **said Barry Hart, Executive VP and CEO of Association of Missouri Electric Cooperatives.**

"Responsible coal generation plays a key role in making sure rural America has access to affordable power it can count on. While natural gas prices and other variables may periodically affect the operation of generating units like those here at Thomas Hill Energy Center, coal is still the foundation fuel that delivers reliability at competitive prices for our cooperative system. Based on his visit today and our conversation, it's clear to me Administrator Pruitt's vision and priorities for the EPA align with the values of Associated Electric and our members," **said David Tudor, CEO & General Manager, Associated Electric Cooperative Inc.**

"Missouri is proud to host U.S. EPA Administrator Scott Pruitt on his *Back-to-Basics* tour. We are encouraged that it is a new day at the agency, one in which all sides are heard and common sense will be considered in decisions that affect people's lives and economic livelihood. The last time an EPA

Administrator traveled to our state she was in the midst of a lobbying campaign for the onerous Waters of the United States rule that would make 99 percent of Missouri land subject to federal regulation. President Trump's decision to conduct a thorough review of the WOTUS rule is a good step, and we look forward to the day when government overreach is no longer standard operating procedure. Missouri farmers and ranchers work hard every day to produce an abundance of high quality and affordable food and don't need to be targeted for unnecessary and costly government regulations," **said Blake Hurst, President of the Missouri Farm Bureau.**

R062

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

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Dunham, Sarah[Dunham.Sarah@epa.gov]
From: Atkinson, Emily
Sent: Thur 4/20/2017 1:12:33 PM
Subject: RE: upcoming telephone meeting between EPA Administrator Pruitt and EPSI President Steve Sexton

Hi Mandy,

I have been in touch with the requestors and will make sure to include you on the scheduler when this gets finalized.

Thank you.

Emily

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Gunasekara, Mandy
Sent: Wednesday, April 19, 2017 7:36 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: RE: upcoming telephone meeting between EPA Administrator Pruitt and EPSI President Steve Sexton

Hey – sorry for delayed response. I'm happy to sit in on the call as well.

Best,

Mandy

From: Atkinson, Emily
Sent: Wednesday, April 19, 2017 1:16 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: RE: upcoming telephone meeting between EPA Administrator Pruitt and EPSI President Steve Sexton

Hi Mandy,

Just want to follow up to see if you have a preference for how you would like to engage with this stakeholder.

Would you like to take this yourself -or- a joint meeting with Sarah -or- delegate it just to Sarah?

I am holding off on getting back to the requestor until I hear back.

Thank you.

Emily

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Dunham, Sarah
Sent: Tuesday, April 18, 2017 3:36 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: upcoming telephone meeting between EPA Administrator Pruitt and EPSI President Steve Sexton

Emily-

This meeting request was delegated from the Administrator, will you please work to set up a short call? Mandy, do you have a preference for how you would like to engage (schedule it for both of us, or just you, or if you'd prefer OAR staff handle it, that's fine too).

From: Hupp, Sydney
Sent: Tuesday, April 18, 2017 1:52 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: FW: upcoming telephone meeting between EPA Administrator Pruitt and EPSI President Steve Sexton

Good afternoon! Ryan asked if I would delegate this request to you two to handle how you see fit. Please let me know if you have any questions!

Thanks!

Sydney Hupp

Office of the Administrator- Scheduling

Ex. 6 - Personal Privacy

From: Hupp, Sydney
Sent: Monday, April 10, 2017 1:31 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: FW: upcoming telephone meeting between EPA Administrator Pruitt and EPSI President Steve Sexton

Your thoughts, Ryan?

Sydney Hupp

Office of the Administrator- Scheduling

Ex. 6 - Personal Privacy

From: Mark Ranalli, Allegiance Energy Systems, LLC. [mailto:MARanalli@AllegianceEnergy.com]
Sent: Sunday, April 9, 2017 5:43 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>; 'Doug Jarvis' <Ex. 6 - Personal Privacy
Cc: kevin_holmquist@keybank.com; tom@dadeyinsurance.com; Dickerson, Aaron <dickerson.aaron@epa.gov>; 'Mark Vermeer' <markvermeer@vocgen.com>; 'Steve Sexton' <stevesexton@vocgen.com>
Subject: RE: upcoming telephone meeting between EPA Administrator Pruitt and EPSI President Steve Sexton

Hello Sydney,

Happy Sunday!

A quick note to make sure you received back the below emailed Meeting Request Form; and to ask if a conference call between Administrator Pruitt and EPSI's Steve Sexton is or will be scheduled this week.

Also we wanted to advise that Doug and I have a meeting with Tom Dadey tomorrow (Monday 4-9-2017) morning, with Steve Sexton calling in from Arizona.

This meeting is to be sure that Tom can be fully briefed on the Vocgen technology, should Administrator Pruitt call him before talking with EPSI's Steve Sexton.

Lastly, Steve Sexton thought we should pass along this YouTube link, that you might have time to visit and pass on to Administrator Pruitt: https://www.youtube.com/user/wwwVOCGENcom

It has some short educational/information videos on the VOCGEN.

Thank you again Sydney for orchestrating this for us all !

Best Regards

Mark and Doug

From: Mark Ranalli, Allegiance Energy Systems, LLC.
[mailto:MARanalli@AllegianceEnergy.com]
Sent: Saturday, April 1, 2017 12:24 AM
To: 'Hupp, Sydney' <hupp.sydney@epa.gov>
Cc: 'Douglas Jarvis' <Ex. 6 - Personal Privacy>; 'Doug Jarvis' <Ex. 6 - Personal Privacy>; 'Dickerson, Aaron' <dickerson.aaron@epa.gov>; 'Mark E. Vermeer' <markvermeer@vocgen.com>; 'Steve Sexton' <stevesexton@vocgen.com>; 'kevin_holmquist@keybank.com' <kevin_holmquist@keybank.com>; 'tom@dadeyinsurance.com' <tom@dadeyinsurance.com>; 'haltrichins Ex. 6 - Personal Privacy Ex. 6 - Personal Privacy
Subject: RE: per Karen Bianco from your office - we are requesting a quick meeting between EPA Secretary Pruitt and EPSI President Steve Sexton

Good evening Ms. Hupp !!

Here, attached, it is, back to you.

Thank You very much!

Best Regards,

Mark and Doug

Doug R. Jarvis,

President, Green Visions Solar

Manlius, New York, 13104

Mobile: 315-415-5813

Mark A. Ranalli,

Principal, Allegiance Energy Systems

Fayetteville, New York, 13066

Mobile: 315-373-5055

From: Hupp, Sydney [mailto:hupp.sydney@epa.gov]
Sent: Thursday, March 30, 2017 9:21 AM
To: Mark Ranalli, Allegiance Energy Systems, LLC. <MARanalli@AllegianceEnergy.com>
Cc: 'Douglas Jarvis' <Ex. 6 - Personal Privacy> 'Doug Jarvis' <Ex. 6 - Personal Privacy>
Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: RE: per Karen Bianco from your office - we are requesting a quick meeting between EPA Secretary Pruitt and EPSI President Steve Sexton

Good morning Mr. Ranalli,

Thank you for the information and thank you for reaching out. I am attaching a meeting request form that we use for streamlining scheduling. Would you mind please filling it out and returning at your convenience so that we may discuss in our scheduling meeting?

Thank you!

Sydney Hupp

Office of the Administrator- Scheduling

Ex. 6 - Personal Privacy

From: Mark Ranalli, Allegiance Energy Systems, LLC.
[mailto:MARanalli@AllegianceEnergy.com]
Sent: Wednesday, March 29, 2017 4:11 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>
Cc: 'Douglas Jarvis' < Ex. 6 - Personal Privacy >; 'Doug Jarvis' < Ex. 6 - Personal Privacy
Subject: per Karen Bianco from your office - we are requesting a quick meeting between EPA Secretary Pruitt and EPSI President Steve Sexton

Dear Ms. Hupp,

Per a friendly conversation today (approx. 2:30 pm) and direction from your Karen Bianco to Mr. Doug R. Jarvis of Green Visions Solar in Upstate New York, Doug and I are writing to respectfully request/schedule a 5 to 10 minute appointment for a telephone conversation between Mr. EPA Secretary Scott Pruitt and EPSI (Environment & Power Systems International http://www.vocgen.com/) President, Mr. Steve Sexton; that Mr. Sexton may discuss how EPSI's VOCGEN technology can uniquely help our President Trump to revitalize U.S.

manufacturing and jobs and careers in America, – and while directly positively affecting a cleaner environment than called for by the Clean Power Plan.

As background for that conversation, assuming Secretary Pruitt has not heard this yet from Mr. Tom Dadey, we attached the VOCGEN National Plan and drafted the below talking points:

• the Vocgen eliminates the age-old cost vs. compliance paradigm; making cost-effective air pollution controls and clean energy available to all industrial operations;

• Vocgen is a market-based energy (combined heat and power) and air pollution control solution designed to serve over 46,000 US industrial operations;

• Vocgen gensets (1 unit) reduce energy consumption; generating positive cash flows exceeding $1 Million/year;

• the Vocgen technology has been vetted by:

U.S. DOE - Department of Energy, Berkeley National Labs

U.S. EPA - Environmental Protection Agency

U.S. DARPA - Defense Advanced Research Projects Agency, an agency of the U.S. Department of Defense

GTI - Gas Technology Institute (formerly 1976 founded Gas Research Institute)

EPRI - Electric Power Research Institute

ACEEE - American Society for an Energy-Efficient Economy

CEC - California Energy Commission

We look forward to hearing from you in regard to scheduling a date and time.

Thank You Ms. Hupp and Ms. Bianco !

Should you have any questions regarding the VOCGEN technology or EPSI, toward scheduling the appointment, please feel free to call either of us at your convenience.

Best Regards

Doug and Mark

Doug R. Jarvis, Green Visions Solar: 315-415-5813 mobile

Mark A. Ranalli, Allegiance Energy Systems: 315-373-5055 mobile

Main Web Site: www.vocgen.com

Market/Sales Site: Environmental XPRT (product information and publications)
https://www.environmental-expert.com/AllContent/?keyword=VOCGEN

Partners: http://www.vocgen.com/partners.html

CV/Resume: https://www.visualcv.com/steven-sexton

Vocgen National Plan Download: https://www.environmental-expert.com/companies/environment-power-systems-international-32306/downloads

LinkedIn Groups Managed by EPSI's SE Sexton

The VOCGEN Energy Group - https://www.linkedin.com/groups/2740286

Oro Valley Energy Venture Group - https://www.linkedin.com/groups/6563219

LinkedIn Pulse - Posts By SE Sexton

1. Advancing Environmental Health
2. Advancing Industrial Energy Efficiency Programs
3. Advancing Clean Power Plan Objectives

4. Manufacturing Sector Business Growth Intelligence

5. Advancing a Clean Power Economy

To: Dunham, Sarah[Dunham.Sarah@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]
From: McGartland, Al
Sent: Wed 4/19/2017 10:05:01 PM
Subject: Re: Update on RIA Re: CPP status check

Hi Sarah. I'm scheduling an initial call with Erika now.

Sent from my iPhone

> On Apr 19, 2017, at 3:29 PM, Dunham, Sarah <Dunham.Sarah@epa.gov> wrote:
>
> Ok thanks Justin for having that conversation. We'll reach out to Al asap to understand more of the context and come up with options for proceeding on the RIA.
>
>
>> On Apr 19, 2017, at 1:51 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:
>>
>> Dear All,
>>
>> Al McGartland (copied here) and I raised the question of an RIA for the proposed CPP withdrawal on a call with OMB this morning.

Ex. 5 - Deliberative Process

>>
>>
>> Sent from my iPhone
>>
>>> On Apr 17, 2017, at 6:50 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:
>>>
>>> I can work through OP to get answers to these questions
>>>
>>> Sent from my iPhone
>>>
>>>> On Apr 17, 2017, at 6:44 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:
>>>>

Ex. 5 - Deliberative Process

>>>>
>>>> Lorie Schmidt
>>>> Associate General Counsel, Air and Radiation
>>>> Office of General Counsel
>>>> US Environmental Protection Agency
>>>> (202)564-1681

>>>>
>>>> -----Original Message-----
>>>> From: Schwab, Justin
>>>> Sent: Monday, April 17, 2017 2:30 PM
>>>> To: Dunham, Sarah <Dunham.Sarah@epa.gov>
>>>> Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>
>>>> Subject: Re: CPP status check
>>>>
>>>> To my knowledge that conversation has not happened in any detail, if at all.
>>>>
>>>> Sent from my iPhone
>>>>
>>>>> On Apr 17, 2017, at 2:22 PM, Dunham, Sarah <Dunham.Sarah@epa.gov> wrote:

Ex. 5 - Deliberative Process

>>>>> -----Original Message-----
>>>>> From: Schmidt, Lorie
>>>>> Sent: Monday, April 17, 2017 10:34 AM
>>>>> To: Schwab, Justin <schwab.justin@epa.gov>
>>>>> Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
>>>>> Subject: RE: CPP status check

Ex. 5 - Deliberative Process

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ey

>>>>>
>>>>> Lorie Schmidt
>>>>> Associate General Counsel, Air and Radiation Office of General Counsel US Environmental Protection Agency
>>>>> (202)564-1681
>>>>>
>>>>> -----Original Message-----
>>>>> From: Schwab, Justin
>>>>> Sent: Saturday, April 15, 2017 11:25 AM
>>>>> To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>
>>>>> Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
>>>>> Subject: Re: CPP status check
>>>>>

Ex. 5 - Deliberative Process

>>>>> Sent from my iPhone
>>>>>
>>>>>> On Apr 15, 2017, at 11:17 AM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:
>>>>>>
>>>>>> Looping in Sarah Dunham and Peter Tsirigotis since OAR is the program lead.

Ex. 5 - Deliberative Process

>>>>>> Sent from my iPhone
>>>>>>
>>>>>>> On Apr 14, 2017, at 7:35 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:
>>>>>>>

Ex. 5 - Deliberative Process

>>>>>>> Please let me know where we are and how we're going to get to where we need to be. I am at your disposal, consistent with my other obligations, to help get this done and can stay as late as necessary M-W next week to help get this done.
>>>>>>>
>>>>>>> Sent from my iPhone
>>>>>>>
>>>>>>>> On Apr 13, 2017, at 11:58 AM, Schwab, Justin <schwab.justin@epa.gov> wrote:
>>>>>>>>
>>>>>>>> How's the Ex. 5 - Deliberative Process
>>>>>>>>
>>>>>>>> Sent from my iPhone

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bolen, Brittany
Sent: Mon 4/17/2017 10:02:04 PM
Subject: RE: Meeting with WM Waste Management: Clean Air Act Rules for MSW Landfills

Hey - did you two have a call today? I've been in back-to-back meetings all day and finally catching up on emails.

-----Original Message-----
From: Gunasekara, Mandy
Sent: Friday, April 14, 2017 7:18 PM
To: Kelly, Kerry <KKelly5@wm.com>
Cc: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Re: Meeting with WM Waste Management: Clean Air Act Rules for MSW Landfills

Kerry,

Thank you for the follow up. I'm free at 11am on Monday. Would that work for a phone call?

Hope you have a nice weekend and happy Easter!

Best,
Mandy

Sent from my iPhone

> On Apr 14, 2017, at 3:25 PM, Kelly, Kerry <KKelly5@wm.com> wrote:
>
> Dear Brittany and Mandy:
>
> It was a real pleasure meeting you yesterday. All of us so appreciate the time you spent with us and your close attention to our issues and concerns with the MSW Landfill emission rules. We all came out of that meeting with a better sense of how many issues you are tackling with such a small cadre of staff, and that makes us all the more appreciative of the time you spent with us and your good questions. We will plan on providing comments to you in response to yesterday's Federal Register notice on Evaluation of Existing Regulations. We think these Landfill Rules nicely mesh with the EO criteria for stay, replacement and modification. Mandy, if you have a few moments, I would like to call you early next week to make sure we understand the regulatory cost information that you thought would be helpful.
>
> I am also attaching the correspondence (a hard copy of which we shared yesterday) with Region 4 and the primary contact in OAQPS relative to interpretive guidance that we were apprised of via email. It is a matter of public record, and I thought an electronic version would be easier for you to manage. This illustrates the urgency we feel for an administrative stay to allow all of us breathing room to reengage and discuss rule revisions.
>
> I realize we left the meeting with you without any plans for follow up, so I wanted to make sure you have my contact information, below, as well as contact information for my colleagues, Amy Banister, our Air Programs Director and Chris Ball, our Senior Counsel. I am attaching their business cards.
>
> Please do not hesitate to reach out if you have any questions or need additional information.
>
> I hope you both have a lovely holiday weekend, and Brittany, I can't close without saying Go Gators!
>
> Warm regards,
> Kerry
>

> [Christopher Ball][Amy Banister]
>
> Carter Lee "Kerry" Kelly
> Senior Director, Federal Affairs
> Kkelly5@wm.com
> WM Waste Management
> 701 Pennsylvania Ave., NW, Ste 590
> Washington, DC 20004
> 202.639.1218 office
> 571.377.9202 cell
>
> -----Original Appointment-----
> From: Dravis, Samantha [mailto:dravis.samantha@epa.gov]
> Sent: Tuesday, March 28, 2017 8:01 PM
> To: Dravis, Samantha; Kelly, Kerry; Bolen, Brittany; Irving, Verna; Rees, Sarah; Gunasekara, Mandy
> Cc: Kime, Robin; Germann, Sandy; Inge, Carolyn; Carol McCabe; Wuestenberg, Niki
> Subject: Meeting with WM Waste Management: Clean Air Act Rules for MSW Landfills
> When: Thursday, April 13, 2017 3:00 PM-3:45 PM (UTC-05:00) Eastern Time (US & Canada).
> Where: DCRoomARN3500/OPEI
>
>
> Directions: Please use the William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station. Please arrive 20 minutes prior to the meeting with photo IDs to clear Security.
>
>
>
> EPA Contact: For an escort from Security to the meeting call (202) 564-4332; for all other matters call Robin Kime (202)564-6587.
>
> Dear Ms. Dravis and Mr. Sugiyama:
>
> At the suggestion of Al Collins of Occidental Petroleum (Oxy), who met with you last week and now sings your praises, I am writing to request a meeting with you at your earliest convenience to discuss a set of rules promulgated by EPA pursuant to Section 111 (b) and (d) of the Clean Air Act that impose revised performance standards for both new and existing municipal solid waste (MSW) landfills. The regulations were promulgated as part of President Obama's Climate Action Plan: Strategy to Reduce Methane Emissions.
>
> Waste Management, along with Republic Services, the National Waste & Recycling Association and the Solid Waste Association of North America (associations representing both public and private organizations and professionals) identified a number of substantial issues of law and policy with the new rules, including overlap and conflict with existing rules governing the same landfill sources. We have asked EPA to stay, reconsider and revise the two climate-related rules. We petitioners have also challenged the new rules in the U.S. Court of Appeals for the D.C. Circuit.
>
> The landfill rules share similarities with other regulations that EPA may reevaluate, including the Clean Power Plan and Oil & Gas Rules:
>
>
> · The new rule for existing landfills relies on the same Section 111(d) authority for which the Clean Power Plan has been criticized; and
>
> · The cost/benefit analyses underpinning the more stringent performance standards in the rules rely heavily on the "social cost of methane," which is derived from the "social cost of carbon."
>

> Should the Agency decide to rethink those elements in other rules, we believe it would be advisable to reconsider the landfill rules as well. Although we petitioners are prepared to move forward with the judicial challenge, we believe a reconsideration of the rules could lead to a better outcome without the need for litigation. While rule revisions are our ultimate goal, an administrative stay of the rules under the Administrative Procedures Act is critical to avoid forcing the regulated community and the states to begin implementing these flawed rules. Many states are already engaged in developing their mandated state plans for implementation, which are due to the EPA by May 30, so our request for a meeting is time-critical.
>
> I am attaching a recent letter we petitioners sent to EPA prior to Administrator Pruitt's confirmation. It includes our somewhat lengthy administrative petitions. I would be happy to follow-up next week by phone to identify a convenient time on your doubtless busy schedules. Several participants will be coming from out of town, including a former colleague of Mr. Sugiyama, Mack McGuffey of Troutman Sanders, but we can be flexible in accommodating your schedules.
>
> Thank you in advance, and I very much look forward to meeting you.
>
> Kerry Kelly
>
> Contact:
> Kerry Kelly KKelly5@wm.com<mailto:KKelly5@wm.com>
> Waste Management
> 701 Pennsylvania Ave., NW, #590
> Washington, DC 20004
> 202.639.1218
>
> _____
>
> Recycling is a good thing. Please recycle any printed emails.
> <removed.txt>
> <image002.jpg>
> <Christopher Ball.vcf>
> <Amy Banister.vcf>
> <Letter to D McNeal-A. Sheppard re NSPS-EG interpretations.pdf>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Kelly, Kerry
Sent: Mon 4/17/2017 1:26:38 PM
Subject: RE: Meeting with WM Waste Management: Clean Air Act Rules for MSW Landfills

Thanks, Mandy. I'll call at 11:00am

Kerry

Carter Lee "Kerry" Kelly
Senior Director, Federal Affairs
Kkelly5@wm.com
WM Waste Management
701 Pennsylvania Ave., NW, Ste 590
Washington, DC 20004
202.639.1218 office
571.377.9202 cell

-----Original Message-----
From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Monday, April 17, 2017 8:20 AM
To: Kelly, Kerry <KKelly5@wm.com>
Subject: RE: Meeting with WM Waste Management: Clean Air Act Rules for MSW Landfills

You can call my direct: Ex. 6 - Personal Privacy

-----Original Message-----
From: Kelly, Kerry [mailto:KKelly5@wm.com]
Sent: Friday, April 14, 2017 11:21 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: Meeting with WM Waste Management: Clean Air Act Rules for MSW Landfills

Hi Mandy, I will give you a call. You are not yet in the EPA locator, so I will dial the main policy office number to find you. Does that work?

Happy Easter,
Kerry

Sent from Kerry Kelly's iPad
Waste Management
701 Pennsylvania Ave., NW, #590
Washington, DC 20004
202.639.1218

> On Apr 14, 2017, at 7:17 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:
>
> Kerry,
>
> Thank you for the follow up. I'm free at 11am on Monday. Would that work for a phone call?
>
> Hope you have a nice weekend and happy Easter!
>
> Best,
> Mandy
>
> Sent from my iPhone

>
>> On Apr 14, 2017, at 3:25 PM, Kelly, Kerry <KKelly5@wm.com> wrote:
>>
>> Dear Brittany and Mandy:
>>
>> It was a real pleasure meeting you yesterday. All of us so appreciate the time you spent with us and your close attention to our issues and concerns with the MSW Landfill emission rules. We all came out of that meeting with a better sense of how many issues you are tackling with such a small cadre of staff, and that makes us all the more appreciative of the time you spent with us and your good questions. We will plan on providing comments to you in response to yesterday's Federal Register notice on Evaluation of Existing Regulations. We think these Landfill Rules nicely mesh with the EO criteria for stay, replacement and modification. Mandy, if you have a few moments, I would like to call you early next week to make sure we understand the regulatory cost information that you thought would be helpful.
>>
>> I am also attaching the correspondence (a hard copy of which we shared yesterday) with Region 4 and the primary contact in OAQPS relative to interpretive guidance that we were apprised of via email. It is a matter of public record, and I thought an electronic version would be easier for you to manage. This illustrates the urgency we feel for an administrative stay to allow all of us breathing room to reengage and discuss rule revisions.
>>
>> I realize we left the meeting with you without any plans for follow up, so I wanted to make sure you have my contact information, below, as well as contact information for my colleagues, Amy Banister, our Air Programs Director and Chris Ball, our Senior Counsel. I am attaching their business cards.
>>
>> Please do not hesitate to reach out if you have any questions or need additional information.
>>
>> I hope you both have a lovely holiday weekend, and Brittany, I can't close without saying Go Gators!
>>
>> Warm regards,
>> Kerry
>>
>> [Christopher Ball][Amy Banister]
>>
>> Carter Lee "Kerry" Kelly
>> Senior Director, Federal Affairs
>> Kkelly5@wm.com
>> WM Waste Management
>> 701 Pennsylvania Ave., NW, Ste 590
>> Washington, DC 20004
>> 202.639.1218 office
>> 571.377.9202 cell
>>
>> -----Original Appointment-----
>> From: Dravis, Samantha [mailto:dravis.samantha@epa.gov]
>> Sent: Tuesday, March 28, 2017 8:01 PM
>> To: Dravis, Samantha; Kelly, Kerry; Bolen, Brittany; Irving, Verna; Rees, Sarah; Gunasekara, Mandy
>> Cc: Kime, Robin; Germann, Sandy; Inge, Carolyn; Carol McCabe; Wuestenberg, Niki
>> Subject: Meeting with WM Waste Management: Clean Air Act Rules for MSW Landfills
>> When: Thursday, April 13, 2017 3:00 PM-3:45 PM (UTC-05:00) Eastern Time (US & Canada).
>> Where: DCRoomARN3500/OPEI
>>
>>
>> Directions: Please use the William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station. Please arrive 20 minutes prior to the meeting with photo IDs to clear Security.
>>

>>
>>
>> EPA Contact: For an escort from Security to the meeting call (202) 564-4332; for all other matters call Robin Kime (202)564-6587.
>>
>> Dear Ms. Dravis and Mr. Sugiyama:
>>
>> At the suggestion of Al Collins of Occidental Petroleum (Oxy), who met with you last week and now sings your praises, I am writing to request a meeting with you at your earliest convenience to discuss a set of rules promulgated by EPA pursuant to Section 111 (b) and (d) of the Clean Air Act that impose revised performance standards for both new and existing municipal solid waste (MSW) landfills. The regulations were promulgated as part of President Obama's Climate Action Plan: Strategy to Reduce Methane Emissions.
>>
>> Waste Management, along with Republic Services, the National Waste & Recycling Association and the Solid Waste Association of North America (associations representing both public and private organizations and professionals) identified a number of substantial issues of law and policy with the new rules, including overlap and conflict with existing rules governing the same landfill sources. We have asked EPA to stay, reconsider and revise the two climate-related rules. We petitioners have also challenged the new rules in the U.S. Court of Appeals for the D.C. Circuit.
>>
>> The landfill rules share similarities with other regulations that EPA may reevaluate, including the Clean Power Plan and Oil & Gas Rules:
>>
>>
>> · The new rule for existing landfills relies on the same Section 111(d) authority for which the Clean Power Plan has been criticized; and
>>
>> · The cost/benefit analyses underpinning the more stringent performance standards in the rules rely heavily on the "social cost of methane," which is derived from the "social cost of carbon."
>>
>> Should the Agency decide to rethink those elements in other rules, we believe it would be advisable to reconsider the landfill rules as well. Although we petitioners are prepared to move forward with the judicial challenge, we believe a reconsideration of the rules could lead to a better outcome without the need for litigation. While rule revisions are our ultimate goal, an administrative stay of the rules under the Administrative Procedures Act is critical to avoid forcing the regulated community and the states to begin implementing these flawed rules. Many states are already engaged in developing their mandated state plans for implementation, which are due to the EPA by May 30, so our request for a meeting is time-critical.
>>
>> I am attaching a recent letter we petitioners sent to EPA prior to Administrator Pruitt's confirmation. It includes our somewhat lengthy administrative petitions. I would be happy to follow-up next week by phone to identify a convenient time on your doubtless busy schedules. Several participants will be coming from out of town, including a former colleague of Mr. Sugiyama, Mack McGuffey of Troutman Sanders, but we can be flexible in accommodating your schedules.
>>
>> Thank you in advance, and I very much look forward to meeting you.
>>
>> Kerry Kelly
>>
>> Contact:
>> Kerry Kelly KKelly5@wm.com<mailto:KKelly5@wm.com>
>> Waste Management
>> 701 Pennsylvania Ave., NW, #590
>> Washington, DC 20004
>> 202.639.1218

>>
>> _____
>>
>> Recycling is a good thing. Please recycle any printed emails.
>> <removed.txt>
>> <image002.jpg>
>> <Christopher Ball.vcf>
>> <Amy Banister.vcf>
>> <Letter to D McNeal-A. Sheppard re NSPS-EG interpretations.pdf>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: U.S. EPA Media Relations
Sent: Thur 4/13/2017 5:46:19 PM
Subject: EPA Launches Back-to-Basics Agenda at Pennsylvania Coal Mine

CONTACT:
press@epa.gov

FOR IMMEDIATE RELEASE
April 13, 2017

EPA Launches *Back-to-Basics* Agenda at Pennsylvania Coal Mine

SYCAMORE, Pa. – U.S. Environmental Protection Agency Administrator Scott Pruitt visited the Harvey Mine in Sycamore, Pa., today, to meet with coal miners and announce EPA's *Back-to-Basics* agenda. The agenda reinforces Administrator Pruitt's commitment to refocusing EPA on its intended mission, returning power to the states, and creating an environment where jobs can grow.

"What better way to launch EPA's *Back-to-Basics* agenda than visiting the hard-working coal miners who help power America. The coal industry was nearly devastated by years of regulatory overreach, but with new direction from President Trump, we are helping to turn things around for these miners and for many other hard working Americans," **said Administrator Pruitt.** "*Back-to-Basics* means returning EPA to its core mission: protecting the environment by engaging with state, local, and tribal partners to create sensible regulations that enhance economic growth."

Administrator Pruitt spoke with coal miners about the President's recent Energy Independence Executive Order, which directs EPA and other federal agencies to review the Clean Power Plan and revise regulatory barriers that impede energy independence, including unnecessary burdens on coal miners and coal-fired electric utilities.

"We welcome Administrator Pruitt to Southwestern Pennsylvania and are very encouraged by the new Administration's commonsense approach in balancing the need for environmental protection, energy development and economic growth," **said Jimmy Brock, CEO of CNX Coal Resources.**

"The Pennsylvania Coal Alliance looks forward to new direction from the EPA. We are hopeful that Administrator Pruitt will work with to stop the systematic regulatory approach to dismantle industry, and work with us to continue responsible mining and contribute billions to Pennsylvania's economy," **said Rachel Gleason, Executive Director of PA Coal Alliance.**

"Administrator Pruitt's appearance should give confidence to coal communities across the country that the days when our government stands in opposition to them are over and that the appreciation they deserve for securing the nation's energy supply for our manufacturing industries and families is finally at hand," **said Hal Quinn, President and CEO of the National Mining Association**.

In his speech to Pennsylvania miners, Administrator Pruitt explained that EPA's *Back-to-Basics* agenda means returning EPA to its core mission and focusing on greater value and results. EPA will be partnering with states and tribes to ensure a thoughtful approach is used to maximize resources to protect America's air, land, and water.

EPA'S *BACK-TO-BASICS* AGENDA

Protecting the environment; engaging with state, local and tribal partners; and creating sensible

regulations that enhance economic growth.

- Following the President's Energy Independence Executive Order, Administrator Pruitt signed four notices to review and, if appropriate, to revise or rescind major, economically significant, burdensome rules the last Administration issued. This includes the so-called Clean Power Plan that threatens over 125,000 U.S. jobs.
- EPA is restoring states' important role in the regulation of local waters by reviewing the WOTUS ("waters of the U.S.") rule.
- EPA is clearing the backlog of new chemicals that were waiting approval from EPA, so they can go to market, and companies can innovate and create jobs.
- EPA is helping states achieve high air quality targets, clean up toxic waste sites and improve America's water infrastructure.
- EPA rescinded an unjustified, premature evaluation of greenhouse gas and fuel economy standards for model year 2022-2025 vehicles, and is working with the U.S. Department of Transportation (DOT) to conduct a collaborative and robust review of the standards.
- The agency is reviewing the Oil and Gas Methane New Source Performance Standards for new and modified sources, to determine whether it is duplicative.
- EPA is allocating funds for vital environmental projects that go directly to the health of our citizens, such as providing $100 million to upgrade drinking water infrastructure in Flint, Michigan.
- EPA is stopping the methane Information Collection Request (ICR) by telling businesses they no longer have this additional bureaucratic burden, with the cost to American businesses attempting to comply exceeding $42 million.
- Launched the EPA Regulatory Reform Task Force to undergo extensive reviews of the misaligned regulatory actions.

R057

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

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: U.S. EPA Media Relations
Sent: Wed 4/12/2017 4:09:07 PM
Subject: EPA Administrator to Visit Pennsylvania Coal Mine-- Launch Back-to-Basics Agenda

CONTACT:
press@epa.gov

FOR PLANNING PURPOSES ONLY
April 12, 2017

EPA Administrator to Visit Pennsylvania Coal Mine-- Launch *Back-to-Basics* Agenda

SYCAMORE, Pa. – U.S. Environmental Protection Agency Administrator Scott Pruitt will speak with coal miners at the Harvey Mine in Sycamore, Pennsylvania on Thursday, April 13, to kick off EPA's *Back-to-Basics* agenda. The *Back-to-Basics* agenda refocuses the EPA on protecting the environment, promoting economic and job growth, and returning power to the states.

Administrator Pruitt will speak with coal miners about the President's recent Energy Independence Executive Order, which directs EPA and other federal agencies to review the Clean Power Plan and revise regulatory barriers that impede energy independence, including unnecessary burdens on coal miners and coal-fired electric utilities.

Members of the media who plan to attend this event must RSVP by emailing pressrsvp@epa.gov no later than 5:00 p.m. EDT on Wednesday, April 12.

WHO: Administrator Pruitt and coal miners at the Harvey Mine – Patterson Creek Portal

WHAT: EPA kicks off *Back-to-Basics* agenda

WHEN: Thursday, April 13, 2017 at 12:00 p.m. EDT

WHERE: Harvey Mine – Patterson Creek Portal, 685 Patterson Creek Road, Sycamore, PA 15364

NOTE: Credentialed members of the media who have RSVP'd will be required to check in at the Harvey Mine security gate no later than 11:30 a.m. on Thursday, April 13. A photo ID is required.

R056

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

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]
Cc: Graham, Amy[graham.amy@epa.gov]
From: Bolen, Brittany
Sent: Wed 4/12/2017 12:13:20 AM
Subject: RE: CPP & WV

Hey – this also reminds me, Randy Huffman (the head of WV's DEP) submitted a letter to EPW Committee last year on the lack of cooperative federalism with EPA and there's a section on CPP that may be helpful, too: https://www.epw.senate.gov/public/_cache/files/e78f9874-f661-4b53-83ba-8ac0ab810ee4/west-virginia.pdf

From: Gunasekara, Mandy
Sent: Tuesday, April 11, 2017 1:21 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Graham, Amy <graham.amy@epa.gov>
Subject: RE: CPP & WV

Hey Jahan – attached are some helpful docs. This is testimony from a West Virginia field hearing from last summer that talked about the local impacts. The most compelling testimony is from Bo Copley – also known as "miner Bo." Google that and you'll see what I'm talking about.

The staff memo is from early 2015, so some of it may be outdated. Just need to cross-check everything.

The Trisko testimony is always good/solid stuff.

From: Wilcox, Jahan
Sent: Tuesday, April 11, 2017 12:26 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Graham, Amy <graham.amy@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: CPP & WV

Not urgent but hopefully by the end of the day. Thank you.

From: Bolen, Brittany
Sent: Tuesday, April 11, 2017 11:52 AM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Cc: Graham, Amy <graham.amy@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: CPP & WV

Yes. What is your timeframe? I just got out of meeting and am running to grab lunch.

Sent from my iPhone

On Apr 11, 2017, at 11:30 AM, Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:

Brittany –

Do you have any hard data on how CPP will specifically help West Virginia? I have stuff from the delegation and the WV Coal Association but curious if there is any specific data for a WV news outlet.

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: 202.309.0934
Work Email: wilcox.jahan@epa.gov

To: Schwab, Justin[schwab.justin@epa.gov]; Rees, Sarah[rees.sarah@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Lewis, Josh
Sent: Mon 4/10/2017 4:38:39 PM
Subject: RE: Need some guidance on describing the CPP repeal action
CPP Review Reg Agenda Entry.docx
NewSourcesReg Agenda Entry.docx
O&G Review Reg Agenda Entry.docx

Hi Justin,

Just confirming that the air office has submitted the three reg agenda documents (CPP, CPS, O&G NSPS; all attached) to OP.

Josh

From: Schwab, Justin
Sent: Thursday, April 06, 2017 3:47 PM
To: Rees, Sarah <rees.sarah@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Re: Need some guidance on describing the CPP repeal action

Ex. 5 - Deliberative Process

Sent from my iPhone

On Apr 2, 2017, at 7:19 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

1) Major it is then

2) Does anyone have any additions or changes to suggest to:

Ex. 5 - Deliberative Process

Sent from my iPhone

On Apr 1, 2017, at 12:48 PM, Rees, Sarah <rees.sarah@epa.gov> wrote:

Yes - major is anything over $100 mil; also can be anything the Administrator deems as major. This is major.

This can be pretty simple in terms of the entry Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Schwab, Justin
Sent: Saturday, April 1, 2017 7:26 AM
To: Gunasekara, Mandy
Cc: Dunham, Sarah; Page, Steve; Tsirigotis, Peter; Schmidt, Lorie; Lewis, Josh; Rees, Sarah
Subject: Re: Need some guidance on describing the CPP repeal action

In that case this would be major.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Sent from my iPhone

On Apr 1, 2017, at 7:06 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> Major under the CRA means it has an annual impact of $100 mil or more. That's the only meaning I'm aware of in this context.
>
> Sent from my iPhone
>
> On Mar 31, 2017, at 5:14 PM, Dunham, Sarah <Dunham.Sarah@epa.gov> wrote:

Ex. 5 - Deliberative Process

> > On Mar 31, 2017, at 4:50 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:
> >
> > What's "major" in this context?
> >
> > Sent from my iPhone
> >
> > On Mar 31, 2017, at 4:49 PM, Dunham, Sarah <Dunham.Sarah@epa.gov> wrote:
> >
> > OAR staff are filling out the form as we discussed yesterday that would begin the internal formal process for a rulemaking. They note that the form we need to fill out asks for certain information, which then becomes public when the Regulatory Agenda is published. Given that, it would be helpful to have some guidance in three areas: (1) what the

Ex. 5 - Deliberative Process

<PropsalAgendaEntry.pdf>

To: Hale, Michelle[hale.michelle@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bennett, Tate
Sent: Fri 4/7/2017 3:42:30 PM
Subject: RE: call with gov herbert (UT)

Yes! Mandy was going to call him at 11:15 (UT DEQ).

From: Hale, Michelle
Sent: Friday, April 7, 2017 11:41 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: RE: call with gov herbert (UT)

She is asking if you were you able to reach anyone Alan Matheson today?

From: Bennett, Tate
Sent: Friday, April 7, 2017 11:38 AM
To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Hupp, Sydney <hupp.sydney@epa.gov>
Subject: RE: call with gov herbert (UT)

CPP call and a general check in ☺ it does not have to do with the call Mandy is having with their DEQ here today (that is on particulate matter).

From: Hale, Michelle
Sent: Friday, April 7, 2017 11:36 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Hupp, Sydney <hupp.sydney@epa.gov>
Subject: call with gov herbert (UT)

Tate, Governor Herbert's assistant has called to find out more information about the call request on Monday. I know it is about the CPP letter to Governors but is there more information I can share with her about the call?

Thank you!

Michelle Hale

Executive Assistant to the Administrator

Environmental Protection Agency

1200 Pennsylvania Ave., NW,

WJCS, Suite 3000

Washington, D.C. 20460

(202) 564-1430

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Middleton, Brandon (ENRD)
Sent: Fri 4/7/2017 1:41:18 PM
Subject: RE: Climate litigation update

Sounds good, thanks Mandy. I should be available most of this afternoon.

Brandon

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Friday, April 07, 2017 12:39 AM
To: Middleton, Brandon (ENRD) <BMiddleton@ENRD.USDOJ.GOV>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: RE: Climate litigation update

Thanks Brandon. I owe you a call. Will try tomorrow. Your path forward on both sounds good.

From: Middleton, Brandon (ENRD) [mailto:Brandon.Middleton@usdoj.gov]
Sent: Thursday, April 6, 2017 12:19 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: Climate litigation update

Mandy and David,

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Please let me know if you have questions or thoughts.

Thanks.

Brandon

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Holmstead, Jeff
Sent: Thur 4/6/2017 5:50:19 PM
Subject: RE: More info about AWMA conference

Thanks very much for the quick response. I will suggest that they send him an early invitation to be the main speaker at next year's conference.

And I do hope you can do the CPP panel. I know you have plenty to do at the Agency, but it would be good if you could do a little proselytizing on the need for EPA to adhere to the rule of law. It would also be good for the Administration (and for you, too) if you raised your profile a bit.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Thursday, April 6, 2017 1:38 PM
To: Holmstead, Jeff <Jeff.Holmstead@bracewelllaw.com>
Subject: RE: More info about AWMA conference

Thank you for the information. The Administrator is going to be in Italy during that time, so won't be available. Please convey that the Administrator appreciates the invitation and is sorry to miss the annual event, but looks forward to working with the group!

Alternatively, I'm trying to see if I can swing the CPP panel discussion that you and Rahul Thaker at NC DEQ mentioned. I'll follow-up.

Best,

Mandy

From: Holmstead, Jeff [mailto:Jeff.Holmstead@bracewelllaw.com]
Sent: Thursday, April 6, 2017 1:08 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: More info about AWMA conference

I don't mean to be a pest, but I wanted to give you the key information about the AWMA annual conference. The audience would probably be 1,500 – 2,000 people, and the AWMA could send a formal letter of invitation right away if that would be helpful

JEFF HOLMSTEAD
Partner
Jeff.Holmstead@bracewelllaw.com
T: +1.202.828.5852 | F: +1.800.404.3970

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From: John Bachmann [mailto:johnbachmann@bellsouth.net]
Sent: Thursday, April 6, 2017 8:41 AM
To: Holmstead, Jeff <Jeff.Holmstead@bracewelllaw.com>
Subject: Re: Quick follow up

How many?

The annual AWMA keynote session typically draws between 1500 to 2000 people.

Who?

Short answer AWMA members who attend include professionals in the field of air pollution and waste management.

These include people working for industry who are responsible for managing environmental policy, response, and compliance, consultants who largely work for the industry, people who work for state and local Agencies (EPA travel budget greatly reduces their attendance), and small and large businesses who make monitoring and control equipment - most of the latter exhibit and market their technologies at the large Convention Exhibition area. Others include academics and some (usually local) students who get to come at a reduced rate. The vast majority are from the U.S., but some international visitors.

Formal letter:

Tomorrow morning if asked.

On Apr 6, 2017, at 6:56 AM, Holmstead, Jeff <Jeff.Holmstead@bracewelllaw.com> wrote:

How many people would likely attend the session in which Pruitt would be speaking?

How would you describe the folks who normally attend the annual AWMA meeting?

How long would it take to get a formal letter of invitation?

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Wed 4/5/2017 5:55:20 PM
Subject: RE: Speaking Requests

It's just really whatever you'd like to do and have time for. We get flooded from these groups and declining is fine too.

From: Gunasekara, Mandy
Sent: Tuesday, April 4, 2017 10:08 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Speaking Requests

Hey – I've gotten a few speaking requests. The first one is easy – it's for Paul Cicio's group the Industrial Energy Consumers of America and it's here in town on May 2. The other two involve travel. One is with the Air & Waste Management Association at their annual conference. They want to discuss the path ahead for the CPP and it's in June. The other is with the Eastern Fuel Buyers Association at Disney's Yacht Club – I assume that's in Florida. May 3 through 5. What's the process for considering these? Do you want to discuss and/or just talk with Sydney about them?

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: US EPA Media Relations
Sent: Tue 4/4/2017 5:35:01 PM
Subject: High Accolades Across the Country on Trump's Energy Independence Executive Order

CONTACT:
press@epa.gov

FOR IMMEDIATE RELEASE
April 4, 2017

High Accolades Across the Country on Trump's Energy Independence Executive Order

In Kansas, Senator Pat Roberts said in the Kansas City Star, that Trump's executive order is good news for energy consumers. "Sen. Pat Roberts, a Kansas Republican, also applauded Trump's decision 'to roll back burdensome Obama-era regulations,' calling the announcement 'good news for energy consumers and the economy.'"

In Kentucky, Senate Majority Leader Mitch McConnell penned an op-ed in Fox News praising President Trump's energy executive order that will restore sanity after Obama's failed climate policies. "I commend President Trump for sending this flawed regulatory plan, along with a number of others, back to the drawing board with Tuesday's Energy Independence Executive Order."

In Missouri, the Kansas City Star reports that Senator Roy Blunt blamed job-killing regulations for higher energy prices. "Blunt, who blamed environmental regulations for increases in utility bills, said that the order 'is an important step toward protecting low and middle-income Americans who can least afford higher costs on everything from gas to groceries.'"

In Montana, the Great Falls Tribune reports that the Montana Public Service Commission praised President Trump's executive order that rolls back job-killing regulations. "The five Republican members of the Montana Public Service Commission issued a joint statement praising Trump's executive order to roll back what they described as burdensome environmental regulations that restrict domestic energy production and raise rates for utility customers."

In New York, the editorial board at the New York Post writes that Trump's executive order will help restore our constitutional system. "Trump's move not only helps the economy and delivers on a promise, it also takes a step toward restoring America's constitutional system, in which Congress passes laws — not a dictatorial president."

In North Dakota, the Bismarck Tribune reports that North Dakotans praised the measure. North Dakota's coal industry applauded an executive order starting a roll back of climate regulation signed by President Donald Trump on Tuesday. Lignite Energy Council President Jason Bohrer said the order's energy independence focus "will help preserve, protect and enhance the lignite coal industry, as well as strengthen research and development efforts to develop an abundant supply of electricity for American businesses and families."

In Ohio, the Ohio Coal Association penned an op-ed in the Troy Daily News stating Trump's plan will save coal communities in Ohio. "Ohio's coal communities saw the CPP for exactly what it was: a thinly-veiled assault on their livelihood — and one that would cripple an already reeling industry while providing little environmental benefit. Fortunately, the Trump administration has done just what it promised. By executive order, President Trump has axed the CPP along with another vestige of the Obama administration's anti-coal policy, the moratorium on all new leases of federal coal reserves."

In Texas, the Texas Tribune reports that AG Ken Paxton said Trump's decision could result in lower energy prices. "'President Trump's executive order is a significant step toward sparing all of us from a potentially disastrous change to the nation's energy policy that was orchestrated during the Obama era in violation of federal law,' [Attorney General Ken] Paxton said in a statement Tuesday. 'The so-called Clean Power Plan would have subjected Americans to higher electricity costs and could have weakened the nation's power grid.'"

In Utah, the Deseret News reports that Governor Herbert praised Trump's decision that will help his state. "Utah Gov. Gary Herbert called the executive order a step in the right direction. 'Utah and many public land and energy producing states think that the Clean Power Plan was a significant overreach. It was really designed to kill off carbon-based fuels and particularly coal,' he said. 'The standards that they were trying to put in place, there is not even technology that allows you to meet those standards.'"

In Wisconsin, Brett Healy penned an op-ed in the Milwaukee Journal-Sentinel where he shared how damaging the Clean Power Plan would've been for families across the Badger State. "President Donald Trump's executive order instructing the Environmental Protection Agency to begin the process to repeal the Obama administration's Clean Power Plan, a slate of anti-coal regulations, is a welcome respite for Wisconsin and the nation. ... Closer to home, a MacIver Institute and Beacon Hill study found that the plan would have increased the average electricity price in Wisconsin by 19%, forced the average household electric bill to jump $225 a year and cost our industrial manufacturers an astonishing $105,094 more per year if implemented."

In West Virginia, the Wheeling-News Register reports that leaders across the state rejoiced over the reversal of the Clean Power Plan. "If left in place, these regulations would have little positive impact on our climate while continuing to decimate West Virginia's economy," U.S. Rep. David McKinley, R-W.Va., said. "The president's action will provide relief to coal communities that have been under a bureaucratic assault from Washington over the last eight years. The nightmare of the war on coal is now officially over."

In Wyoming, the Associated Press reports that President Trump's executive order has electrified workers. "So when President Donald Trump lifted a federal coal leasing moratorium and ordered a review of greenhouse gas regulations, the announcement electrified many workers here who depend on fossil fuels for their livelihood. After years of layoffs and corporate bankruptcies, they are optimistic that jobs and a better economy will soon return."

Finally, the Casper Star-Tribune reports that President Trump's pro-energy initiatives are helping the state. "Three months into Trump's term, he continues to please coal country. On Tuesday, the president asked the EPA to review and perhaps replace the controversial Clean Power Plan, which many locally thought could deal a death blow to the industry. He also overturned a controversial moratorium on coal leases."

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Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bennett, Tate
Sent: Mon 4/3/2017 3:19:57 PM
Subject: RE: Letter
Tate.Edits.Letter to McAuliffe_DRAFT.docx

I restructured it some. Please, feel free to ignore or accept the edits.

From: Gunasekara, Mandy
Sent: Monday, April 3, 2017 10:38 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: Letter

Draft attached.

FOIA: EPA-HQ-FOIA 008391 Production Set #8

Steven E. Sexton, Environment & Power Systems International
and
John A. "Skip" Laitner, US Environmental Protection Agency

ABSTRACT

Conventional pollution control technologies do just that; they control pollution to acceptable levels but provide little else in the way of economic benefits. But what if the redesign of such systems makes it possible to produce useful by-products beyond the so-called "end of pipe" controls? In the case of industrial plants required to reduce volatile organic compounds (VOC), the conventional abatement technologies include regenerative thermal oxidizers (RTOs) which have an efficiency removal rate of 98 percent and higher. Environment and Power Systems International, LLC (EPSI) has developed an alternative technology that uses the VOC-containing gases enriched with natural gas to generate both electricity and useful thermal heat as a by-product of pollution control. This paper describes the alternative technology and reviews the potential contribution to the nation's electricity supply. Preliminary data suggests there may be 100,000 industrial facilities that might be able to take advantage of this alternative technology. If 60 percent of these facilities adopt the EPSI system by 2020, the primary energy savings might exceed one quad of energy. This is equivalent to the petroleum production that might be provided by opening the Alaska National Wildlife Refuge.

Introduction

Few question the importance of reducing or eliminating air and water pollutants from our nation's industrial processes. To the extent there is any controversy, it is about the need to balance benefits with costs as we try to manage the reduction of those pollutants. In the case of air pollution generally, and more specifically, the reduction of volatile organic compounds (the primary technology driver in this paper), standard engineering practice generally requires some form of pollution control technology. The good news is that this approach does very well, typically achieving emission reductions of at least 98 percent when the technology is appropriately designed, engineered, and operated. On the other hand, the conventional pollution control technologies do only that; they control pollution to acceptable levels but provide little else in the way of economic benefits.

But, as we ask in this paper, what if the redesign of such systems made it possible to produce useful by-products beyond the so-called "end of pipe" controls? In the case of industrial plants required to reduce volatile organic compounds (VOCs), the dominant abatement technologies include regenerative thermal oxidizers (RTOs) which provide an efficiency removal rate of 98 percent and higher. Environment and Power Systems International (EPSI) has developed an alternative technology that uses the VOC-containing gases enriched with natural gas to generate both electricity and useful thermal heat as a by-product of pollution control. This paper describes the alternative technology and reviews the potential contribution to the nation's electricity supply. Preliminary data suggests there may be 100,000 industrial facilities that might be able to take advantage of this alternative technology (EPSI 2004). If 60 percent of these facilities adopt the EPSI system by 2020, the primary energy savings might exceed one quad of energy. This is equivalent to the petroleum production that might be provided by opening the Alaska National Wildlife Refuge.[1]

[1] This estimate is derived from calculations by Laitner (2004) and compared to ANWR production potential found in Koomey et al. (2003).

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Background and Technology Characterization

Ground-level or tropospheric ozone is a widespread air pollutant, a gas that forms in the atmosphere when three atoms of oxygen are combined together. It is not emitted directly into the air, but is produced by chemical reactions between oxides of nitrogen (NOx), and volatile organic compounds (VOC) near ground level and in the presence of sunlight. [2] Hence, NOx and VOC are identified as precursors to the formation of ozone. Nitrogen oxides are formed when fossil fuel is burned at high temperatures. Many of the nitrogen oxides are colorless and odorless, although nitrogen dioxide can often be seen as a reddish-brown gas. NOx results from sources that burn fuel, including motor vehicles, electric generating plants, boilers, and other industrial and residential sources. These NOx emissions can drift hundreds of miles away from their point of origin, allowing one geographic location to affect an entire region.

VOCs, the specific focus of this new technology, are compounds that contain carbon which can volatilize to form an organic vapor in the air and participate in atmospheric photochemical reactions.[3] The major man-made sources of VOCs are industrial processes (46 percent) and automobiles (30 percent) (Noll 1999). VOCs are widely used as solvents in a large number of industrial processes because they evaporate into air leaving no residue.

The Clean Air Act will continue to be the pre-eminent driver of the VOC recovery and destruction market. The EPA and several states finalized many relevant and demanding regulations during the last few years increasing the rate of growth in the pollution control markets to their highest levels (Frost and Sullivan 2003). Due to the nature of most industrial processes, one option to meet these air quality regulations is the installation of pollution control equipment. As we previously noted, the equipment is required to achieve at least a 95 to 98 percent VOC reduction rate from what would be released without pollution control equipment.

The largest end-users of VOC destruction and recovery equipment continue to be chemical, oil, gas, lumber and wood industries (EPSI 2004). Specific industries that focus on VOC technologies include aerospace, semiconductor, printing, automotive and generally all coating operations including can, wire, appliances, and furniture. In total, there are 104 industries subject to Clean Air regulatory requirements for VOCs including the subset list of 189 Hazardous Air Pollutants (HAPs).

There are a number of ways VOC emissions can be reduced to meet EPA limitations. New VOC abatement technologies including absorption, ultra violet oxidation and refrigeration/condensation equipment captured 17 percent of the total market in the year 2000 (EPSI 2004). Older, more mature technology segments growing more slowly include carbon adsorption, distillation and air stripping equipment. Thermal oxidation captured 55+ percent of the total market in that year (EPSI 2004). Each method has its own benefits and limitations that may make them more desirable for certain applications. The applicability of a given technique is dependent on the physical and chemical properties of the pollutant and the characteristics of the exhaust stream.

VOC equipment companies are combining multiple technological processes to create unique solutions. Integrated pollution control systems have a strong potential for future growth. Pre-wired, pre-piped, pre-tested and certified systems reduce project costs, trading slightly higher integrated and

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[2] Ozone occurs in two layers of the atmosphere. The atmospheric layer near the earth's surface is the troposphere. Ground level or "bad" ozone is an air pollutant that damages human health, vegetation, and many common materials. It is a key ingredient of urban smog. Strong sunlight and hot weather cause ground level ozone to form in harmful concentrations in the air. The troposphere extends from ground level to about ten miles up, where it meets the second layer, the stratosphere. In the stratosphere, there is a "good" ozone layer that extends upward from about 10 to 30 miles, and this ozone protects life on earth from he sun's harmful ultraviolet rays.

[3] The following compounds are excluded from this list of volatile organic compounds: carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

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functionally tested equipment costs for decreased field installation and start -up costs, and reduced site installation and maintenance problems.

Thermal Oxidation

Thermal oxidation, by definition, converts a hydrocarbon, in the presence of oxygen and heat, to carbon dioxide and water vapor. As we already indicated, this technology provides the greater part of the VOC control market and becomes the basis for estimating national benefits of the alternative control market based on the Gas Turbine Oxidation approach. A general equation showing this relationship is shown below (Rafson 1998):

$$c_n H_{2n} \quad (n \quad m/2)O_2 \quad nCO_2 \quad H_2O \quad \text{Heat}$$

The particular *n* and *m* subscripts of the equation are used to define the number of carbon atoms and hydrogen atoms. The amount of oxygen atoms present are converted to *n* molecules of carbon dioxide and *m* molecules of water vapor and heat which is given off in the exothermic reactor. This last aspect, the exothermic nature of thermal oxidation is a key to generating multiple benefits beyond mere pollution control.

There are three critical requirements to ensure combustion and destruction of the VOCs: time, temperature, and turbulence. Time refers to the retention time or residence time, which is the length of time that an organic is at the appropriate temperature to ensure proper VOC destruction. Typically, a residence time of 0.5 second is adequate to ensure at least a 95% destr uction rate at the proper temperature. Temperature must be maintained in conjunction with time. As time is decreased, temperature will need to be increased and vice versa. A minimum temperature for VOC destruction is approximately 1400ºF. Turbulence implies an adequate level of mixing. By changing the configuration of the air stream, the inlet air to the destruct chamber is properly mixed to ensure complete combustion takes place. There are three different thermal oxidation processes. These include:

(1) Direct Flame Incineration: A direct flame incinerator consists of only a combustion chamber with no heat recovery from the incinerator. Direct flame incinerators are the simplest type of thermal oxidizers. Direct flame incinerators have the advantages of minimum complexity and low cost, but, since they are typically used in applications with dangerous pollutants (explosive, corrosive or poisonous) ; the overall system including the required safety equipment is typically very complex.

(2) Recuperative Thermal Oxidation: The technique of recuperative thermal oxidation involves the recovery of energy produced by burning a support fuel to achieve VOC destruction using a primary or secondary heat exchanger to heat the incoming process air utili zing hot waste gases from the oxidizer. The exhaust gases from the oxidizer pass through a shell and tube or plate-type heat exchanger to recover the heat of combustion and increase the fuel efficiency of the VOC destruction process. Recuperative oxidizers are ideal for high VOC emission rates. A recuperative thermal oxidizer is generally able to recover 70 percent of the heat available from the oxidizer. Some units are designed with a secondary heat recovery unit to preheat air or water or heat transfer fluids for other plant processes such as drying ovens.

(3) Regenerative Thermal Oxidation: Another type of thermal oxidizer is the regenerative thermal oxidizer which appears to be the system of choice among industrial users. These systems are used when the contaminated air stream has a low concentration of VOC (< 1000 ppm) and/or large air flows. They also are used in industrial processes that require a high oxidation temperature. Regenerative oxidizers allow for better heat recovery than a recuperative oxidizer and diluted vapor streams can be incinerated at lower costs. Regenerative systems use beds of ceramic material as a heat sink. Once the ceramics are heated, the flow shifts and the post -combustion gas stream is used to heat up the second bed of cer amic material while pre-combustion air flows through the first hot bed gaining heat as it travels to the burner. Flow is shifted between the beds as they heat up and cool down. Heat transfer efficiencies of 95% can be

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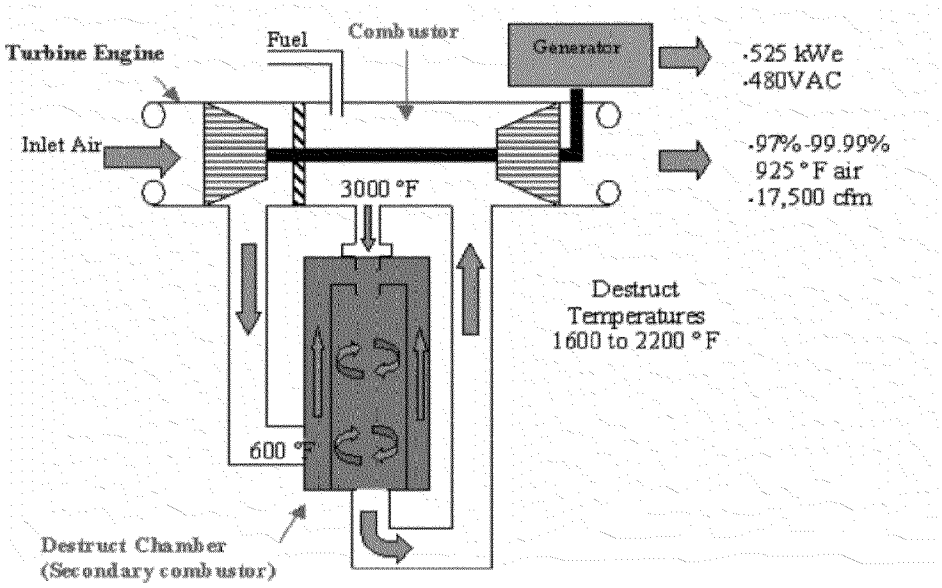
achieved with regenerative units. The alternating sequence decreases the removal efficiency of the VOC. The overall removal efficiency can be as high as 99%, but typically is 98%(GTI 2003).

Gas Turbine Oxidizer

Another type of thermal oxidizer is a gas turbine oxidizer (GTO). As described in this paper, this technology provides the basis for generating both electricity and thermal energy as a by -product of pollution control. The GTO consists of a turbine and a secondary combustion chamber for thermal destruction of production process or w aste volatile organic compounds (VOC) and hazardous air pollutants (HAP) emissions including renewable hydrocarbon fuels and other organic materials within an air stream.

Figure 1. Schematic Drawing of Gas Turbine Oxidizer



As shown in Figure 1, above, the VOC -laden air, combined with ambient atmospheric concentrations of oxygen (20.9%) is compressed within the gas turbine engine's compressor section to approximately 132 psig or 9 atmospheres. This raises the VOC-laden air temperature to 600 °F. This air enters a patented VOC destruction chamber where it is mixed with the 3000 °F combustion products from the turbine combustor. The resultant air (now ~ 1850 °F, but in the range of 1600 – 2200 °F) travels in a cyclonic fashio n inside the destruction chamber. This cyclonic action allows for good mixing and a residence time of approximately 0.44 seconds in which the VOCs oxidize into carbon dioxide and water. This "clean" air stream enters the turbine combustor where it is mix ed with fuel and ignited creating temperatures ~ 3,000 °F. This high-energy air is routed through the turbine section of the engine where the air is quickly cooled to 925 °F creating a significant airflow that rotates the turbine shaft. This shaft is connected to a generator that produces electricity (approximately 525 kWe)(GTI 2003).

Gas turbines have several advantages to their design. Due to their high operating temperatures, large amounts of heat are available for recovery. This heat can be used for other plant processes and/or pretreatment of air into a VOC concentrator, which will allow for more VOC destruction within the turbine. The unit is also able to generate electricity, which can be used to power other plant equipment.

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The footprint of the s ystem is smaller than other VOC destruction technologies. The turbine itself is durable and should last much longer than other technologies.

System Performance

Although the GTO system requires a higher cost outlay, the lower annual operating costs, together with the credits associated with heat recovery and electricity generation indicate a highly cost - effective system. As summarized in Table 1 below, the generic cost characterizations suggest a simple payback of little as 1.6 years.

Table 1. Cost and Performance Characterization (EPSI 2004)

	RTO System	EPSI GTO System
Total Capital and Project Costs	$1,800,000	$3,200,000
Total Annual Costs	$618,000	$262,000
Fuel and electricity	$227,000	$122,000
Maintenance	$35,000	$10,000
Administration	$94,000	$90,000
Refurbishment Fund	$261,000	$40,000
Total Annual Credits	$0	$475,000
Electricity Generation	$0	$125,000
Heat Recovery	$0	$350,000
Simple Payback Period	None	1.6 Years
Return on Investment		60%

The higher capital costs associated with the GTO system include system costs associated with the generation of electricity and thermal energy. At the same time, the system design reduces annual operating costs (especially depreciation and normal wear and tear, or what we call "refurbishment costs"). The design also anticipates slightly increased natural gas purchases but substantially reduced electricity costs. Most important are the revenues or credits earned through the generation of electricity and process heat or steam.

Assuming a 525 kW unit operating at 63% percent capacity factor (or 5520 hours per year), and subtracting parasitic or ancillary loads needed to safely operate the system, the GTO unit will provide 2.9 million kilowatt-hours (kWh) of electricity. Priced at 4.5 cents per kWh implies an electricity credit of $125,000 annually. At the same time, the potential for waste heat recovery approaches 1.656 trillion Btu per year. If purchased from local utilities at $7.0 per million Btu, this implies an even bigger annual credit of $350,000. The higher capital costs, then, are clearly offset by reduced annual operating costs and a sizeable credit for both electricity and heat. So what is now possible through a technology redesign is to convert a pollution control technology into a new system that provides a new source of combined heat and power operations that pays for itself in less than two years.

Size of Opportunity

The GTO-VOC technology will compete with other abatement equipment and with CHP systems on the basis of quality, price, and service. However, there are no industry players that supply VOC

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destruct chambers for gas turbines. North American penetration of this market segment is zero percent and recent technological and design advances in environmental/cogeneration by EPSI have set the stage for making significant inroads against the incumbent VOC destruct only suppliers. With over $2 billion in North American annual sales, this market segment is expected to provide significant growth for EPSI over the next ten years. But to evaluate the potential for market penetration, we provide a closer look at the economics of the GTO-VOC system.

EPSI will compete in a $200 billion North American market (Frost and Sullivan) for air pollution control solutions. It is estimated that there are over 100,000 VOC destruct devices with annual turnover of $13 billion. Growth in this market is being driven by the need for 104 discrete industries subject to EPA regulated control of environmental pollution and is estimated at 7% annually. EPSI's approach is to target these existing thermal oxidizers with our GTO products. EPSI's value proposition to replace these existing thermal oxidizers is its high VOC destruct eff iciency, utilization of the useful byproducts of the destruction process (electricity and heat) and its low maintenance costs. This value proposition provides the customer with an attractive ROI on the EPSI system as shown below. With the EPSI system, a pollution control device can have a return on investment. As shown in the example below, an additional investment of $1.4 million in the EPSI technology will generate annual cash flow of $831,000, an ROI of 60% and a payback of 1.6 years. We are not awar e of any other pollution control device that can make this statement.

Perhaps just as exciting as the attractive return on investment , the GTO system can deliver a sizeable reduction in the nation's total primary energy supply. If we assume that just 60 percent of the existing 100,000 VOC destruct devices are converted to the GTO -VOC technology over the next 15 years, the primary energy savings for both electricity and heat might exceed 1.25 quads. This is about the same as the anticipated annual average production from the Alaska National Wildlife Refuge [4] and about two percent of current electricity generation. Hence, we have a cost -effective technology redesign that moves pollution control into a significant energy supply opportunity.

Conclusion

The EPSI system's ability to generate electricity, provide recoverable heat for use beyond the VOC destruction process, and its ability to operate within a large temperature band to destroy VOC more efficiently and completely, differentiates it f rom other pollution control technologies currently available in the market. The development of the 480 VAC synchronous generator component is critical to the success of the EPSI product, as it will provide a sufficient load to the turbine independent of th e local electric utility's grid status, assuring combustion temperature for VOC destruction. It will also enable the EPSI system to function as an emergency generator (utilizing the EPSI system's electric output) to power the exhaust fans which move the V OC laden air stream; avoiding the potential of VOC build -up (a potential explosion hazard) that could occur with loss of the local utility grid and the use of an RTO.

The ability to quickly achieve VOC destruction temperatures from a cold start position i s another advantage over RTO technology. Based on the information supplied by an RTO manufacturer and an end-user's data, the RTO requires one to eight hours to achieve proper temperatures from a cold start position. The GTO achieves destruction temperatures within minutes.

Based on the information gathered by an end- user, the major overhaul frequency of an RTO (50 to 60 SCFM) is between seven and ten years, at a cost of approximately $250,000. This amount is almost three times higher than EPSI's estimates for the GTO. One unknown with the GTO is the impact particulate or foreign matter will have on the turbine if inlet air scrubbing and filtration is not used

[4] For a review of the "fully-risked" market production potential of ANWR, see (Koomey et al. 2003).

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appropriately. When particulate begins to collect on an RTO, its performance will begin to degra de. On the other hand, depending on the type and the amount of particulate, the (GTO) turbine may become damaged, possibly inoperable if corrosives or particulates are not addressed for gas turbine protection

After reviewing all the information, the following advantages and disadvantages are noted:

Advantages of the EPSI GTO system over standard (tower type) RTO include:

- Shorter initial cold start-up time (5 minutes versus 1 to 8 hours)
- Recoverable heat for use by end-user (RTOs use their heat in the VOC abatement process)
- Electrical power generation
- Higher combustion temperature (which in combination with high residence time assures more complete destruction of VOC) (VOC as renewable resource fuel)
- Smaller equipment footprint
- Lower major overhaul cost
- Short-term return on investment

The d isadvantages of EPSI system when compared to standard (tower type) RTO include the following:

- Air flows greater than 6,200 scfm which need to be treated, require a VOC concentrator
- Although based on proven ASE□8 gas turbine installations (there are over 500 units installed in the field), this is a new product (the secondary combustor is the new component), whereas hundreds of RTOs have been installed and are in use.
- Greater consumption of natural gas for low air-flow systems

Based on the points listed above, our conclusion is that the EPSI system can provide a more thorough destruction of VOC due to its higher temperature variable thermal oxidation process (compared to an RTO) and having the abil ity to generate electricity, makes it a better choice of the two pollution control devices. Using the electricity the GTO can produce, it may also be possible to use the energy to purge the VOC stream ductwork (in the event of loss of the local electric gr id) to minimize or eliminate the potential of VOC buildup – which would increase plant safety. The EPSI system reviewed is based on a 525 kW system. The implementation of the concept, using a larger turbine (2 to 5 MW range), would improve system economics through the elimination of the need for a VOC concentrator, obtaining greater usable electrical power and a greater amount of recoverable heat.

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President Donald J. Trump
The White House
1600 Pennsylvania Avenue
Washington, D.C.20500

Subject: The Vocgen National Plan for Manufacturing Industries

Dear Mr. President:

I offer a market-based pollution control and clean energy solution that can cost-effectively help revitalize industrial manufacturing.

I would like to send you the Vocgen National Plan describing the Solution, which as been formally peer-reviewed, commercially deployed and now represents shovel-ready projects and jobs.

Vocgen was designed by AlliedSignal/Honeywell and Environment & Power Systems International, LLC to help build a sustainable and competitive manufacturing sector and an energy efficient economy.

Notably, the solution eliminates the age-old cost vs. air quality compliance paradigm, making cost-effective air pollution controls and clean energy available to all industrial operations big and small. It represents an energy and air pollution control solution designed to serve over 38,800 existing US industrial operations. Our 0.560MW power generators reduce energy consumption resulting in positive cash flows averaging $1 million USD/year.

The National Plan proposes to replace energy-intensive air pollution controls at industry with combined heat and power (CHP) systems that uniquely uses waste regulated air emissions as supplemental fuel for the cogeneration of electric power and useful high quality heat. The plan can substantially improve industrial energy security, environmental health and the overall economy of the United States of America.

I respectfully request an introduction to Scott Pruitt to discuss and develop a Vocgen operating permit program for States to adopt. Once such a program is in place; it can enable the speedy retrofit and construction of new facilities with no net increase in Ozone precursors, toxics, or global warming gases. This fact offers you the opportunity to leverage the increase of manufacturing operations without limitation, or opposition by environmentalists.

100% project financing, the best equipment manufacturers and contractors are already in place to kick off the transformation of both the air pollution control market including a transition to greater industrial sector security, profitability and competitiveness.

I look forward to hearing from you and making America great again!

Respectfully,

Steven E. Sexton
CEO and Managing Director
Environment & Power Systems International, LLC

The Vocgen Solution for Industry

A national plan to support competitive manufacturing and an energy efficient economy

Steven E. Sexton, CEO and Managing Director of Environment & Power Systems International

An ambitious plan is proposed to replace energy-intensive air pollution controls at industry with a combined heat and power (CHP) technology that uniquely uses regulated air emissions as supplemental fuel for the cogeneration of electric power and u seful high quality heat. The plan can substantia lly improve industrial energy security, environmental health and the overall economy of the United States of America.

At the heart of the patented VOCGEN power generator and the solution overall is the gas turbine oxidizer (GTO). The GTO is the only combined energy generator and air pollution control alternative that has undergone product development through peer group scrutiny via the stage -gate method including product prototyping; testing and evaluation; business case and planning; risk analysis; and a stage six (6) review of the economic feasibility representations essential for commercialization. Vocgen is a market-based energy efficiency and cost savings scheme for ma nufacturing industries created by recycling VOC energy, thus eliminating the traditional cost necessary to operate air pollution control systems. Notably, a Vocgen power generator with an output of 560kWe and 6.4MMBtu high quality waste heat offsets ≈20,000 metric tons CO_2e and toxics annually from regional coal-fired generation; representing high value emissions for trade.

VOCGEN is a combined air pollution control and cogeneration solution for industries subject to Title I of the Clean Air Act (CAA); the National Ambient Ai r Quality Standards (NAAQS) for ground level Ozone; CAA Title V air operating permit requirements for major sources; and the US EPA Clean Power Plan Guidelines.

Critical to its ability to replace legacy thermal destruction equipment costs at industry is the understanding that this innovation is not a "me too" energy solution. It is a unique alternative that generates positive cash flows for the 20 -year+ life of its operation. When the legacy equipment is altogether replaced within a corporate fleet, an improved and competitive cost of operations model is achieved. This profitability is not realized by simply adding up the fuel value of volatile organic air emissions used to help fuel the generation of electric power and heat. It is realized by replacing the lifecycle costs of legacy thermal destruction equipment with the lifecycle savings produced by combined heat and power (CHP) equipment, consisting of specially designed and configured power and heat producing equipment . Such equipment is used to offset the emissions typically generated on the grid to energize, heat and cool industrial production processes and buildings at industry. It therefore offsets coal-fired power and emissions just like renewables.

Given the fact that only a handful of the 104 industrial categories regulated by the U.S. EPA/States have ever deployed on-site combined cooling heating, and power (CCHP), the VOCGEN solution creates an extraordinary emergent market consisting of over 38,880 facilities within the United States alone. The significance of the emergent market is its potential market capitalization and potential to support industrial manufacturing growth. This potential, despite the fact that the air pollution control market is saturated with inefficient legacy "burner" type equipment, can be quickly realized con sidering the contem porary factors shaping the mandate for the growth of a cost-effective and competitive U.S. industrial manufacturing sector.

Once national commercialization begins, the impact of the VOCGEN plan will be nation wide industrial facility retrofit construction projects and jobs in support of cost-competitive manufacturing; representing a significant reduction in ground level Ozone and CO_2e and a measurable reduction in environmental health cost. Primarily, the Vocgen wealth generating economic model has the potential to significantly improve business growth, create jobs and improve the American economy.

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A long-awaited clean energy solution is superbly positioned to help President Trump execute a manufacturing resurgence in America. It was purposefully designed and commercially demonstrated by AlliedSignal Honeywell and Environment & Power Systems International, LLC to cost-effectively cogenerate high quality power and heat energy onsite for industrial operations subject to Title V air quality permit requirements. The solution offsets coal-fired power generation emissions CO2e and Toxics pursuant to the clean power plan. It also offsets emissions generated by traditional air pollution controls and other energy-intensive onsite equipment, significantly reducing energy consumption. The solution creates a CFO-approved ≈2-year return on capital investment upside making shovel ready projects and jobs possible. It represents the future of clean, efficient and competitive American manufacturing and a vibrant American economy based on wealth creation.

Steven E. Sexton, CEO
Environment & Power Systems International, LLC

A Solution for the 21st Century

- Voogen eliminates the age-old cost vs. regulatory compliance paradigm; making cost-effective air pollution controls and clean efficient energy available to industrial operations
- Voogen is a market-based solution designed to serve over 38,880 existing U.S. industrial operations
- A single Voogen genset (1 unit) significantly reduces energy consumption; designed to generate positive cash flows averaging $1 million/year/unit within the U.S.

Landmark Realizations

1st - Proves both air quality and an energy efficient economy is possible
1st - Proves free market competition can drive uniquely unexpected innovations and new markets
1st - Proves Voogen to be a superior clean energy solution rivaling, however enhancing renewables
1st – A market-based energy efficiency program for industry
1st – Gas turbine oxidizer (GTO power generator/pollution controls) w/buy-back program warranty
1st - Substantial positive cash flows for the life of Voogen projects; lowering cost of operations
1st – Eliminates governmental energy-production subsidies
1st - Economic incentive for grandfathered and synthetic minor permittees to abate air emissions

Perspective

1. Promotes competitive electricity and natural gas markets
2. Promotes national security and energy security
3. A free-market approach to climate change
4. A win for both environmentalists and private corporations
5. Advances the modernization of American manufacturing
6. A conservative approach to federal energy and environmental policies
7. Financial partners offer project financing to help clients conserve capital. Energy savings pay for projects
8. Guarantees end-users lowest cost for energy and reduces risk of failed production and plant operations
9. A lean federal operating permit program can help states and end-user clients to promote and justify shovel-ready clean energy projects consistently from state to state where adopted

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www.voogen.com +1.520.414.9472 Environmental-Expert/Voogen

To: Minoli, Kevin[Minoli.Kevin@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Middleton, Brandon (ENRD)
Sent: Fri 3/31/2017 6:00:56 PM
Subject: RE: CPP reconsideration suggested edits

I have asked our folks to include the following (similar to language from our motions earlier this week):

Ex. 5 - Attorney Client

From: Middleton, Brandon (ENRD)
Sent: Friday, March 31, 2017 1:04 PM
To: 'Minoli, Kevin' <Minoli.Kevin@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Gelber, Bruce (ENRD) <BGELBER@enrd.usdoj.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: RE: CPP reconsideration suggested edits

Thanks!

From: Minoli, Kevin [mailto:Minoli.Kevin@epa.gov]
Sent: Friday, March 31, 2017 1:02 PM
To: Middleton, Brandon (ENRD) <BMiddleton@ENRD.USDOJ.GOV>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: RE: CPP reconsideration suggested edits

Hi Brandon- We just connected with Mandy and are all ok to file this. Thanks! Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

From: Middleton, Brandon (ENRD) [mailto:Brandon.Middleton@usdoj.gov]
Sent: Friday, March 31, 2017 12:41 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: bruce.gelber@usdoj.gov; Minoli, Kevin <Minoli.Kevin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: RE: CPP reconsideration suggested edits

Mandy—just wanted to follow up. Is EPA okay with this motion?

From: Middleton, Brandon (ENRD)
Sent: Thursday, March 30, 2017 3:58 PM
To: Gunasekara, Amanda <gunasekara.amanda@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Gelber, Bruce (ENRD) <BGELBER@enrd.usdoj.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: FW: CPP reconsideration suggested edits

Hi Mandy,

Please find attached the draft abeyance motion for the CPP reconsideration petition denial litigation. Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Thanks.

Brandon

To: Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]
Cc: Dunham, Sarah[Dunham.Sarah@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Rees, Sarah[rees.sarah@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Schwab, Justin
Sent: Fri 3/31/2017 2:11:35 PM
Subject: Title for ADP

Proposed Repeal of Clean Power Plan is a go

Sent from my iPhone

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Middleton, Brandon (ENRD)
Sent: Thur 3/30/2017 7:57:35 PM
Subject: FW: CPP reconsideration suggested edits
ENV_DEFENSE-#801583-v2-CPP_Reconsideration__March_29__2017_Abeyance_Motion.DOC
March 30 Order.pdf
ENV_DEFENSE-#801747-v1-North_Dakota_(DC_Cir)___Petitioners__Resp_in_Supp....pdf

Hi Mandy,

Please find attached the draft abeyance motion for the CPP reconsideration petition denial litigation. **Ex. 5 - Attorney Client**

Ex. 5 - Attorney Client

Thanks.

Brandon

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Freire, JP[Freire.JP@epa.gov]
From: Jackson, Ryan
Sent: Wed 3/29/2017 5:28:39 PM
Subject: Re: RE:

I'd like to push it out anyway.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Mar 29, 2017, at 12:19 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Ex. 5 - Attorney Client

JP, the final version is attached. Let me know what else you need for press.

From: Jackson, Ryan
Sent: Wednesday, March 29, 2017 11:26 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Freire, JP <Freire.JP@epa.gov>
Subject: RE:

Yes. Or check with Justin first.

From: Gunasekara, Mandy
Sent: Wednesday, March 29, 2017 11:04 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Freire, JP <Freire.JP@epa.gov>
Subject: Re:

Ok- I told Justin. Should I include Minoli?

Sent from my iPhone

On Mar 29, 2017, at 10:36 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

How are we coming with the press release for this week on the Governor's letters?

Ex. 5 - Attorney Client

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

<Letter to States_CPP Tolling_FINAL.docx>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Jordan, Scott[Jordan.Scott@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Schmidt, Lorie
Sent: Tue 3/28/2017 9:39:20 PM
Subject: URGENT: Revised Draft Abeyance Motions Attached
ENV_DEFENSE-#801319-v1-CPP__March_28_abeyance_draft.DOC
ENV_DEFENSE-#801323-v1-NSPS_North_Dakota__March_28_Abeyance_Motion.DOC

Mandy and Kevin

Attached are draft motions to hold in abeyance the lawsuits challenging the Clean Power Plan and the 111b rule for new power plants. The motions ask the court to hold the cases in abeyance

Ex. 5 - Attorney Client

Please let me know if you are Ok with them.

We are also working on an oil and gas motion.

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Hostetler, Eric (ENRD) [mailto:Eric.Hostetler@usdoj.gov]
Sent: Tuesday, March 28, 2017 5:17 PM
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Cc: Jordan, Scott <Jordan.Scott@epa.gov>
Subject: Revised Draft Abeyance Motions Attached

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Freire, JP
Sent: Tue 3/28/2017 12:04:54 PM
Subject: RE: Temperature reduction numbers from EPA

Got it, makes sense. Thanks!

From: Gunasekara, Mandy
Sent: Tuesday, March 28, 2017 6:35 AM
To: Freire, JP <Freire.JP@epa.gov>
Subject: Re: Temperature reduction numbers from EPA

The truth is EPA never measured the CPPs impact on the climate because the numbers are so small. That's why we've consistently relied on the ACCCE analysis. Obama EPA leadership admitted the fact that they didn't measure the rules impact in numerous officials records. We used to bring this point up all the time at hearings saying--OBamas centerpiece climate rule that his agency didn't even bother checking how it would actually impact the climate. I like your second version.

Also for clarification, the economic impacts/costs were done by NERA (on behalf of ACCCE). The climate impacts analysis was done by ACCCE using EPA numbers and methods.

Sent from my iPhone

On Mar 28, 2017, at 2:19 AM, Freire, JP <Freire.JP@epa.gov> wrote:

One smart change on our FAQ:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I'm thinking of just leaving at this.

Ex. 5 - Deliberative Process

Anyway, eager for your thoughts.

JP

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Middleton, Brandon (ENRD)
Sent: Tue 3/28/2017 1:28:09 AM
Subject: Latest draft
ENV_DEFENSE-#801132-v1-CPP__March_27_Draft_Abeyance_Motion (003)suggeste....doc

Attorney-client privileged

See attached, per our discussion. **Ex. 5 - Attorney Client**

Ex. 5 - Attorney Client

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Middleton, Brandon (ENRD)
Sent: Mon 3/27/2017 9:12:58 PM
Subject: CPP

Just wanted to relay what I have heard from our folks:

Ex. 5 - Attorney Client

We are reviewing motion accordingly.

To: Jackson, Ryan[jackson.ryan@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Freire, JP[Freire.JP@epa.gov]
From: Schwab, Justin
Sent: Mon 3/27/2017 8:29:42 PM
Subject: RE: Letter to Gov. re: tolling

Sure be right there

From: Jackson, Ryan
Sent: Monday, March 27, 2017 4:29 PM
To: Schwab, Justin <schwab.justin@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Freire, JP <Freire.JP@epa.gov>
Subject: RE: Letter to Gov. re: tolling

What are they looking for?

Justin, can you come to my office?

From: Schwab, Justin
Sent: Monday, March 27, 2017 4:20 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Freire, JP <Freire.JP@epa.gov>
Subject: RE: Letter to Gov. re: tolling

Ex. 5 - Attorney Client

From: Jackson, Ryan
Sent: Monday, March 27, 2017 3:49 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Schwab, Justin

<schwab.justin@epa.gov>
Subject: RE: Letter to Gov. re: tolling

Ex. 5 - Deliberative Process

From: Gunasekara, Mandy
Sent: Monday, March 27, 2017 3:47 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Letter to Gov. re: tolling

Thank you for your edits. The Final letter is attached. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Sarah, regarding your two comments:

Ex. 5 - Deliberative Process

From: Greenwalt, Sarah
Sent: Monday, March 27, 2017 8:18 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Letter to Gov. re: tolling

Some suggested edits.

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: Ex. 6 - Personal Privacy

Greenwalt.Sarah@epa.gov

From: Gunasekara, Amanda
Sent: Thursday, March 23, 2017 1:46 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Letter to Gov. re: tolling

Attached is the first draft of the letter to send out to the states/Governors regarding the tolling of compliance dates in the CPP. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Jackson, Ryan
Sent: Mon 3/27/2017 8:04:10 PM
Subject: RE: Letter to Gov. re: tolling

Ex. 5 - Deliberative Process

From: Gunasekara, Mandy
Sent: Monday, March 27, 2017 4:01 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Re: Letter to Gov. re: tolling

Ex. 5 - Deliberative Process

Sent from my iPhone

On Mar 27, 2017, at 3:58 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

I'm good with it. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Gunasekara, Mandy
Sent: Monday, March 27, 2017 3:47 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Letter to Gov. re: tolling

Thank you for your edits. The Final letter is attached. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Sarah, regarding your two comments:

Ex. 5 - Deliberative Process

From: Greenwalt, Sarah
Sent: Monday, March 27, 2017 8:18 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Letter to Gov. re: tolling

Some suggested edits.

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: Ex. 6 - Personal Privacy

Greenwalt.Sarah@epa.gov

From: Gunasekara, Amanda
Sent: Thursday, March 23, 2017 1:46 PM

To: Jackson, Ryan <jackson.ryan@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Letter to Gov. re: tolling

Attached is the first draft of the letter to send out to the states/Governors regarding the tolling of compliance dates in the CPP. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Hale, Michelle
Sent: Mon 3/27/2017 6:42:40 PM
Subject: FW: Areas of interest for meeting with Minister Carr
Adm Briefing Doc for Min Carr2 Mar2017.docx

From: Nishida, Jane
Sent: Monday, March 27, 2017 10:39 AM
To: Hupp, Sydney <hupp.sydney@epa.gov>
Cc: Hale, Michelle <hale.michelle@epa.gov>; Knapp, Kristien <Knapp.Kristien@epa.gov>
Subject: FW: Areas of interest for meeting with Minister Carr

Attached please find an updated briefing document for the meeting with Minister Carr, which includes new information from the Canadian Embassy.

From: Rachel.McCormick@international.gc.ca
[mailto:Rachel.McCormick@international.gc.ca]
Sent: Friday, March 24, 2017 3:06 PM
To: Kasman, Mark <Kasman.Mark@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>
Cc: Teel, Pam <Teel.Pam@epa.gov>; Aaron.Annable@international.gc.ca; Rachel.McCormick@international.gc.ca
Subject: Areas of interest for meeting with Minister Carr

Mark, Jane –

With apologies for the delay in getting back to you, below are the areas of anticipated interest for Minister Carr's meeting with Administrator Pruitt.

- North American energy collaboration, including in energy efficiency

- Next steps regarding the U.S. Clean Power Plan

- Energy trade and investment

- Further anticipated changes to EPA programs

Please note that Aaron Annable (cc'd) will be managing the Minister's visit and I am away next week.

Warm regards,

Rachel

Rachel McCormick
Counsellor and Program Manager (Energy and Environment) | Conseillère et Gestionnaire de programme (énergie et environnement)
Embassy of Canada | Ambassade du Canada

501 Pennsylvania Avenue N.W.

Washington, D.C. 20001

T: 202 682 7757

C: 202 391 2442

F: 202 682 7794

E: rachel.mccormick@international.gc.ca

From: Angela.Owens@usdoj.gov
Location: RFK 2143 (call-in Ex. 6 - Personal Privacy cc: 1 Ex. 6 - Personal Privacy
Importance: Normal
Subject: CPP Conference Call
Start Date/Time: Mon 3/27/2017 6:30:00 PM
End Date/Time: Mon 3/27/2017 7:30:00 PM

;;;
Leader Pin: Ex. 6 - Personal Privacy

To: Schwab, Justin[schwab.justin@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]
Cc: Page, Steve[Page.Steve@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Schmidt, Lorie
Sent: Mon 3/27/2017 3:30:44 PM
Subject: URGENT -- Draft FR Notices for Energy EO
FR Notice.CPS 3-27 RLSO.docx
FR Notice.CPP 3-27 RLSO.docx
FR Notice.oilandgas 3-27 RLSO.docx
FR Notice.Withdrawal.FIP and CEIP 3-27 RLSO.docx

Justin, Mandy and Sarah G – we need final OK from you on the text of the notices.

Attached are the current drafts of the FR Notices that implement the energy EO and are to be signed tomorrow.

Ex. 5 - Attorney Client -- Deliberative Process

If there's anything we need to talk about, please call me at Ex. 6 - Personal Privacy

Thanks,

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Schwab, Justin
Sent: Mon 3/27/2017 1:05:16 PM
Subject: Fwd:
CPP Repeal Proposal.FR Notice.3.24.17.7pm.docx
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>
Date: March 24, 2017 at 7:18:38 PM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>, "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Cc: OGC Immediate Office Support <OGCFrontOfficeSupportStaff@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Page, Steve" <Page.Steve@epa.gov>, "Tsirigotis, Peter" <Tsirigotis.Peter@epa.gov>, "Harvey, Reid" <Harvey.Reid@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>

Justin and Kevin

Attached is a draft Federal Register notice proposing to repeal the CPP based on a re-interpretation of our authority under section 111. Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Middleton, Brandon (ENRD)
Sent: Sun 3/26/2017 7:59:00 PM
Subject: Latest draft cpp motion
CPP March 26 Draft Abeyance Motionsuggestededits.doc

Attorney-Client privileged

I have shared the attached comments with our attorneys.

BMM

To: Gunasekara, Surya[Surya@mail.house.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Strom, Natalie M. EOP/WHO[Ex. 6 - Personal Privacy]
From: Fetalvo, Ninio J. EOP/WHO
Sent: Sun 3/26/2017 6:13:15 PM
Subject: Re: AFTERNOON COMMUNICATIONS BRIEFING - March 26, 2017

Looping in Natalie who can add her.

Thanks!

On Mar 26, 2017, at 1:43 PM, Gunasekara, Surya <Surya@mail.house.gov> wrote:

Hi Ninio,

Mandy recently started in Pruitt's office, could you assist us in getting her added to this distribution list?

Thanks,

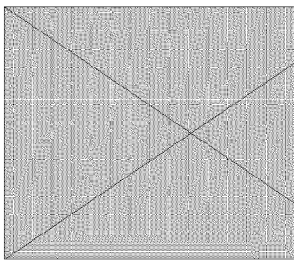
Surya

Surya G. Gunasekara
Chief of Staff
Congressman Renacci (OH-16)

Sent from my iPhone

Begin forwarded message:

From: Cliff Sims <Ex. 6 - Personal Privacy>
Date: March 26, 2017 at 1:03:57 PM EDT
To: <surya@mail.house.gov>
Subject: AFTERNOON COMMUNICATIONS BRIEFING - March 26, 2017
Reply-To: <Ex. 6 - Personal Privacy



AFTERNOON COMMUNICATIONS BRIEFING

March 26, 2017

ANNOUNCEMENTS/NEWS OF THE DAY

Up Next: Executive Order to Strengthen the Nation's Energy Security

- This executive order reduces unnecessary regulatory obstacles, many put into place by the previous administration's problematic "Clean Power Plan" (CPP), that restrict the responsible use of our vast energy resources, which will help keep electricity affordable, reliable, and clean in order to boost the economy and create jobs.
- American electricity producers have done an incredible job of utilizing cutting edge technology to deliver clean power to American businesses and families. The American people have done their part, it's time for the federal government to the same.
- We will have clean air and clean water, alongside strong economic growth and job creation. That is what the American people expect and that is what the EPA will deliver under this new policy directive.

What Was Wrong with CPP:

- The Clean Power Plan has been challenged on both the legal and policy fronts for years.
  - Energy producing states say that this plan is federal overreach by the EPA
  - A bipartisan majority in the 114th Congress rejected the CPP
  - In February 2016, the Supreme Court made the unprecedented decision to stay the implementation of the CPP.
    - The CPP was being challenged by over 150 entities, including 28 states, 24 trade associations, 37 rural electric co-ops, and 3 labor unions.
- The public and private sectors have made serious progress towards making domestic electricity production safer, cleaner, and more affordable.
- Since 1980 there has been a 65% reduction in the 6 principle pollutants under the Clean Air Act's air quality program.
- The EPA's mission has been undermined as the federal government used it as a tool to assert control over a significant portion of our economy. This EO will help return the EPA to its core mission.

Coming Up: Tax Reform

- The President's vision for tax reform is going to unite not just the Republican Party, but will bring some Democrats on board as well.
- We are looking at potentially providing one of the biggest middle class tax cuts in the history of this country.
- It's also important to President Trump that we even the playing field between our country and those that trade with us. He's been a vocal and consistent advocate of fair trade since the 80's.
- The President will stick to the convictions and core principles that he's laid out to the American people for decades, and those principles have broad support in both parties.

White House Reaction to Developments on AHCA

- There is no question that Obamacare will continue to fall apart, and the Democrats will own that failure 100%. This is their bill.
  - The system is entirely unsustainable. Insurance companies are fleeing the market. Premiums and deductibles are skyrocketing. Obamacare is spiraling towards an explosion.
- Without a single House Democrat willing to put politics aside and make our healthcare system better for the American people, it was always going to be challenging to reach complete consensus in a conference as diverse as the Republican Party.
- Once Obamacare completely collapses and the Democrats have no choice, we will create a truly great health care bill in the not very distant future. The President wants great health care for the people of this nation, but Obamacare is simply not the way to achieve that.
- The President remains confident in Speaker Ryan's leadership.
- The President is eager to continue his important work for the American people.

Official Approval of the Presidential Permit for the Keystone XL Pipeline

- Today, The President announced the official approval of the Presidential Permit for the Keystone XL Pipeline.
  - TransCanada will finally be allowed to complete this long overdue project with efficiency and speed.
- It is a great day for American jobs and a historic moment for North American energy independence.
- This announcement is part of a new era of American energy policy that will lower costs for American families, reduce our dependence on foreign oil, and create thousands of good jobs right here in America.
- When completed, the Keystone XL pipeline will span 900 miles and have the capacity to deliver more than 800,000 barrels of oil per day to Gulf Coast refineries.
- The fact that this $8 billion investment in American energy was delayed for so long demonstrates how our government has too often failed its citizens in years past.
- Today, we begin to make things right. Today we take one more step in putting the jobs, wages, and economic security of American citizens first.
- This is just the first of many energy and infrastructure projects that my administration will approve to help put Americans back to work, grow our economy, and rebuild our nation.

Charter Communications Jobs Announcement

Top Line:

- The President announced today that Charter Communications has just committed to investing $25 billion here in the United States and to hiring 20,000 American workers over the next four years.
- Charter has also committed to completely ending its offshore call centers and to base 100% of its call centers here in the United States – all American jobs.
  - This is great for their workers, and it's great for consumers.
  - The President called on all companies to follow Charter's lead and bring those call centers back to the United States.

- Charter's announcement follows a number of American businesses – from Exxon to Intel to Lockheed to many others – that have recently announced billions of dollars in investment and thousands of jobs coming to the United States following the President's election.
- We are embracing a new economic model – the American Model.
  - We are going to massively eliminate job-killing regulations, reduce government burdens, and lower taxes that are crushing American businesses all across our nation.
  - And in return, the President is asking those businesses to hire and grow in America.
- When American workers win, America as a country wins. We want companies to thrive, hire and grow in America.

Background:

- Five years ago Charter Communications was a struggling company that had slowly emerged from bankruptcy.
- Today, thanks to hard work and great leadership, it is the fastest-growing television, Internet, and voice company in the nation.
- CEO Tom Rutledge and his team turned the company around.
  - They created a culture of customer service.
  - And, most importantly, they brought back many jobs that had been shipped overseas.
  - That has been good for their business, it has been good for America, and it has been good for American workers.

Confirm Judge Gorsuch

- Senate Democratic Leader Schumer announced Senate Democrats would be mounting a filibuster against the nomination of Judge Neil Gorsuch
- From day one, we have said the President made an inspired choice with the nomination of Judge Gorsuch. This week, through four full days of hearings, he has showcased his sterling credentials and brilliant legal mind.
- We find Senator Schumer's announcement truly disappointing, because it breaks with the tradition of how the Senate has handled Supreme Court confirmation votes in modern times – and represents the type of partisanship Americans have grown tired of.
- In the last half century, only 3 Supreme Court Justices have ever faced a filibuster. The most recent – Justice Samuel Alito – was opposed by then-Senator Obama who voted to uphold his filibuster, and later admitted his vote was a politically motivated act he later regretted.
- In fact, Senate Republicans did not filibuster his Supreme Court nominees, Justices Elena Kagan and Sonia Sotomayor.
- We call on Senator Schumer's fellow Democrats to abandon this attempt to block Judge Gorsuch from receiving the fair up or down vote he and the American people deserve.

Bio:

- Early Life
  - A native Westerner, Judge Gorsuch spent his childhood in Colorado and chose to return there to raise his family.

  - As a child, he shoveled snow in the winter, mowed lawns during the summer to earn extra money. He also worked moving furniture and as a front desk clerk at a Howard Johnson hotel.
- Education
  - Judge Gorsuch's academic credentials are impeccable.
  - He graduated Phi Beta Kappa from Columbia University in just three years.
  - He earned a Truman Scholarship to help pay for Harvard Law School where he graduated cum laude.
  - He then studied at Oxford on a Marshall Scholarship.
- Professional
  - Judge Gorsuch was a Supreme Court Clerk for Justices White and Kennedy.
  - He has significant private practice experience from his ten years of litigating a broad range of complex trials and appeals.
  - As a practicing attorney and law student, Judge Gorsuch devoted significant time to pro bono representation of the poor and disadvantaged.
  - His record of public service also includes significant experience in the Department of Justice, where he was the Principal Deputy Associate Attorney General.

TOP HIGHLIGHTS FROM SUNDAY'S SHOWS

EPA Administrator Scott Pruitt on ABC's *This Week*: "The President is keeping his promise to the American people this week."

EPA ADMINISTRATOR PRUITT: George, the President is keeping his promise to the American people this week. With respect to this executive order that's coming out on Tuesday, the energy independence executive order. And, as you indicated, this is about making sure that we have a pro-growth and pro-environment approach to how we do regulation in this country. For too long, over the last several years, we have accepted a narrative that if you're pro-growth, pro-jobs, you're anti-environment, and if you're pro-environment, you're anti-jobs or anti-growth and that's just not where we have been as a country throughout our existence. We have made tremendous progress on our environment and we can be both pro-jobs and pro-environment and the executive order is going to address the past administration's effort to kill jobs across the country through the Clean Power Plan.

STEPHANOPOULOS: This order is likely to face some legal challenges, could take some time to work through the courts, and, as you know, coal jobs have been declining for a long time. We heard the President's promise right there, most of the job loss predates the Obama initiative. I want to put up a chart right there showing the biggest drops came over a decade ago and you have about the same number of coal jobs now as you did a decade ago. So are you worried at all that the President is making a promise to coal country that he just can't keep?

PRUITT: Well, it's not just the short term, George. it's the long term. And it's clear that the past administration had a very anti-fossil fuel strategy, coal, natural gas, and the rest. And so this is a promise that he's keeping to the American people to say we can put people back to work and be pro-environment as well. This Clean Power Plan is something that the Supreme Court, as you know, has said is likely unlawful. And so there's been a stay against this Clean Power Plan. So our actions starting on Tuesday, shortly after the executive order, will make sure that whatever steps we take in the future will be pro-growth, pro-environment but within the framework of the Clean Air Act and it will be legal.

STEPHANOPOULOS: But will it bring back coal jobs?

PRUITT: I think absolutely it will. It will bring back manufacturing jobs across the country, coal jobs across the country. Across the energy sector, we have so much opportunity, George, and the last administration had an idea of keeping it in the ground. We need to more independent, less reliant upon foreign energy sources, and this is an opportunity. You know this week, this past week, the President approved the Keystone pipeline. So it's transportation issues, it's development issues, it's putting people back to work both in the energy sector but also the jobs it creates in the manufacturing sector and across our economy.

Chief of Staff Reince Priebus on Fox's *Fox News Sunday:* "I actually think the President is even more emboldened to stick to his guns and his heart and the things and the convictions that he's laid out to the American people for decades."

CHIEF OF STAFF PRIEBUS: No, not at all, Chris. I think that moving forward, the President's vision on lowering taxes for every American is what's going to unite not just the Republican Party but I think some of those Democrats are going to come on board as well. If we can provide one of the biggest middle class tax cuts in the history of this country, I think that's important. I think another point that's important to the President is a potential border tax. That we start evening up the playing field between our country, countries across the world –

CHRIS WALLACE: So he's not backing off that?

PRIEBUS: He's not backing off of that. It's something that's very important to him and if you go back and watch President Trump's interviews from the 1980s, the 1990s, the early 2000's and recent years, he has been talking about this agenda his entire life. And I think now more than ever, I actually think the President is even more emboldened to stick to his guns and his heart and the things and the convictions that he's laid out to the American people for decades.

WALLACE: Ok.

PRIEBUS: And he's not going to turn his back on his core principles. And I think his core principles have broad admiration in both parties.

Director of the Office of Management and Budget Mick Mulvaney on NBC's *Meet the Press*: "You cannot fix a broken system."

TODD: Do you have the duty to make it work now as it stands?

DIRECTOR MULVANEY: We have a duty to protect people back home and that's what we're going to try and do. You cannot fix a broken system. This is a system built on the idea that the government could force you to do something you didn't want and that that would make you happy. You are never going to fix that. The system must be removed. It must be repealed and replaced and you're not going to fix a system that doesn't trust people to do what's in their best interest and that's what Obamacare does.

POTUS SCHEDULE

- At the White House

ADDITIONAL BACKGROUND ON RECENT NEWS

Chairman Nunes's Statements on Surveillance

- "I recently confirmed that on numerous occasions the intelligence community incidentally collected information about U.S. citizens involved in the Trump Transition. Details about U.S. persons associated with the incoming administration, details with little or no apparent foreign intelligence value, were widely disseminated in intelligence community reporting. And third I have confirmed that additional names of Trump transition team members were unmasked. And fourth and finally, I want to be clear, none of this surveillance was related to Russia or the investigation of Russian activities or of the Trump team."
- "What I've read seems to me to be some level of surveillance activity, perhaps legal, but I don't know that it's right and I don't know that the American people would be comfortable with what I've read."
- "The Justice Department doesn't have anything to do with this. This is information that was brought to me that I thought the President needed to know about incidental collection where the President himself and others in the Trump transition team were clearly put into intelligence reports in this White House and across whole agencies."
- "REPORTER: Can you rule out the possiblity that President Obama and senior officials were involved in this?

  REP. NUNES: No, I cannot."

Background on Intelligence Reports and "Unmasking" of American Citizens:

- Leading up to the President's inauguration, press reports claimed Obama Administration officials made intelligence on communication regarding Trump associates as easily accessible as possible.
- Last week, the Chairman and Ranking member of the House Intelligence Committee, Reps. Devin Nunes (R-CA) and Rep. Adam Schiff (D-CA), asked the FBI, CIA, and DNI whether the Obama Administration improperly "unmasked" American citizens identities in foreign intelligence collection in the last seven months of the administration.
  - In addition, Nunes and Schiff requested the NSA produce the names of Americans whose identities had been unmasked by Friday, a request that has yet to be fulfilled.
- Citing the leak of former National Security Adviser Michael Flynn's call with the Russian Ambassador to *The Washington Post*, Reps. Nunes and Schiff believe officials "wantonly disregarded" procedures meant to protect the identity of American incidentally surveilled.
- On Fox News Sunday, Nunes said that he believed that this leak and others like it were executed by individuals who previously had access to classified information, but no longer do.

Background on Lack of Evidence of Collusion between Russia, Trump Camp:

- This Sunday, House Intelligence Committee Chair Devin Nunes reiterated there was no evidence of Trump/Russia collusion, previously calling such charges a "witch hunt."
- Last week, Former Acting CIA Director under Obama, Michael Morell, who endorsed Hillary Clinton, cast doubt on connections between trump and Russia, saying "there is smoke, but there is no fire, at all. … There's no little campfire, there's no little candle, there's no spark. And there's a lot of people looking for it"
- BuzzFeed Report March 17: "Democrats on the intelligence committee now quietly admit… they don't expect to find evidence of active, informed collusion between trump campaign and known Russian intelligence operatives."

- On March 5th, when asked if there were "definitively" improper contacts between the trump campaign and Russia, former Obama Director of National Intelligence James Clapper responded "not to my knowledge… at the time, we had no evidence of collusion." When asked to definitively confirm no proof of collusion, Clapper said "that's correct."
- On March 5th, Sen. Chris Coons (D-DE) said "I have no hard evidence of collusion," walking back an earlier claim that he had transcripts showing Trump-Russia collusion.
- October 2016 *New York Times* Headline: "Investigating Donald Trump, F.B.I. Sees No Clear Link to Russia"

Administration's Latest Actions in Court on the President's Executive Order

- On March 22, DOJ moved for an expedited briefing schedule in the court of appeals so that briefing would be complete by April 5.
- DOJ also asked the court wait for a full briefing before ruling on DOJ's motion to stay the Maryland court's temporary restraining order pending appeal.
- The other party did not agree to this expedited schedule, instead wanting a schedule that would extend briefing into May.
- The court will soon making a decision on the briefing schedule.

Top Line:

- This new order was tailored to the dictates of the 9th Circuit's ruling – however flawed it was – so that the President would be able to act as swiftly as possible to protect our nation from those who wish to do us harm.
- Even liberal legal scholars such as Alan Dershowitz and Jonathan Turley defended the legality of the President's order and criticized the judge's opinion.
- The law and the Constitution give the President the power to suspend immigration when he deems it to be in the national interest.
  - 8 U.S. Code 1182:
    - "Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate."
- The Court didn't even want to quote the relevant statute in its opinion, because it so clearly shows that the President has full authority to restrict entry into the country for matters of national security.
- As the President said in Tennessee, he is prepared to fight this ruling as far as it needs to go. He will not allow politics to get in the way of keeping American citizens safe.
- The danger is clear. The law is clear. The need for this executive order is clear. President Trump was elected to change the broken and dangerous immigration system that has weakened and endangered our country, leaving the people defenseless.

Background:

- The President made this decision in the interest of national security, an area in which the Constitution grants him broad authority. It is his duty to put the safety of the American people

and security of the American people first.

- We must be able to properly vet foreign nationals seeking entry into our country, particularly from terrorist hotbeds.
- We welcome those who wish to contribute to our country's prosperity and well-being, but we cannot allow our immigration system to become a vehicle for admitting people who might pose a risk to our national security.
- This executive order was drafted in close consultation with the affected agencies, and includes a delayed effective date to allow those involved in its enforcement even more time to facilitate an orderly rollout.
- By using the most precise language possible, this order clears up any misconceptions about what individuals are covered by the travel pauses and limits the effects only to what is absolutely necessary to protect our country.
- We need to take these steps to ensure that the United States government honors its most important obligation: to protect the American people.

Global Coalition Ministerial on ISIS

Top Line:

- The Coalition is united in the fight against ISIS and this ministerial seeks to accelerate international efforts to defeat ISIS in the remaining areas it holds in Iraq and Syria and maximize pressure on its branches, affiliates, and networks.
- The ministerial will include a detailed discussion of priorities for the Coalition's multiple lines of effort, including military action, foreign terrorist fighters, counterterrorist financing, counter-messaging, and stabilization of liberated areas, to increase the momentum of the campaign.
    - Additionally, ministers will discuss the ongoing humanitarian crises in Iraq and Syria that are affecting the region.
- On January 28, the President directed Secretary of Defense Mattis to work with interagency partners to develop a preliminary plan to defeat ISIS. The State Department was a partner in drafting the plan and, as the White House has announced, it was delivered to the White House on February 27 for consideration and broader discussion.
- To defeat ISIS, we will pursue a whole-of-government approach that uses all tools of national power, in coordination with the 68-member Global Coalition.
    - The Trump Administration will work with our international partners to cut off ISIS' funding, expand intelligence sharing, and deny ISIS geographic, as well an online safe haven.
- We are working with local partners to liberate Mosul, remove ISIS from Raqqa, and defeat ISIS' branches and networks around the world.
    - We are also working with the Coalition to ensure that liberated areas are stabilized, preventing ISIS' return.
- We will apply simultaneous pressure to ISIS across Iraq and Syria both through a relentless air campaign, and working with local partners on the ground.
- We will strengthen coordination between the Coalition and other partners' military, intelligence, and law enforcement communities, to defeat ISIS's global network.

Background:

- This is the 10th meeting of the 68-member Global Coalition.
- The Ministerial will focus on the ground campaign in Iraq and Syria, and how the Coalition can effectively transition to defeat ISIS globally along the five lines of effort of the campaign (military, foreign terrorist fighters, counterterrorist financing, counter-messaging, and stabilization of liberated areas).
- This is also a platform to secure funds from partners for areas liberated from ISIS and to resource the humanitarian crisis. This is the first full meeting of the Coalition since 2014.

Notable excerpts from Secretary Tillerson's prepared remarks:

- "I recognize there are many pressing challenges in the Middle East, but defeating ISIS is the United States' number one goal in the region. When everything is a priority, nothing is a priority. We must continue to keep our focus on the most urgent matter at hand."
- "Our Coalition is united in stopping an ISIS resurgence, halting its global ambitions, and discrediting its ideological narrative. And we are ready to grow stronger and stay aggressive in this battle."
- "The expansion of ISIS has necessitated a large scale military response, and our offensive measures are reclaiming areas in Iraq and Syria in which ISIS has had a large and destructive footprint. Our end goal in this phase is the regional elimination of ISIS through military force."
- "We will continue to facilitate the return of people to their homes, and work with local political leadership. They will provide stable and fair governance, rebuild infrastructure, and provide essential services. We will use our diplomatic presence on the ground to facilitate channels of dialogue between local leadership and Coalition partners."
- "The United States will increase our pressure on ISIS and al-Qaeda and will work to establish interim zones of stability, through ceasefires, to allow refugees to return home."
- "As we stabilize areas encompassing ISIS's physical caliphate in Iraq and Syria, we also must prevent their seeds of hatred from taking root elsewhere. We must ensure ISIS cannot gain or maintain footholds in new regions of the world."
- "We must fight ISIS online as aggressively as we would on the ground."

Aviation Security Enhancements for Select International Airports with Commercial Flights to the U.S.

- The U.S. Government is concerned about terrorists' ongoing interest in targeting commercial aviation.
- Evaluated intelligence indicates that terrorist groups continue to target commercial aviation, to include smuggling explosive devices in various consumer items.
- Based on this trend, the TSA, in consultation with relevant Departments and Agencies, has determined it is prudent to enhance security, to include airport security procedures for passengers at certain last point of departure airports to the United States. These Enhancements include more stringent measures applied to 10 specific airports.
    - The affected overseas airports are: Queen Alia International Airport (AMM), Cairo International Airport (CAI), Ataturk International Airport (IST), King Abdul-Aziz International Airport (JED), King Khalid International Airport (RUH), Kuwait International Airport (KWI), Mohammed V Airport (CMN), Hamad International Airport (DOH), Dubai International Airport (DXB), and Abu Dhabi International Airport (AUH).
- The enhancement in security will require that all personal electronic devices (PEDs) larger than a cell phone or smart phone be placed in checked baggage.
    - These items will no longer be allowed to be carried onto aircraft at 10 select airports

where flights are department for the United States.
  - Approved medical devices may be brought into the cabin after additional screening.
- The security enhancement will be implemented through a Security Directive (SD)/Emergency Amendment (EA) process, which includes industry notification, to affected air carriers that will implement the requirements.
- House Intel Committee ranking member Adam Schiff (D-Cal.) has called this move "necessary" and "proportional to the threat."

FBI Director Comey Testifies Before House Intelligence Committee

- POTUS Tweets:
  - James Clapper and others stated that there is no evidence POTUS colluded with Russia. This story is FAKE NEWS and everyone knows it!
  - The Democrats made up and pushed the Russian story as an excuse for running a terrible campaign. Big advantage in Electoral College & lost!
  - The real story that Congress, the FBI and all others should be looking into is the leaking of Classified information. Must find leaker now!
- Sen. Chuck Grassley Tweet: After Comey briefing + doc review I can say @POTUS and Clapper R both right about this No evidence of Trump collusion w Russia
- The real issue we should be taking away from in this hearing is the incredible amount of classified information that has been leaked to advance a political agenda.
- The rules governing NSA foreign intelligence gathering allow for a wide array of signal intercepts and other surveillance tactics that aren't permitted against U.S. persons.
  - During this process, intelligence reports that detail conversations between a foreign intelligence target and an American "mark" the identity of said American.
  - The "unmasking" of the identity of Americans in these intelligence reports can be requested by both career intelligence officials and political appointees – and authorized by NSA personnel (who number just 20).
- Director Comey said senior Obama officials had the ability to get the names of unmasked U.S. citizens.
  - Before President Obama left office, former NSA Director Michael Flynn was unmasked and then his name was illegally leaked to media outlets.
  - We don't know who committed the crime, but according to a report in *The New York Times* last month, Obama White House officials were asking the FBI details about General Flynn's calls. Not long after, his name was leaked to the press.
  - The FBI Director wouldn't say whether or not he briefed President Obama on Michael Flynn's phone calls.
  - But Director Comey did say that these dangerous leaks that put national security at risk have become "unusually active" in the time frame in question.
- This politically motivated and illegal leaking that is undermining national security is the real story, and we want to get to the bottom of it.
- Both Director Comey and Director Rogers told the committee that they have no evidence votes were changed in the swing states that President Trump won.
- Chairman of the House Intelligence Committee, Rep. Nunes, said on Sunday that:
  - He has seen no evidence of any collusion between the President and his associates and the Russian government.
  - It's pretty clear that there are elements inside of the intelligence community that are

leaking information to undercut and undermine the President's agenda.
    - The media has unfortunately chased false narratives instead of bringing attention to this real and verifiable threat to America's national security.

From the Hearing:

- VIDEO: NSA, FBI Directors Confirm: Russian Activity Did Not Influence Elections In 2016 Campaign
- VIDEO: NSA Director Rogers: Unmasking Individuals Endangers National Security
- VIDEO: Comey Refuses To Deny He Briefed President Obama On Flynn Calls
- VIDEO: Comey: Obama Political Appointees Had Ability To "Unmask" American Citizens
- VIDEO: Comey: Classified Leaks To The Media Have Been "Unusually Active" In The Last Couple Months
- VIDEO: Comey: DNI Clapper "Right" To Say No Evidence Of Collusion Between Russia And Trump Campaign

Women's History Month

- The extraordinary women of this country have accomplished so much throughout our history.
- President Trump is going to open up even more educational opportunities for women and empower them to continue to rise in the workplace.
- He has already taken major steps towards these goals:
    - Held multiple listening sessions dedicated to finding solutions for the unique barriers women face in the workplace
    - Signed legislation promoting education and employment for women in the sciences through programs at NASA and the National Science Foundation
    - Launched the United States-Canada Council for Advancement of Women Entrepreneurs

---

Unsubscribe

The White House · 1600 Pennsylvania Avenue, NW · Washington DC 20500 · 202-456-1111

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Wilcox, Jahan
Sent: Sat 3/25/2017 2:36:22 PM
Subject: RE: Can you look at this document as well
03.23.17 - DRAFT CPP Backgrounder.docx

Thank you. Can you also put JP and Dravis on the email as well, because I'm having trouble getting on my computer from home.

From: Gunasekara, Mandy
Sent: Friday, March 24, 2017 5:45 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: Can you look at this document as well

I do but won't be in a position to edit until later tonight.

Sent from my iPhone

On Mar 24, 2017, at 5:42 PM, Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:

Thank you. Do you have any additional thoughts/edits on the backgrounder?

From: Gunasekara, Mandy
Sent: Friday, March 24, 2017 5:34 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: RE: Can you look at this document as well

From: Wilcox, Jahan
Sent: Friday, March 24, 2017 5:23 PM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Can you look at this document as well

I need to get it to JP and Dravis as well by 6p.

Thank you.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Wilcox, Jahan
Sent: Fri 3/24/2017 9:22:36 PM
Subject: Can you look at this document as well
03.24.17 - DRAFT Q&A On CPP.docx

I need to get it to JP and Dravis as well by 6p.

Thank you.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Schwab, Justin
Sent: Fri 3/24/2017 8:15:25 PM
Subject: 4/4: CPP FIP and CEIP
3-24 EDIT FR Notice.Withdrawal.FIP and CEIP 3-23 10 pm.docx

Redline attached.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Schwab, Justin
Sent: Fri 3/24/2017 8:00:25 PM
Subject: 3/4: UUUU (CPP)
3-24 EDIT FR Notice.CPP 3-22 6 pm clean.docx

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Wilcox, Jahan
Sent: Fri 3/24/2017 7:54:52 PM
Subject: DRAFT: Can you look at these two documents, please
03.23.17 - DRAFT CPP Backgrounder.docx
03.23.17 - DRAFT CPP TalkingPoints.docx

And let me know what your thoughts are on them and what additional points might be missing?

To: Gunasekara, Amanda[gunasekara.amanda@epa.gov]
From: Dunham, Sarah
Sent: Fri 3/24/2017 11:13:55 AM
Subject: Fwd: Draft notice withdrawing CPP-related proposals
FR Notice.Withdrawal.FIP and CEIP 3-23 10 pm.docx
ATT00001.htm

You might've gotten this already but just in case.

Sent from my iPhone

Begin forwarded message:

From: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>
Date: March 23, 2017 at 10:54:35 PM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>, "Minoli, Kevin" <Minoli.Kevin@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>
Cc: "Jordan, Scott" <Jordan.Scott@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>
Subject: Draft notice withdrawing CPP-related proposals

All –

Attached is the current draft FR notice withdrawing the CPP-related proposals.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

ARLO is happy to keep the pen on Friday if people have substantive changes. We should then switch control of the document to OAR for processing.

Please note that there are some bubble comments you should read during your review.

Thanks

Lorie

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Gunasekara, Amanda[gunasekara.amanda@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]
From: Schwab, Justin
Sent: Fri 3/24/2017 10:41:02 AM
Subject: Re: Draft FR notices for energy EO

We will review one more time, may make stylistic edits, and should be able to turn them around later today.

Sent from my iPhone

On Mar 23, 2017, at 10:59 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Just checking to see whether there's anything we need to do on these or whether we can pass the pen to OAR for processing.

I don't think I've heard back from anyone with comments – but things sometimes get lost in my inbox.

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Schmidt, Lorie
Sent: Wednesday, March 22, 2017 6:50 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Gunasekara, Amanda <gunasekara.amanda@epa.gov>

Cc: Kevin Minoli (Minoli.Kevin@epa.gov) <Minoli.Kevin@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>
Subject: Draft FR notices for energy EO

Attached are 3 draft FR notices that announce that the Agency is initiating the review of the CPP, the GHG rule for new power plants, and the 2016 oil and gas rule. The first two are somewhat modified from the drafts we sent on Friday, so I have included both clean and track changes versions. The oil and gas notice has not changed. OAR has reviewed these.

Ex. 5 - Attorney Client

Once we get comments from you, we will pass the baton to OAR so that they can take care of processing them for the Administrator's signature.

The notice to withdraw the CPP-related proposals is taking a bit longer than expected, but we should have it to you tomorrow.

I assume we are still operating with a Monday signature date.

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 6/26/2017 10:54:31 PM
Subject: Re: Drafts of next CPP status reports

I will review tonight.

Sent from my iPhone

On Jun 26, 2017, at 6:03 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Mandy

Ex. 5 - Attorney Client

DOJ would like our response by COB Tuesday (I think).

Thanks

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Schmidt, Lorie
Sent: Tuesday, June 20, 2017 11:09 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Cc: Jordan, Scott <Jordan.Scott@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Subject: Re: Drafts of next CPP status reports

Looping in Erik Baptist, our new deputy GC. I understand he is the deputy GC who will be handling CPP litigation.

Sent from my iPhone

On Jun 20, 2017, at 10:26 AM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Mandy and Kevin,

Attached for your review are DOJ's draft status reports for the CPP and New Source Rule cases. Our deadline for filing these is next Thursday, June 29.

Ex. 5 - Attorney Client

Thanks

Lorie

<ENV_DEFENSE-#809672-v1-111(d)_-_6_29_17_status_report.DOCX>

<ENV_DEFENSE-#809671-v1-111(b)_-_second_status_report_-_6_29_17.DOCX>

To: Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 6/20/2017 2:54:49 PM
Subject: Re: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

I'll do 7:30

Sent from my iPhone

On Jun 20, 2017, at 10:49 AM, Dominguez, Alexander <dominguez.alexander@epa.gov> wrote:

You can make this work if you want to do it. Would just miss the 8:00 Chiefs meeting. Originally was supposed to be Samantha speaking but she canceled this morning. Based on their comments to their regulatory reduction comments submitted to EPA in May you could speak to 5-6 of the seven topics they addressed. Just need to be back for your 9:30. If you want to do it what time would prefer – 7:30, 7:45, or 8:00?

From: Stephanie Salmon [mailto:ssalmondc@gmail.com]
Sent: Tuesday, June 20, 2017 10:20 AM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

Alex

Our event is taking place at the Hyatt Regency on Capitol Hill – 400 New Jersey Ave. The session can start at 7:30 or 7:45 or 8:00 – willing to work with Mandy – would any of the times work? Focus on reg reform efforts and issues that the Administrator will be focusing on – including WOTUS, Clean Power Plan.
We have 100 foundry owners from over 20 states. Big Midwest concentration.

Thanks so much for considering!

Stephanie Salmon | Vice President Government Affairs | **American Foundry Society – Washington Office**

25 Massachusetts Ave, NW - Suite 800 | Washington, D.C. 20001

Ofc: 202-452-7135 - Cell: 571-242-0186 **I** ssalmon@afsinc.org

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Tuesday, June 20, 2017 9:47 AM
To: Stephanie Salmon <ssalmondc@gmail.com>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Re: Am Foundry Society - Meeting with 100 Foundry Owners... - Need a favor for Wed June 21

I believe so- Alex, can you coordinate logistics and see if I can make this work?

Sent from my iPhone

On Jun 20, 2017, at 8:47 AM, Stephanie Salmon <ssalmondc@gmail.com> wrote:

Mandy

Samantha Greenwalt was supposed to speak to our group for breakfast tomorrow at 7:30 / 8:00 am on Wed and is now not available – is there any chance you could fill in?

We would be extremely grateful and appreciative.

Thanks

Stephanie

Stephanie Salmon I Vice President Government Affairs **I American Foundry Society – Washington Office**

25 Massachusetts Ave, NW - Suite 800 **I** Washington, D.C. 20001

Ofc: 202-452-7135 - Cell: 571-242-0186 **I** ssalmon@afsinc.org

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Zenick, Elliott[Zenick.Elliott@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 6/16/2017 8:38:29 PM
Subject: RE: CPP - environmental group response to supplemental status report

Thanks for update.

From: Schmidt, Lorie
Sent: Friday, June 16, 2017 2:19 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Zenick, Elliott <Zenick.Elliott@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>
Subject: Fwd: CPP - environmental group response to supplemental status report

See Jack's email.

Sent from my iPhone

Begin forwarded message:

From: "Lipshultz, Jon (ENRD)" <Jon.Lipshultz@usdoj.gov>
Date: June 16, 2017 at 1:02:09 PM EDT
To: "Middleton, Brandon (ENRD)" <Brandon.Middleton@usdoj.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Jordan, Scott" <Jordan.Scott@epa.gov>, 'Gautam' <Srinivasan.Gautam@epa.gov>, "Feigin, Eric (OSG)" <Eric.Feigin@usdoj.gov>
Cc: "Hostetler, Eric (ENRD)" <Eric.Hostetler@usdoj.gov>, "Miller, Wendy (ENRD)" <Wendy.Miller@usdoj.gov>, "Grishaw, Letitia (ENRD)" <Letitia.Grishaw@usdoj.gov>
Subject: CPP - environmental group response to supplemental status report

All – FYI. Today, the environmental intervenors in the CPP litigation filed a short response to our supplemental status report. Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client A copy is attached. Jack

Jack Lipshultz

Assistant Section Chief

Environmental Defense Section

(202) 514-2191

To: Wehrum, William L.[wwehrum@hunton.com]
From: Gunasekara, Mandy
Sent: Wed 6/14/2017 4:31:16 PM
Subject: RE: Speaking Invitation

Hey Bill,

I hope all is well! I want to confirm the below request. 2 pm on Thursday works for me – I could even move it up a little early to 1:30 if needed. Do you need anything else?

Thanks,

Mandy

From: Wehrum, William L. [mailto:wwehrum@hunton.com]
Sent: Tuesday, May 23, 2017 10:41 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Speaking Invitation

Mandy – The Utility Air Regulatory Group is an ad-hoc coalition of the Nation's leading fossil energy producers. UARG focuses on Clean Air Act-related regulatory issues. UARG is holding a meeting here at Hunton's offices in DC on the afternoon of June 22 and the morning of June 23. We would like to invite you to speak to the group at some point during the meeting.

Our agenda is flexible, so you can pick the time that works best. If it works for you, we suggest 2:00 on Thursday the 22nd.

We are interested in any Clean Air Act regulatory issue that you are willing and able to address. Topics of interest include the Clean Power Plan, the Mercury and Air Toxics Standard, regional transport, regional haze, and NAAQS/NAAQS implementation. We <u>are not</u> asking you to address pending litigation on any of

these issues. We are interested in discussing only possible future regulatory action.

Please feel free to contact me if you have questions or need more information.
Thanks for your consideration.

HUNTON & WILLIAMS **Bill Wehrum**

Partner

wwehrum@hunton.com
p 202.955.1637

bio | vCard | blog | LinkedIn

Hunton & Williams LLP
2200 Pennsylvania Avenue, NW
Washington, DC 20037

hunton.com

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 6/12/2017 8:58:48 PM
Subject: Re: Draft Supplemental Status Report

This looks good. Please move it forward.
Thanks,
Mandy

Sent from my iPhone

On Jun 12, 2017, at 10:37 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Just heard from DOJ.

The current plan is to file tomorrow, with the hope that Mandy will sign off by COB Tuesday.

Mandy -/ please let me know if you are ok with this.

Lorie

Sent from my iPhone

On Jun 12, 2017, at 3:55 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Mandy and Kevin,

Today DOJ is planning on filing a supplemental status report in the CPP litigation that informs the court that we have sent to OMB a proposed regulatory action as a result of our review of the CPP. Kevin – this is consistent with what we discussed last week.

Ex. 5 - Attorney Client

The draft is attached, but we have excerpted the key new text below: First -- the second sentence in the opening text, which states:

Ex. 5 - Attorney Client

And Paragraph 5, which states:

Ex. 5 - Attorney Client

Please let me know if you have any questions.

Lorie

<ENV_DEFENSE-#808898-v1-CPP__June_12_Supplemental_Status_Report.docx>

To: Bowman, Liz[Bowman.Liz@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 6/6/2017 9:07:47 PM
Subject: Re: question on Scott Pruitt MTP appearance

We did and with all our luggage!

Sent from my iPhone

On Jun 6, 2017, at 8:01 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Thanks! I hope y'all made it to Italy okay!

From: Gunasekara, Mandy
Sent: Tuesday, June 6, 2017 1:18 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: Re: question on Scott Pruitt MTP appearance

Ex. 5 - Deliberative Process

Sent from my iPhone

On Jun 6, 2017, at 7:13 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Is this good?

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Lori Robertson [mailto:lori.robertson@factcheck.org]
Sent: Tuesday, June 6, 2017 12:54 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: Re: question on Scott Pruitt MTP appearance

Yes that's fine. Thanks

Sent from my iPhone

On Jun 6, 2017, at 11:56 AM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

> Hi Lori – I am tied up in meetings until this afternoon, can I get back to you by the end of the day? Thanks – Liz
>
> **From:** Lori Robertson [mailto:lori.robertson@factcheck.org]

Sent: Tuesday, June 6, 2017 11:50 AM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: question on Scott Pruitt MTP appearance

Hi Liz,

We were looking at this claim by Scott Pruitt on NBC's "Meet the Press" on Sunday:

Pruitt: "We were going to take steps, front loading our costs while the rest of the world waited to reduce their CO2 footprint. That's the reason it put us at a very much an economic disadvantage internationally."

But the "rest of the world" wasn't waiting to reduce carbon emissions. Several countries set targets of reducing emissions. The European Union, for example, set a goal of a 40 percent reduction in greenhouse gas emissions by 2030 below its 1990 level.

Later in the same interview, Pruitt said: "The reason they said those things Chuck, is because the rest of the world, China and India, the largest two polluters that we have on the planet did not have to take any steps until after 2030, and the United states front loaded their costs through things like the clean Power Plan, other rules here domestically, that contracted our economy."

China and India – and other developing countries – delayed an absolute reduction, but why does Pruitt say "the rest of the world" waited to reduce their emissions?

Thanks,

Lori

Lori Robertson

FactCheck.org

Washington, D.C., office

202-486-5857

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[1] Stephen Eule on behalf of US Chamber of Commerce Testimony before the US Senate Environment and Public Works Committee (November 18, 2015) available at: https://www.epw.senate.gov/public/_cache/files/3f20f502-aca6-433e-afc5-22b57d9d051f/eule-testimony.pdf

[2] Enhanced Actions on Climate Change: China's Intended Nationally Determined Contributions (June 30, 2015) available at: http://www4.unfccc.int/Submissions/INDC/Published%20Documents/China/1/China's%20INDC%20-%20on%2030%20June%202015.pdf

[3] India's Intended Nationally Determined Contribution: Working Towards Climate Justice (October 1, 2015) available at: http://www4.unfccc.int/Submissions/INDC/Published%20Documents/India/1/INDIA%20INDC%20TO%20U

[4] Russian Submission (April 1, 2015) available at: http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx

[5] United States INDC (March 31, 2015) available at: http://www4.unfccc.int/Submissions/INDC/Published%20Documents/United%20States%20of%20America/1/

[6] ACCCE, The Truth About the Clean Power Plan (November 7, 2015), available at: http://www.americaspower.org/nera/

[7] Id.

[8] American Action Forum, EPA's Greenhouse Gas Regulation Expects Coal Generation to Decline 48 Percent, (August 4, 2015) available at: https://www.americanactionforum.org/research/epas-greenhouse-gas-regulation-expects-coal-generation-to-decline-48-percen/

To: John Di Stasio[John@lppc.org]
Cc: Patrick Currier[currier@s2cpacific.com]; Jackson, Ryan[jackson.ryan@epa.gov]; Missy Mandell (Gmail)[missymandell@gmail.com]
From: Gunasekara, Mandy
Sent: Mon 6/5/2017 2:01:02 PM
Subject: RE: introduction

Great – thank you.

From: John Di Stasio [mailto:John@lppc.org]
Sent: Monday, June 5, 2017 9:47 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Patrick Currier <currier@s2cpacific.com>; Jackson, Ryan <jackson.ryan@epa.gov>; Missy Mandell (Gmail) <missymandell@gmail.com>
Subject: Re: introduction

Mandy

Here you go:

Mark Bonsall, CEO, Salt River Project, Phoenix, LPPC Board Chair

Phil Wilson, CEO, Lower Colorado River Authority, Austin, TX

Steve Wright, CEO, Chelan PUD, Wenatchee, WA

Kevin Nordt, CEO, Grant PUD, Ephrata, WA

And here are their e-mails:

: Bonsall Mark B <Mark.Bonsall@srpnet.com>, "Phil.Wilson@LCRA.ORG" <Phil.Wilson@LCRA.ORG>, "Wright, Steve" <Steve.Wright@chelanpud.org>, Kevin Nordt <Knordt@gcpud.org>

Please let me know if you need anything else.

Thank you

John

John Di Stasio

President, Large Public Power Council

1050 Thomas Jefferson St, 5th Floor

Washington, DC 20007

202-298-3723 office

916-870-3563 cell

john@lppc.org

www.LPPC.org

On Jun 2, 2017, at 4:48 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Hey John,

Thank you for your help. Can you send us their email addresses?

Sent from my iPhone

On Jun 1, 2017, at 2:11 PM, John Di Stasio <John@lppc.org> wrote:

Hi Mandy

Thanks again for the invitation for LPPC to participate. We have two CEOs committed

and awaiting answers from two others.

Those interested include:

Mark Bonsall, CEO Salt River Project, Phoenix, AZ (Current LPPC Board Chair)

Phil Wilson, CEO Lower Colorado River Authority, Austin, TX

I will update you when I get the final word from the others.

Thank you

John

John Di Stasio

President, Large Public Power Council

1050 Thomas Jefferson St, 5th Floor

Washington, DC 20007

202-298-3723 office

916-870-3563 cell

john@lppc.org

www.LPPC.org

On May 31, 2017, at 10:42 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Thank you, Patrick.

John,

Nice to e-meet you. I'm setting up a roundtable with top utility CEOs and the Administrator on June 19th from 1 to 3 pm at EPA HQ. The purpose is to discuss next steps on CPP replacement with key stakeholders. Our current list of tentative attendees is listed below. We'd love to add some of your LPPC members. Please let me know who would be a good candidate to participate and is available as soon as possible.

Also, feel free to give me a call to discuss further. Ex. 6 - Personal Privacy

Best,

Mandy

Confirmed:

Nick Akins, AEP

Gerry Anderson, DTE

Warner Baxter, Ameren

Pat Vincent-Collawn, PNM

Chris Crane, Exelon

Leo Denault, Entergy

Tom Farrell, Dominion

Ben Fowke, Xcel

Lynn Good, Duke

Sean Trauschke, OGE

Invited:

Southern Co.

First Energy

NRECA (top 3 to 5)

Basin

TRI-State

APPA (top 3 to 5)

TVA

LGE-KU

LPPC (top 3 to 5)

Vistra - Luminant

From: Patrick Currier [mailto:currier@s2cpacific.com]
Sent: Wednesday, May 31, 2017 10:29 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; John Di Stasio <john@lppc.org>
Subject: introduction

Mandy and John,

Wanted to connect you guys. Mandy, meet John Di Stasio, president of the Large Public Power Council and long-time friend and mentor of mine. John, meet Mandy Gunasekara, current senior policy advisor to Administrator Pruitt and all around superstar.

Best,
Patrick

Patrick T. Currier

Partner | S2C Pacific

8730 Wilshire Blvd., Ste. 350 | Beverly Hills, CA | 90211

+1.310.596.5415 | currier@s2cpacific.com

www.s2cpacific.com

To: Koerber, Mike[Koerber.Mike@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 6/2/2017 3:33:55 PM
Subject: RE: For review: latest drafts of the CPP documents

Thanks for checking!!

From: Koerber, Mike
Sent: Friday, June 2, 2017 11:32 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

Good now – sorry to bother you with this.

From: Gunasekara, Mandy
Sent: Friday, June 02, 2017 11:14 AM
To: Koerber, Mike <Koerber.Mike@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

I did close it and just checked – it's not open on my screen. Unless it is running somewhere that is not visible on my computer.

From: Koerber, Mike
Sent: Friday, June 2, 2017 11:12 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

Mandy – This may seem silly, but can you close the version of the document in Sharepoint that you have open. OGC is ready to make the final edits, but cannot access the document (because is open). Thank you!

Mike

From: Gunasekara, Mandy
Sent: Friday, June 02, 2017 10:31 AM
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>
Subject: Re: For review: latest drafts of the CPP documents

I talked to Justin about these issues and will defer to his final call on the edits. Once that is done, let's send this to OMB.

Sent from my iPhone

On Jun 2, 2017, at 9:53 AM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Schmidt, Lorie has shared a OneDrive for Business file with you. To view it, click the link below.
<image00001.png>CPP Repeal Proposal.FR Notice.5.31.17.docx

Please find attached our reactions to Mandy's comments. A few things to note:

Ex. 5 - Attorney Client -- Deliberative Process

Ex. 5 - Attorney Client -- Deliberative Process

Let us know if you would like to discuss.

Thanks,

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Gunasekara, Mandy
Sent: Wednesday, May 31, 2017 1:04 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

The attached includes my edits (tracked changes starting page 5). Please incorporate these into the final version.

From: Dunham, Sarah
Sent: Wednesday, May 31, 2017 12:01 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

Thank you Mandy—What you laid out below is consistent with how we are proceeding.

For a little more context on the work that is ongoing, OAR and OP have been working together on both documents:

- OAR will have completed edits to the RIA to send back to OP by COB today.

Ex. 5 - Deliberative Process

From: Gunasekara, Mandy
Sent: Wednesday, May 31, 2017 10:18 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

I'd like to make sure we are all on the same page regarding CPP. This is my understanding of the status. Please let me know if any of this needs modification:

- Sam, Brittany and I will have any comments on preamble by COB today;
- OP/OAR will have an updated/final RIA by COB today;
- Thursday, final touches/final review by OGC (per Justin's request)
- Friday – send to OMB.

Best,

Mandy

From: Lewis, Josh
Sent: Friday, May 26, 2017 3:00 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: For review: latest drafts of the CPP documents

Attached are the latest drafts of the CPP Rescission Notice Preamble and the RIA. Sarah and others in OAR are still reviewing one/both of these, but we wanted you to have the latest drafts before the long weekend.

A few notes on the preamble:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

We anticipate having the next draft of the RIA ready by COB Wednesday, pending comments received from this review.

Josh

To: Bowman, Liz[Bowman.Liz@epa.gov]; Freire, JP[Freire.JP@epa.gov]
Cc: Konkus, John[konkus.john@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Graham, Amy[graham.amy@epa.gov]
Sent: Tue 4/4/2017 2:32:30 PM
Subject: RE: FOR APPROVAL: CPP & Health Claims - Deadline noon 4/4/17

I'm not looking for attribution. Just want to rethink

From: Bowman, Liz
Sent: Tuesday, April 4, 2017 10:25 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Freire, JP <Freire.JP@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Graham, Amy <graham.amy@epa.gov>
Subject: RE: FOR APPROVAL: CPP & Health Claims - Deadline noon 4/4/17

Ha, I actually tried to edit out some of that earlier, so I am glad you went back through. They

Ex. 5 - Deliberative Process

From: Gunasekara, Mandy
Sent: Tuesday, April 4, 2017 10:18 AM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Freire, JP <Freire.JP@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Graham, Amy <graham.amy@epa.gov>
Subject: RE: FOR APPROVAL: CPP & Health Claims - Deadline noon 4/4/17

Ex. 5 - Deliberative Process

From: Bowman, Liz
Sent: Tuesday, April 4, 2017 10:07 AM
To: Freire, JP <Freire.JP@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Graham, Amy <graham.amy@epa.gov>
Subject: FOR APPROVAL: CPP & Health Claims - Deadline noon 4/4/17

JP and Mandy – Below, please find an updated response, for final approval, that I would like to send back to CNN with regard to their question below. Please let me know if you have any last edits to this statement. **Deadline is noon.** Thank you – Liz Ex. 6 - Personal Privacy

FOR APPROVAL:

Ex. 5 - Deliberative Process

CNN INQUIRY (data checker, Alice Kantor):

According to the EPA's fact sheet, the Clean Power Plan would avoid 3,600 premature deaths every year, 1,700 heart attacks, 90,000 asthma attacks and 300,000 missed workdays and schooldays. I was wondering if you had some time to talk today and if you could comment on the plan to cut this program. What is your reaction to it? Will this cut affect mortality rates? Will lives be lost?

To: Fotouhi, David[fotouhi.david@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]
Sent: Tue 4/4/2017 2:07:05 PM
Subject: RE: Letter

From: Fotouhi, David
Sent: Tuesday, April 4, 2017 10:03 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Schwab, Justin <schwab.justin@epa.gov>
Subject: RE: Letter

Ex. 5 - Attorney Client -- Deliberative Process

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Bennett, Tate
Sent: Tuesday, April 4, 2017 9:29 AM
To: Fotouhi, David <fotouhi.david@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Schwab, Justin <schwab.justin@epa.gov>
Subject: RE: Letter

David-

I realize I didn't send the version with my edits last night. This version (started by Mandy) includes David's substantive edits, and my stylistic ones. Let me know your thoughts, David/Justin, and then I can run it by Sam.

Tate

From: Fotouhi, David
Sent: Monday, April 3, 2017 8:28 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Schwab, Justin <schwab.justin@epa.gov>
Subject: RE: Letter

Thanks again for sharing the draft with us. Justin and I have a few comments for your consideration:

Ex. 5 - Attorney Client -- Deliberative Process

Let us know if you have any questions or would like to discuss further.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Gunasekara, Mandy
Sent: Monday, April 3, 2017 7:35 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>
Subject: RE: Letter

Shoot – sorry. I forgot to send it. I made some edits and got hung up thinking we were being inconsistent. Feedback/edits are welcome!

Mandy

From: Bennett, Tate
Sent: Monday, April 3, 2017 7:12 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Fwd: Letter

Mandy- Justin was looking for the McAuliffe letter just now and I wasn't sure if you wanted to go with the stylistic edits I put in there (substantively, I just added a reference to the EO). Attached is the version with my edits, but happy to forward your previous version too. No big deal if you want to drop them.

Sent from my iPhone

Begin forwarded message:

From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: April 3, 2017 at 10:37:48 AM EDT
To: "Bennett, Tate" <Bennett.Tate@epa.gov>
Subject: Letter

Draft attached.

To: Bowman, Liz[Bowman.Liz@epa.gov]
Cc: Bennett, Tate[Bennett.Tate@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Konkus, John[konkus.john@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Gunasekara.Mandy@epa.gov
Sent: Thur 3/30/2017 9:15:20 PM
Subject: Re: For Approval: Governors Press Release

Ex. 5 - Deliberative Process

Sent from my iPhone

On Mar 30, 2017, at 4:18 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Great, thanks for checking. Can you please also confirm that Gov Bevin's office would be

Ex. 5 - Deliberative Process

From: Bennett, Tate
Sent: Thursday, March 30, 2017 4:17 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Konkus, John <konkus.john@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: For Approval: Governors Press Release

Ex. 5 - Deliberative Process

From: Bowman, Liz
Sent: Thursday, March 30, 2017 4:11 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Konkus, John <konkus.john@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: For Approval: Governors Press Release
Importance: High

Below for everyone's review/approval – a few quick questions: **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

###

Clean Power Plan (CPP) Litigation Updates and Road Ahead

A&WMA's 110th Annual Conference & Exhibition
Pittsburgh, Pennsylvania
June 5-8, 2017

Panel Extended Abstract # 260246

Rahul P. Thaker, P.E., QEP
NCDEQ Division of Air Quality, 217 West Jones Street, Raleigh, NC 27603

INTRODUCTION

The United States Environmental Protection Agency (EPA) promulgated Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units [EGUs], commonly known as Clean Power Plan [CPP], on October 23, 2015 (80 FR 64662) in accordance with §111(d) of the Clean Air Act (CAA).

Various challenges to this rule were filed with the courts on a number of issues.

On February 9, 2016, the Supreme Court of the United States (SCOTUS) stayed the implementation of the CPP, pending disposition of the challenges to the merits of the rule by the US Court of Appeals Court for the District of Columbia Circuit (USDC) and disposition of a writ of certiorari, if such writ is sought from the SCOTUS.

On September 27, 2016, all active judges of the USDC heard initial and final arguments (en banc review) on a number of issues: statutory issues, Section 112 issues, constitutional issues, notice issues, and record-based issues. This direct en banc review has been deemed unprecedented by the court observers, considering that the court initially hears any case via a randomly selected 3-judge panel. Only after the completion of this initial review (3-judge panel), the court reviews any petition for an en banc review on a particular case.

The decision from the USDC court is expected by early 2017. In addition, it is expected that the losing party generally would file a writ of certiorari to the SCOTUS.

With respect to EPA, no state plans were required to be submitted by any state agency by the deadline of September 6, 2016 and the EPA was not enforcing any requirement under the CPP at this time, until the challenges are resolved by the courts.[1]

Finally, if the rule is ultimately upheld by the courts, the new Trump administration is also likely shape the implementation of the CPP and could revise the rule.

[1] From Janet McCabe, (former) Acting Assistant Administrator, Air and Radiation, EPA, during the conference calls with the Association of Air Pollution Control Agencies and other similar organizations on February 16, 2016.

Knowing all of the above, it is apparent that the clarity and finality on CPP litigation and its implementation is probably months to a year or more away.

OBJECTIVE

This panel session will include presentations/discussions on litigation updates and the possible road ahead for everyone involved in the implementation of CPP. Specifically, the speakers will discuss the upcoming USDC decision and how it affects the states. The speakers are also expected to discuss any writ to the SCOTUS (if a writ was granted) and its resulting effects. Moreover, the panel will explore potential changes in the EPA's position and direction, related to the regulation of CO_2 emissions from power plants under the administration of President Trump.

PANEL MEMBERS

The expert panel will include four to five speakers. Some of them are expected to be the some of the same attorneys who had argued the case before the USDC and / or helped obtain a stay from the SCOTUS. They will be from EPA or US Department of Justice, state agencies, and private law firm attorneys, providing perspectives of EPA, states, industry, and environmental petitioners.

SUMMARY

The information provided by this high-level panel is expected to bring out discussions on litigation outcomes and provide insights on possible road ahead for the States, considering the new administration. It is the panel's sincere wish to better educate the attendees regarding various issues with this complicated regulation.

ACKNOWLEDGEMENTS

The author expresses his gratitude to John Evans from the North Carolina Division of Air Quality, for reviewing and critiquing this abstract.

REFRENCES

1. Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule, 80 FR 64662 (October 23, 2015).

2. West Virginia, et al. v. EPA, No. 15A773, Order in Pending Case, Approving the Application for a Stay of the EPA's Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 80 Fed. Reg. 64,662 (October 23, 2015), SCOTUS, Washington, D.C, February 9, 2016.

3. State of West Virginia v. EPA, No. 15-1363, Order (scheduling the arguments format, time and location - Courtroom 20 at 9:30 AM on Tuesday, September 27, 2016), USDC, Washington, D.C. August 17, 2016.

4. State of West Virginia v. EPA, No. 15-1363, Parts I and II Oral Argument Recordings, USDC, https://www.cadc.uscourts.gov/recordings/recordings.nsf/DocsByRDate?OpenView&count=100&SKey=201609.

KEYWORDS

Clean Power Plan, CPP, 111(d), State Plan, Clean Air Act, CAA, US Appeals Court for the District of Columbia, USDC, Supreme Court of the United States, SCOTUS, Trump Administration, Trump EPA, EPA.

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ORAL ARGUMENT SCHEDULED FOR APRIL 17, 2017

No. 15-1381 (and consolidated cases)

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NORTH DAKOTA, *et al.*,
Petitioners,
v.
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, *et al.*,
Respondents.

STATE AND NON-STATE PETITIONERS' AND PETITIONER-INTERVENORS' RESPONSE IN SUPPORT OF EPA'S MOTION TO HOLD CASES IN ABEYANCE

State and Non-State Petitioners and Petitioner-Intervenors (collectively "Petitioners") submit this response in support of Respondent EPA's March 28, 2017 motion to hold these consolidated cases in abeyance pending administrative reconsideration. (ECF No. 1668276.) Because oral argument is currently scheduled to take place in less than three weeks, Petitioners respectfully request prompt action on EPA's motion.

As its motion explained, the EPA has formally commenced review of the Section 111(b) rule ("Rule") at issue in these consolidated cases pursuant to an Executive Order entitled "Promoting Energy Independence and Economic Growth," issued March 28, 2017. Motion at 1. *See also* EPA Federal Register Notice, "Notice of

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Review of the Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units," at 3 (Mar. 28, 2017) (Attachment 2 to EPA's motion) ("The Executive Order specifically directs EPA to review and, if appropriate, initiate reconsideration proceedings to suspend, revise or rescind the New Source Rule. Pursuant to the Executive Order, EPA is initiating its review of the New Source Rule and providing advanced notice of forthcoming rulemaking proceedings consistent with the President's policies.").

Both the interests of justice and judicial economy counsel in favor of holding the cases in abeyance as EPA requests. Such abeyance would conserve judicial and party resources by eliminating the need for the parties and the Court to continue to prepare for argument, the need for argument itself, and the need for the Court thereafter to consider the lawfulness of the Rule during the pendency of EPA's review. The Section 111(b) Rule has not been stayed, and thus will remain in effect during the period of the abeyance. Thus, any hardship granting the abeyance would cause would be to the Petitioners who nevertheless support the abeyance.

The Court's authority "to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936); *see also Dietz v. Bouldin*, 136 S. Ct. 1885, 1888-89 (2016) (noting court's "inherent power … to manage its docket and courtroom with a view toward the efficient and expedient resolution of cases") (citations omitted).

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EPA's request is routine. The government frequently requests and is accorded abeyances in pending litigation to afford it the opportunity to address policy changes due to changes in presidential administrations. *See, e.g., California et al. v. EPA*, No. 08-1178, ECF No. 1167136 (D.C. Cir., Feb. 25, 2009) (putting case in abeyance indefinitely after opening briefs had been filed to permit new administration to reconsider determinations promulgated by EPA under former administration); *Mississippi v. EPA*, 744 F.3d 1334, 1341 (D.C. Cir. 2013) (noting this Court's grant of motion to hold case in abeyance after change in administrations); Clerk's Order, *Mississippi v. EPA*, No. 08-1200 (D.C. Cir. Mar. 19, 2009) (granting abeyance after election to permit agency to review and reconsider former administration's rule); Order, *Am. Petroleum Inst. v. EPA*, No. 08-1277, ECF No. 1173675 (D.C. Cir. Apr. 1, 2009) (holding case in abeyance to allow EPA to reconsider prior administration's rule); Order, *Sierra Club v. EPA*, No. 09-1018, ECF No. 1165868 (D.C. Cir. Feb. 19, 2009) (similar); Order, *Natural Resources Defense Council v. EPA*, No. 08-1250 (D.C. Cir. Dec. 3, 2008) (similar); *see generally* Richard J. Lazarus, *The Transition and Two Court Cases*, 26 The Environmental Forum 12, at 14 (Feb. 2009).

Even more recently, this Court held the Affordable Care Act challenge in abeyance even before inauguration to acknowledge the incoming administration's signaling of a change in policy that could affect the legal terrain on which the appeal had been argued. *House of Representatives v. Burwell*, No. 16-5202, Order at 1, ECF No. 1649251 (Dec. 5, 2016). The Court should do the same in this case.

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Holding these cases in abeyance would conserve judicial and party resources and avoid the possibility of the Court issuing an opinion that could be rendered both moot and advisory by EPA's action to revise or rescind the Rule. *See Nat'l Mining Ass'n v. U.S. Dep't of Interior*, 251 F.3d 1007, 1010-11 (D.C. Cir. 2001) ("The old set of rules, which are the subject of this lawsuit, cannot be evaluated as if nothing has changed" because "[a] new system is now in place" and "[a]ny opinion regarding the former rules would be merely advisory."). It is a fundamental Article III principle that "an actual controversy must be extant at all stages of review." *Arizonans for Official English v. Arizona*, 520 U.S. 43, 66 (1997). It "is not enough that a dispute was very much alive when suit was filed"; the "parties must continue to have a personal stake in the outcome of the lawsuit" to prevent the case from becoming moot. *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477-78 (1990) (internal quotation marks omitted).

This Court has described as a "perfectly uncontroversial and well-settled principle of law" the proposition that "when an agency has rescinded and replaced a challenged regulation, litigation over the legality of the original regulation becomes moot." *Akiachak Native Community v. Dep't of Interior*, 827 F.3d 100, 113-14 (D.C. Cir. 2016) (citing cases); *see also id.* at 106 (noting that an order following withdrawal "would accomplish nothing—amounting to exactly the type of advisory opinion Article III prohibits"); *Initiative & Referendum Inst. v. Postal Service*, 685 F.3d 1066, 1074 (D.C. Cir. 2012) (mooting challenge because regulation was amended); *Larsen v. U.S. Navy*, 525 F.3d 1, 4-5 (D.C. Cir. 2008) (similar); *Coalition of Airline Pilots Ass'ns v. FAA*,

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370 F.3d 1184, 1190 (D.C. Cir. 2004) (mooting challenge after agency abandoned the regulation and resolved petitioners' objections); *Nat'l Mining Ass'n*, 251 F.3d at 1010-11 (*supra*); *Arizona Public Service Co. v. EPA*, 211 F.3d 1280, 1295-96 (D.C. Cir. 2000) (holding challenge to regulation moot after agency clarified it); *Nat'l Black Police Ass'n v. Dist. of Columbia*, 108 F.3d 346, 349 (D.C. Cir. 1997) (similar, as to amended statute); *Freeport–McMoRan Oil & Gas Co. v. FERC*, 962 F.2d 45, 46 (D.C. Cir. 1992) (finding a case "plainly moot" where the challenged agency order had been "superseded by a subsequent order," and noting that such an occurrence was so routine that "[o]rdinarily, we would handle such a matter in an unpublished order"). A superseding rulemaking is sufficient to render review of the old regulation moot. *Gulf Oil Corp. v. Simon*, 502 F.2d 1154, 1156 (Temp. Emer. Ct. App. 1974) (cited in *Akiachak Native Community*, 827 F.3d at 114); *Freeport-McMoRan Oil & Gas Co.*, 962 F.2d at 46.

Moreover, any judgment rendered in a case that later becomes moot is ordinarily vacated pursuant to *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950). The Supreme Court has stated that its "established" "practice in this situation is to vacate the judgment below." *Camreta v. Greene*, 563 U.S. 692, 712 (2011). "A party who seeks review of the merits of an adverse ruling, but is frustrated by the vagaries of circumstance," the Court emphasized, "ought not in fairness be forced to acquiesce in" that ruling. *Bancorp Mortgage Co. v. Bonner Mall P'ship*, 513 U.S. 18, 25 (1994). *Munsingwear* was extended to the administrative context in *A.L. Mechling Barge Lines v. United States*, 368 U.S. 324, 329 (1961).

ED_0011318_00009870-00005

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Thus, for example, any decision by this Court granting or denying the petitions for review should be vacated pursuant to *Munsingwear* if the case were subsequently mooted by EPA action. Such a *vacatur* would be necessary in order "to prevent a judgment, unreviewable because of mootness, from spawning any legal consequences." *Munsingwear*, 340 U.S. at 41 (cited in *Am. Family Life Assur. Co. v. FCC*, 129 F.3d 625, 631 (D.C. Cir. 1997)). This Court has cited with approval the statement in Wright & Miller's *Federal Practice and Procedure* that "it is 'appropriate for a court of appeals to vacate its own judgment if it is made aware of events that moot the case during the time available to seek certiorari.'" *Clarke v. United States*, 915 F.2d 699, 706 (D.C. Cir. 1990) (citing Wright, *et al.*, *Federal Practice and Procedure* § 3533.10 at 435).

Notably, the mootness giving rise to *vacatur* in *Munsingwear* itself was caused by the annulment of regulations by executive order. *Bancorp*, 513 U.S. at 25 n.3 (citing *Fleming v. Munsingwear, Inc.*, 162 F.2d 125, 127 (8th Cir. 1947)); *see also A.L. Mechling Barge Lines*, 368 U.S. at 329 ("We think the principle enunciated in *Munsingwear* at least equally applicable to unreviewed administrative orders ...."); *cf. Relf v. Weinberger*, 565 F.2d 722, 727 (D.C. Cir. 1977) (vacating orders where agency announced its "inten[tion] to issue a new notice of rule making ... at the conclusion of which it will promulgate [new] comprehensive regulations").

Finally, holding these cases in abeyance (in the absence of a stay) would not interfere with any possible environmental benefits the Rule is asserted to create. Even when EPA promulgated the Rule in 2015, the agency admitted that any environmental

ED_0011318_00009870-00006

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impact of the Rule would be "negligible." *See* 80 Fed. Reg. 64,510, 64,640 (Oct. 23, 2015) ("EPA projects that this final rule will result in negligible CO_2 emission changes [and] quantified benefits.").

In sum, judicial economy and the interests of justice counsel in favor of holding these cases in abeyance pending further order of this Court. Abeyance also would avoid this Court issuing an opinion that would be rendered moot and advisory once the agency completes its announced rulemaking action to alter or repeal the Section 111(b) Rule.

ED_0011318_00009870-00007

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CONCLUSION

The Court should grant EPA's motion to hold these consolidated cases in abeyance.

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ED_0011318_00009870-00008

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ED_0011318_00009870-00010

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ED_0011318_00009870-00011

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ED_0011318_00009870-00017

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ED_0011318_00009870-00019

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ED_0011318_00009870-00020

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ED_0011318_00009870-00021

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ED_0011318_00009870-00022

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 32(a)(7)(C) of the Federal Rules of Appellate Procedure and Circuit Rules 32(e)(1) and 32(e)(2)(C), I hereby certify that the foregoing Response in Support of EPA's Motion to Hold Cases in Abeyance contains 1,601 words, as counted by a word processing system that includes headings, footnotes, quotations, and citations in the count, and therefore is within the word limit set by the Court.

Dated: March 30, 2017

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ED_0011318_00009870-00023

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I hereby certify that, on this 30th day of March 2017, a copy of the foregoing Response in Support of EPA's Motion to Hold Cases in Abeyance was served electronically through the Court's CM/ECF system on all ECF-registered counsel.

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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15-1381 **September Term, 2016**

EPA-80FR64510
EPA-81FR27442

Filed On: March 30, 2017

State of North Dakota,

Petitioner

v.

Environmental Protection Agency,

Respondent

State of New Mexico, et al.,
Intervenors

Consolidated with 15-1396, 15-1397, 15-1399, 15-1434, 15-1438, 15-1448, 15-1456, 15-1458, 15-1463, 15-1468, 15-1469, 15-1481, 15-1482, 15-1484, 16-1218, 16-1220, 16-1221, 16-1227

ORDER

Upon consideration of respondents' notice of Executive Order, EPA review of rule and forthcoming rulemaking, and motion to hold cases in abeyance, it is

ORDERED, on the court's own motion, that these cases be removed from the April 17, 2017 oral argument calendar pending disposition of the motion to hold cases in abeyance.

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Michael C. McGrail
Deputy Clerk

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]
Cc: Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 5/26/2017 5:14:22 PM
Subject: RE: CPP guidance needed today

Ex. 5 - Attorney Client

Thanks,
Mandy

From: Schmidt, Lorie
Sent: Friday, May 26, 2017 1:02 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Zenick, Elliott <Zenick.Elliott@epa.gov>
Subject: CPP guidance needed today

Mandy

We need to file status reports on Tuesday in cases challenging the GHG rules for new power plants and the CPP.

Ex. 5 - Attorney Client

CPP:

Ex. 5 - Attorney Client

New Source Rule:

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Thanks

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

Sent from my iPhone

To: Dunham, Sarah[Dunham.Sarah@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 5/23/2017 8:55:53 PM
Subject: RE: CPP draft withdrawal (legal argument)

Great – thank you.

From: Dunham, Sarah
Sent: Tuesday, May 23, 2017 4:10 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: CPP draft withdrawal (legal argument)

Thanks. We'll take this and fold it into the draft.

Sent from my iPhone

On May 23, 2017, at 2:53 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Last draft from OGC is attached.

Sent from my iPhone

Begin forwarded message:

From: "Schwab, Justin" <schwab.justin@epa.gov>
Date: May 18, 2017 at 1:04:00 PM EDT
To: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>
Cc: "Brown, Byron" <brown.byron@epa.gov>, "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>, "Fotouhi, David" <fotouhi.david@epa.gov>
Subject: CPP draft withdrawal (legal argument)

Dear All,

Please find attached a slight revision of the narrative/policy/legal piece for the draft FR proposed CPP withdrawal in light of the Administrator's comments at the meeting last week and incorporating ARLO's review.

Mandy/OP, this is ready for OAR/OP to build out into a full draft FR notice. OGC/ARLO should take a final look at the integrated document prior to transmission to OMB.

Note highlighted text on page 5 which will need to be updated as appropriate to describe current status of D.C. Circuit litigation over the rule (from which litigation I am recused, as you know).

Please let me know if you have any questions.

Best,

Justin

<CPP Proposal.FR Notice.5.18.docx>

To: Dunham, Sarah[Dunham.Sarah@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 5/23/2017 2:56:26 PM
Subject: FW: CPP rewrite

Please see below note.

From: Schwab, Justin
Sent: Tuesday, May 23, 2017 10:50 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: CPP rewrite
Importance: High

Ex. 5 - Attorney Client

Because you/OAR now control the document, I am passing this note on to you.

Please let me know if you have any questions.

Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Morrison, Jay A.[jay.morrison@nreca.coop]; Cassady, John M.[John.Cassady@nreca.coop]; Cromwell, Ted T.[ted.cromwell@nreca.coop]
To: Johnson, Kirk D.[kirk.johnson@nreca.coop]
From: Gunasekara, Mandy
Sent: Mon 5/22/2017 5:24:46 PM
Subject: Re: Responses to Administrator Pruitt's questions

Thank you, Kirk. Look forward to continuing to work with you on these.

Best,
Mandy

Sent from my iPhone

> On May 22, 2017, at 12:15 PM, Johnson, Kirk D. <kirk.johnson@nreca.coop> wrote:
>
> Dear Ryan and Mandy –
>
> When we met with Administrator Pruitt earlier this month, he asked about specifics on CPP lost investment, Regional Haze specifics, and NRS ideas. The attached letter from our CEO to the administrator covers those issues and we would be happy to discuss further should you or others at EPA want to dig deeper.
>
> Thanks so much for reaching out to us!
>
> -K
>
>
> Kirk Johnson
> Senior Vice President, Government Relations
> 703-907-5775 (office) | 703-887-0706 (mobile) | kirk.johnson@nreca.coop<mailto:kirk.johnson@nreca.coop>
> Assistant: Erin Steverson | 703-907-5854 | erin.steverson@nreca.coop<mailto:erin.steverson@nreca.coop>
> [NRECA-Logo][cid:image002.png@01D188D1.3E72D330]
> NRECA Mission: To Promote, Support, and Protect the Community and Business Interests of Electric Cooperatives.
>
>
>
>
> Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, copy, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.
> <image001.png>
> <image002.png>
> <Final Pruitt Letter.pdf>
> <NRECA Comments Identifying Burden Reduction Opportunities under E.O. 137....pdf>

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 5/22/2017 5:23:13 PM
Subject: Re: SPEECHES

Good by me

Sent from my iPhone

On May 22, 2017, at 12:45 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Sarah and Mandy, are you comfortable with me sending the below to Lincoln in response to his inquiry for updates for inclusion in speeches? In other words, are you comfortable with the Administrator saying the below publicly?

Ex. 5 - Deliberative Process

Sent from my iPhone

On May 22, 2017, at 9:29 AM, Ferguson, Lincoln <ferguson.lincoln@epa.gov> wrote:

Good morning! The Administrator has a number of speeches this week that cover a wide range of topics. Please send me any updated/relevant information on the following: permitting, WOTUS, CPP, Paris, Superfunds, and any other specific topics that he may be asked about.

The groups he is speaking to are listed below:

Monday:

LPPC Speaking Engagement

12:15 at the Washington Court Hotel

Congressional Coal Caucus Meeting

5:00PM at Capitol – HC - 8

Tuesday:

Congressional Western Caucus Speaking Engagement

12:00PM at Rayburn House 2247

American Iron and Steel Speaking Engagement

4:30PM at Four Seasons Hotel

Wednesday:

AXPC Speaking Engagement

10:30AM at 485 Russell Senate

Energy and Environment Symposium

12:00PM at City Club of Washington

Thursday:

US Oil and Gas Board of Directors Meeting

10:00AM at the Hay Adams

From: Hupp, Sydney
Sent: Monday, May 22, 2017 8:09 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: Budget Info From Holly

Good morning! Attached is a draft summary document of the 2018 EPA President's Budget, called the Budget in Brief. This is still internal, pre-deliberative, and NOT to be shared until after the budget is released on Tuesday.

Thank you!

Sydney Hupp

Executive Scheduler

Office of the Administrator

202.816.1659 (c)

To: Bolen, Brittany[bolen.brittany@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 5/22/2017 5:15:47 PM
Subject: Re:

He retired a while back--commissioner Pigot is now in charge. Can follow up with contact info.

Sent from my iPhone

> On May 22, 2017, at 1:08 PM, Bolen, Brittany <bolen.brittany@epa.gov> wrote:
>
> Yes. Easterly. Head of IN DEQ. Recall it was on CPP. I don't have his contact but we can track it down.
>
> Sent from my iPhone
>
>> On May 22, 2017, at 12:09 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Did the Indiana deq secretary testify before EPW?
>>
>> Do you have his contact info?
>>
>> _____
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> Ex. 6 - Personal Privacy

To: Ford, Hayley[ford.hayley@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 5/22/2017 3:44:56 PM
Subject: RE: 30-Day White House Cabinet Report
EPA Cabinet 30 Day Report5.22.2017 mmg editsdocx.docx

Additions included in the attached (via tracked changes).

See sections: A, C

Also, apparently I've been misspelling advisor, so I corrected that as well ☺

From: Ford, Hayley
Sent: Monday, May 22, 2017 11:06 AM
To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: 30-Day White House Cabinet Report

Please send your updates to the 30-day White House Cabinet report by COB today. Attached is last week's submission. For items where you are listed as the contact, please make sure any relevant updates are made.

Thank you!

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: Ex. 6 - Personal Privacy

From: Hupp, Sydney
Sent: Monday, May 22, 2017 8:09 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: Budget Info From Holly

Good morning! Attached is a draft summary document of the 2018 EPA President's Budget, called the Budget in Brief. This is still internal, pre-deliberative, and NOT to be shared until

after the budget is released on Tuesday.

Thank you!

Sydney Hupp

Executive Scheduler

Office of the Administrator

Ex. 6 - Personal Privacy (C)

From: Gunasekara, Mandy
Location: EEOB 238
Importance: Normal
Subject: Accepted: OMB/EPA Clean Power Plan Meeting
Start Date/Time: Tue 5/16/2017 10:00:00 PM
End Date/Time: Tue 5/16/2017 11:00:00 PM

To: Fotouhi, David[fotouhi.david@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 5/12/2017 2:11:56 AM
Subject: Re: CPP litigation

Yes- I'm free from 8 to 9 so stop by whenever

Sent from my iPhone

On May 11, 2017, at 7:22 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

Do you have a few minutes tomorrow either before 9:00 a.m. or after 3:30 p.m. for a short meeting on the CPP litigation? There is one point for the motion that's due Monday on which DOJ needs our direction. Thanks!

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

To: Fotouhi, David[fotouhi.david@epa.gov]
From: Gunasekara, Mandy
Sent: Thur 5/4/2017 9:41:06 PM
Subject: Re: RE: RE:

Ok- I'm back in D.C., just landed, can chat now or touch base tomorrow morning. At Ex. 6 - Personal Privacy Ex. 6 - Personal Privacy foe now

Sent from my iPhone

On May 4, 2017, at 5:31 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

I spoke to Ryan **Ex. 5 - Attorney Client**. Happy to discuss when you're back in the office.

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Gunasekara, Mandy
Sent: Wednesday, May 3, 2017 3:35 PM
To: Fotouhi, David <fotouhi.david@epa.gov>
Subject: Re: RE:

Can you tell RJ? I'm on the road to FL so will be calling in remotely

Sent from my iPhone

On May 3, 2017, at 3:21 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

Correction: we have 4304 for the call.

Sent from my iPhone

On May 3, 2017, at 1:31 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

Sounds good! Will you have a chance to raise that with them or should I? Also, I think we're planning to use Kevin's office (WJCN 4000) to call in. Would that work for you?

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Gunasekara, Mandy
Sent: Wednesday, May 3, 2017 11:54 AM
To: Fotouhi, David <fotouhi.david@epa.gov>
Subject: RE:

I think it's a good idea to let them know about it and if they can join, that would be great.

From: Fotouhi, David
Sent: Wednesday, May 3, 2017 11:46 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject:

Should we see if Ryan and/or Byron could attend the call with DOJ on CPP? Defer to you on whether this makes sense.

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

To: Fotouhi, David[fotouhi.david@epa.gov]
From: Gunasekara, Mandy
Sent: Wed 5/3/2017 8:56:48 PM
Subject: Re: Have you told Brandon about the plan for the CPP rulemaking?

I haven't laid it out but talked about options **Ex. 5 - Attorney Client**

Ex. 5 - Attorney Client

Sent from my iPhone

> On May 3, 2017, at 4:29 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:
>
>
>
> Sent from my iPhone

To: Wilcox, Jahan[wilcox.jahan@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 4/28/2017 5:37:45 PM
Subject: RE: Statement on DC Circuit granting EPA's request for a stay in Clean Power Plan

Perfect – thank you

From: Wilcox, Jahan
Sent: Friday, April 28, 2017 1:37 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: Statement on DC Circuit granting EPA's request for a stay in Clean Power Plan

Yes.

From: Freire, JP
Sent: Friday, April 28, 2017 1:35 PM
To: Press <Press@epa.gov>
Subject: Statement on DC Circuit granting EPA's request for a stay in Clean Power Plan

Folks you can use the following from me:

"Pursuant to the President's Executive Order, Administrator Pruitt has already announced that EPAis reviewing the Obama Administration's Clean Power Plan. We are pleased that this order gives EPA the opportunity to proceed with that process."

J.P. Freire

Environmental Protection Agency

Associate Administrator for Public Affairs

Mobile: (202) 309-6781

To: Wilcox, Jahan[wilcox.jahan@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 4/28/2017 5:36:00 PM
Subject: RE: Here is our statement, can you update?

Have you connected with Winn (or wynn) from DOJ? **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

From: Wilcox, Jahan
Sent: Friday, April 28, 2017 1:14 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: Here is our statement, can you update?

From: Wilcox, Jahan
Sent: Friday, April 28, 2017 12:03 PM
To: 'Timothy Cama' <tcama@thehill.com>
Subject: Here is our statement, can you update?

"Last year, the Supreme Court granted a stay on the Clean Power Plan, so we always knew there were serious legal problems with this initiative from the Obama Administration and we welcome this news from the D.C. Circuit."
EPA spokesman, Jahan Wilcox

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: 202.309.0934
Work Email: wilcox.jahan@epa.gov

To: Wilcox, Jahan[wilcox.jahan@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 4/28/2017 5:28:10 PM
Subject: Re: Here is our statement, can you update?

I think it is fine- DOJ just needed a better heads up. I need to confirm with them.

Sent from my iPhone

On Apr 28, 2017, at 1:14 PM, Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:

From: Wilcox, Jahan
Sent: Friday, April 28, 2017 12:03 PM
To: 'Timothy Cama' <tcama@thehill.com>
Subject: Here is our statement, can you update?

"Last year, the Supreme Court granted a stay on the Clean Power Plan, so we always knew there were serious legal problems with this initiative from the Obama Administration and we welcome this news from the D.C. Circuit." EPA spokesman, Jahan Wilcox

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: 202.309.0934
Work Email: wilcox.jahan@epa.gov

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]
Cc: Jordan, Scott[Jordan.Scott@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
Bcc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 4/28/2017 5:12:05 PM
Subject: RE: CPP Litigation Update - Court enters 60-day stay and requests briefs on whether to remand rule

Sarah G. is recused, so pulled her off this conversation.

From: Schmidt, Lorie
Sent: Friday, April 28, 2017 1:07 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Jordan, Scott <Jordan.Scott@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Subject: Re: CPP Litigation Update - Court enters 60-day stay and requests briefs on whether to remand rule

Adding in Sarah G

Sent from my iPhone

On Apr 28, 2017, at 1:05 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Jordan, Scott" <Jordan.Scott@epa.gov>
Date: April 28, 2017 at 12:36:06 PM EDT
To: "Jordan, Scott" <Jordan.Scott@epa.gov>
Subject: CPP Litigation Update - Court enters 60-day stay and requests briefs on whether to remand rule

Today, the D.C. Circuit issued the attached order, which:

1. Holds the CPP main case in abeyance for 60 days (with EPA to file status reports every 30 days),

2. Directs the parties to file briefs on May 15 addressing whether the CPP should be remanded to the EPA rather than having the lawsuits held in abeyance, and

3. Defers consideration on the pending motions to sever and consolidate the CPP Reconsideration Denial challenges with the CPP main case.

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

<ENV_DEFENSE-#804486-v1-admin_su_cpp_order_april_28_2017.PDF>

To: Wilcox, Jahan[wilcox.jahan@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 4/28/2017 5:01:37 PM
Subject: CPP

We need to hold on any cpp statement. Please call: Ex. 6 - Personal Privacy

From: Gunasekara, Mandy
Location: Mandy's office
Importance: Normal
Subject: Accepted: CPP Litigation - DOJ thoughts on CPP Repeal impact on Abeyance Motions
Start Date/Time: Thur 4/27/2017 9:30:00 PM
End Date/Time: Thur 4/27/2017 10:00:00 PM

To: Grantham, Nancy[Grantham.Nancy@epa.gov]
From: Gunasekara, Mandy
Sent: Wed 4/26/2017 2:26:20 AM
Subject: RE: Responses to emails and letters to Administrator Pruitt

Hi Nancy,

I apologize for the late submission. Please see information below and let me know if you need any additional help.

Best,

Mandy

CA Emissions Standards: Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Clean Power Plan: Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Climate Change: Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Grantham, Nancy
Sent: Monday, April 24, 2017 8:02 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: Responses to emails and letters to Administrator Pruitt

Hi Mandy,

Just checking in on these paragraphs.

Thanks ng

From: Gunasekara, Mandy
Sent: Monday, April 17, 2017 11:00 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Reeder, John <Reeder.John@epa.gov>; Konkus, John <konkus.john@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Re: Responses to emails and letters to Administrator Pruitt

Nancy, I apologize for the delayed action on this. I'll send you info tomorrow.

Best,

Mandy

Sent from my iPhone

On Apr 17, 2017, at 3:47 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:

<image001.gif>

Just checking in with folks on the short paragraphs below.

Thanks ng

From: Jackson, Ryan
Sent: Tuesday, April 11, 2017 5:11 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Reeder, John <Reeder.John@epa.gov>; Konkus, John <konkus.john@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: Responses to emails and letters to Administrator Pruitt

Looks good. Just need short paragraphs on each.

Please farm out to the following staff:

California Emissions Standards – Mandy

Chlorpyrifos – Ryan

Clean Power Plan – Mandy

Climate Change – Mandy

EPA budget – ryan

Fuel Efficiency Standards – Brittany

TSCA – Ryan

From: Grantham, Nancy
Sent: Tuesday, April 11, 2017 4:09 PM
To: Reeder, John <Reeder.John@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Konkus, John <konkus.john@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: Responses to emails and letters to Administrator Pruitt

Hi –

In response to the email chain with Ryan and John Reeder regarding email and mail inquiries to the Administrator, below you will find drafts of 3 reply pieces: a simple courtesy response card; a longer response letter with more substance on priorities and direction; and an email auto reply.

We have also identified a number of areas where we have a large number of inquiries, where we would draft an additional paragraph to include in a response letter. These are:

- California Emissions Standards
- Chlorpyrifos- Support and Opposition to Recent EPA Action
- Clean Power Plan Support
- Climate Change – CNBC Interview and Encourage EPA Support and Action
- EPA Budget – Opposed to Cuts
- Fuel Efficiency Standards
- TSCA

We are aiming to have drafts for these topic areas this week.

Please let us know if you have suggested edits to the base response card and letter.

Thanks ng

==========

EPA Seal

Thank you for your recent correspondence to my office.

Ex. 5 - Deliberative Process

E. Scott Pruitt

Administrator

==========

Mr./Ms. Firstname Lastname

Title

Company

Street

City, State ZIP

Dear Mr./Ms. Lastname:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

<image006.png>

Respectfully yours,

E. Scott Pruitt

==========

Email Autoreply

Subject

Your Message to EPA Administrator E. Scott Pruitt

Text

Thank you for your email message.

Ex. 5 - Deliberative Process

My staff will follow up in response to your email as necessary and appropriate.

Respectfully yours,

E. Scott Pruitt

EPA Administrator

To: Hale, Michelle[hale.michelle@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 4/25/2017 9:57:25 PM
Subject: RE: Response to Paris Memo

There are page numbers in the bottom right hand corner.

From: Hale, Michelle
Sent: Tuesday, April 25, 2017 5:56 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: Response to Paris Memo

The slides in the attachment aren't numbered – unless I'm missing something. What page is Slide 20 on?

From: Gunasekara, Mandy
Sent: Tuesday, April 25, 2017 5:55 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Subject: Response to Paris Memo

Mr. President,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I'm happy to provide any additional information or answer additional questions.

Sincerely,

E. Scott Pruitt

To: Middleton, Brandon (ENRD)[Brandon.Middleton@usdoj.gov]
Cc: Fotouhi, David[fotouhi.david@epa.gov]
From: Gunasekara, Mandy
Sent: Wed 4/12/2017 3:20:26 AM
Subject: Re: Abeyance replies: update

Thanks for update. Look forward to chatting tomorrow.

Sent from my iPhone

On Apr 11, 2017, at 5:26 PM, Middleton, Brandon (ENRD) <Brandon.Middleton@usdoj.gov> wrote:

Had David's email wrong earlier.

From: Middleton, Brandon (ENRD)
Sent: Tuesday, April 11, 2017 5:24 PM
To: 'Gunasekara, Mandy' <Gunasekara.Mandy@epa.gov>; 'Gunasekara, Amanda' <gunasekara.amanda@epa.gov>; david.fatouhi@epa.gov
Subject: Abeyance replies: update

Mandy and David:

You may recall that we have replies due tomorrow to state and enviro oppositions to our recently filed abeyance motions in the CPP merits, CPP admin reconsideration, and climate new source cases. It is my understanding that our folks have shared drafts for the CPP merits and climate new source with your team, and a draft CPP admin reconsideration brief should be coming their way shortly.

At the same time, we are in the process of seeking DOJ approval for the briefs. Once we have approved final (or close to final) versions here, we plan on sharing those with you prior to filing tomorrow.

Thanks, please let me know if you have any questions.

Brandon

To: Bennett, Tate[Bennett.Tate@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 4/3/2017 2:37:49 PM
Subject: Letter
Letter to McAuliffe_DRAFT.docx

Draft attached.

To: Schwab, Justin[schwab.justin@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]
Cc: Dunham, Sarah[Dunham.Sarah@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Rees, Sarah[rees.sarah@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 3/31/2017 2:18:59 PM
Subject: RE: Title for ADP

Nice - thanks all.

-----Original Message-----
From: Schwab, Justin
Sent: Friday, March 31, 2017 10:12 AM
To: Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Title for ADP

Proposed Repeal of Clean Power Plan is a go

Sent from my iPhone

From: Gunasekara, Mandy
Location: 3513A
Importance: Normal
Subject: Accepted: Petition Denial
Start Date/Time: Thur 3/30/2017 8:30:00 PM
End Date/Time: Thur 3/30/2017 9:15:00 PM

I may be a few minutes late as I'll be coming from a next steps on CPP discussion with program folks.

To: Schwab, Justin[schwab.justin@epa.gov]
From: Gunasekara, Mandy
Sent: Wed 3/29/2017 4:02:22 PM
Subject: Letter to Gov. re: tolling
Letter to States_CPP Tolling_FINAL.docx

For your awareness, attached is the final version of the letter we discussed.

To: Schwab, Justin[schwab.justin@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 3/28/2017 8:13:10 PM
Subject: Fwd: Letter to Gov re: tolling
Letter to States_CPP Tolling_FINAL.docx
ATT00001.htm
EPA day to day tolling_recent examples.docx
ATT00002.htm

FYI the boss is going to sign the attached and send it out to all the governors at some point today.

Sent from my iPhone

Begin forwarded message:

From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: March 27, 2017 at 11:42:57 PM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>
Subject: Letter to Gov re: tolling

Attached is version 2 of the letter. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 3/28/2017 7:51:55 PM
Subject: Re: Letter to Gov re: tolling

Did he have edits?

Sent from my iPhone

On Mar 28, 2017, at 3:28 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

He wants to sign it today :/

Sent from my iPhone

On Mar 28, 2017, at 1:06 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

See attached. I have not run this through OGC.

Sent from my iPhone

Begin forwarded message:

From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: March 27, 2017 at 11:42:57 PM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>
Subject: Letter to Gov re: tolling

Attached is version 2 of the letter. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

<Letter to States_CPP Tolling_FINAL.docx>

<EPA day to day tolling_recent examples.docx>

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 3/28/2017 4:50:43 PM
Subject: Re: EO Confirmations

Sections to reference for CPP/NSPS are 4(d); section to reference for oil/gas NSPS is 7(c).

Just confirmed with White House.

Sent from my iPhone

On Mar 28, 2017, at 12:23 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Final Title: "Promoting Energy Independence and Economic Growth"

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 3/28/2017 4:12:38 PM
Subject: RE: See Attached
Revised Sessions Letter from Jordan-GC Mar 2017 (002)_ mmg edits.docx

Thanks, Lorie. I'm confirming the title and section references. There is an additional section reference (added in the attached). The CPP/NSPS letter to AG is in Sec. 4(d) and the Oil/Gas NSPS letter to AG is in Sec. 7(e).

Again, looking to confirm all this is consistent with the final EO that will be sent out today.

Best,

Mandy

From: Schmidt, Lorie
Sent: Tuesday, March 28, 2017 11:02 AM
To: Schwab, Justin <schwab.justin@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: See Attached

Justin and Mandy

Attached is the letter we have drafted for Kevin to send to Sessions today informing him of the actions we are taking today related to the Energy EO. It follows the same template we used for the water rule EO action.

Ex. 5 - Deliberative Process

Thanks,

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Hooks, Samantha
Sent: Tuesday, March 28, 2017 10:56 AM
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: See Attached

Samantha S. Hooks

Program Assistant

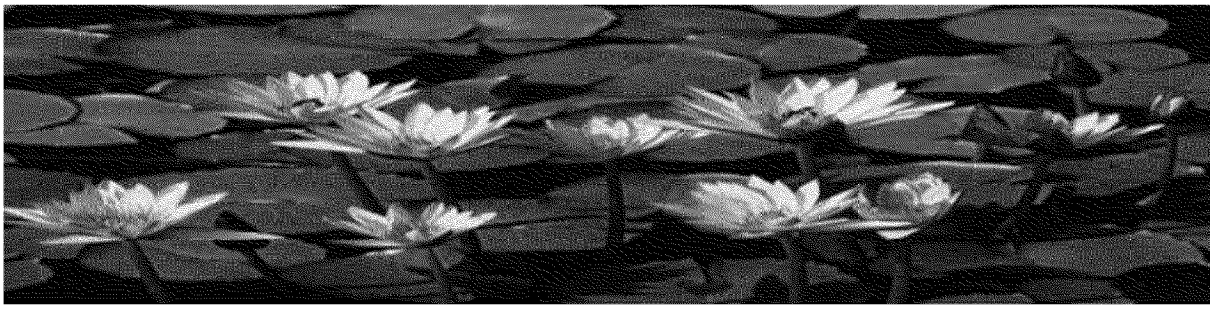
Office of General Counsel

Air and Radiation Law Office (ARLO)

Room 7340G

(202) 564-5569 (office)

(202) 564-5603 (fax)



To: Gunasekara, Surya[Surya@mail.house.gov]
From: Gunasekara, Mandy
Sent: Tue 3/28/2017 1:15:13 PM
Subject: Summary
Energy Independence Policy EO_Summary.docx

FYI – for policy analysis only. Please hold close close close until this afternoon. Don't give to any press people (even your own).

To: Minoli, Kevin[Minoli.Kevin@epa.gov]; Middleton, Brandon (ENRD)[Brandon.Middleton@usdoj.gov]
Cc: bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Prabhu, Aditi[Prabhu.Aditi@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 3/28/2017 1:11:35 PM
Subject: RE: EO letter

Thanks to you both.

From: Minoli, Kevin
Sent: Tuesday, March 28, 2017 9:11 AM
To: Middleton, Brandon (ENRD) <Brandon.Middleton@usdoj.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; bruce.gelber@usdoj.gov; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>
Subject: Re: EO letter

Ex. 5 - Deliberative Process

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Mar 28, 2017, at 9:08 AM, Middleton, Brandon (ENRD) <Brandon.Middleton@usdoj.gov> wrote:

Good morning Kevin,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you.

Brandon

<letter_to_the_attorney_generalepa.pdf>

To: luke_holland@inhofe.senate.gov[luke_holland@inhofe.senate.gov]
From: Gunasekara, Mandy
Sent: Tue 3/28/2017 12:01:55 PM
Subject: Summary
Energy Independence Policy EO_Summary.docx

See attached. Please hold close close close until this afternoon. Will you be with the boss?

To: Minoli, Kevin[Minoli.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 3/27/2017 7:54:34 PM
Subject: RE: Notify AG of EPA Actions relative to EO

Ex. 5 - Deliberative Process

From: Minoli, Kevin
Sent: Monday, March 27, 2017 3:48 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: RE: Notify AG of EPA Actions relative to EO

Ex. 5 - Deliberative Process

Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

From: Gunasekara, Mandy
Sent: Monday, March 27, 2017 3:25 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: Notify AG of EPA Actions relative to EO

Ex. 5 - Deliberative Process

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 3/27/2017 7:23:08 PM
Subject: RE: Notify AG of CPP Actions

Ok – will do.

From: Schwab, Justin
Sent: Monday, March 27, 2017 3:23 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Re: Notify AG of CPP Actions

Ex. 5 - Deliberative Process Please confer with Kevin Minoli on what they did w/r/t WOTUS.

Sent from my iPhone

On Mar 27, 2017, at 3:21 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Ex. 5 - Deliberative Process

To: Freire, JP[Freire.JP@epa.gov]
Cc: Wilcox, Jahan[wilcox.jahan@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Gunasekara, Mandy
Sent: Sat 3/25/2017 6:48:20 PM
Subject: RE: CPP Background Doc

Ok – will do. I've got to run to a Ex. 6 - Personal Privacy but will be back on this later tonight. I'll send a draft then.

From: Freire, JP
Sent: Saturday, March 25, 2017 2:40 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Wilcox, Jahan <wilcox.jahan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: Re: CPP Background Doc

Ex. 5 - Deliberative Process

Sent from my iPhone

On Mar 25, 2017, at 2:38 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

First edits included in the attached. Let me know if you want more or need links to any of the information.

<03.23.17 - DRAFT CPP Backgrounder.docx>

To: Wilcox, Jahan[wilcox.jahan@epa.gov]
From: Gunasekara, Amanda
Sent: Fri 3/24/2017 9:34:06 PM
Subject: RE: Can you look at this document as well
03.24.17 - DRAFT QA On CPP _mmg edits.docx

From: Wilcox, Jahan
Sent: Friday, March 24, 2017 5:23 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Can you look at this document as well

I need to get it to JP and Dravis as well by 6p.

Thank you.

To: Wilcox, Jahan[wilcox.jahan@epa.gov]
From: Gunasekara, Amanda
Sent: Fri 3/24/2017 6:34:58 PM
Subject: RE: Where is your office? I have to stop by for a question, please.
Dem Response to Final Rule.docx
CPP Summary_JMI.docx

Below are some general TPs. I've also attached a few docs. Note these may be a bit outdated, but provide a good basis. As far as the costs and environmental impacts analyses, they come from here: http://www.americaspower.org/issue/facts-on-the-clean-power-plan/

CLIMATE REGULATIONS

Ex. 5 - Deliberative Process

From: Wilcox, Jahan
Sent: Friday, March 24, 2017 2:10 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: Where is your office? I have to stop by for a question, please.

I stopped by. When you have a second, I wanted to walk through the fact sheet and talking points that we are preparing on CPP. Thank you.

From: Wilcox, Jahan
Sent: Friday, March 24, 2017 2:01 PM
To: Gunasekara, Amanda <gunasekara.amanda@epa.gov>
Subject: Where is your office? I have to stop by for a question, please.

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Gunasekara, Amanda
Sent: Fri 3/24/2017 1:58:50 AM
Subject: Re: Two upcoming minor deadlines in the CPP reconsideration cases

Great- thank you for the heads up. Look forward to touching base soon.

Sent from my iPhone

On Mar 23, 2017, at 6:28 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Hi Mandy- I wanted to send along our initial thoughts on DOJ's initial position. :) We will review and consult with you and OAR when they send their firmed up position. Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:

From: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Date: March 23, 2017 at 6:25:49 PM EDT
To: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>
Cc: "Jordan, Scott" <Jordan.Scott@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>
Subject: Re: Two upcoming minor deadlines in the CPP reconsideration cases

Ok, great. We will await their more firm position, but it is good to know that we are ok with where they are now. Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Mar 23, 2017, at 4:28 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Kevin

Ex. 5 - Attorney Client

Lorie

Sent from my iPhone

On Mar 23, 2017, at 3:14 PM, Middleton, Brandon (ENRD) <Brandon.Middleton@usdoj.gov> wrote:

I know there's a lot going on and don't want to make things unnecessarily complicated, but if your folks have initial thoughts as we continue to review, we're willing to listen. Otherwise, once we come to firm approach and think through our thoughts here, we will let you know. Thanks Kevin.

BMM

-----Original Message-----

From: Minoli, Kevin [mailto:Minoli.Kevin@epa.gov]

Sent: Thursday, March 23, 2017 3:08 PM

To: Middleton, Brandon (ENRD) <BMiddleton@ENRD.USDOJ.GOV>

Cc: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>; Gunasekara, Amanda <gunasekara.amanda@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>

Subject: RE: Two upcoming minor deadlines in the CPP reconsideration cases

Thanks Brandon. I believe Lorie Schmidt and her team in my office are connected with Eric and others at the litigation team level in your office, but

have cc'd her here to ensure she has the latest information as well. Should we be preparing to provide our thoughts on either or both of these, or should we hold while ENRD thinks through its thoughts first? Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

-----Original Message-----

From: Middleton, Brandon (ENRD) [mailto:Brandon.Middleton@usdoj.gov]

Sent: Thursday, March 23, 2017 2:23 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>

Cc: bruce.gelber@usdoj.gov; Gunasekara, Amanda <gunasekara.amanda@epa.gov>

Subject: FW: Two upcoming minor deadlines in the CPP reconsideration cases

Kevin,

We are considering and reviewing these suggested approaches, but wanted to bring to your attention. Thank you.

Brandon

-----Original Message-----

From: Hostetler, Eric (ENRD)

Sent: Thursday, March 23, 2017 2:14 PM

To: Middleton, Brandon (ENRD) <BMiddleton@ENRD.USDOJ.GOV>

Cc: Lipshultz, Jon (ENRD) <JLipshultz@ENRD.USDOJ.GOV>

Subject: Two upcoming minor deadlines in the CPP reconsideration cases

Brandon,

While I know we have our hands full getting ready for the EO and FR notice, this is to bring to your attention that there are two upcoming procedural deadlines next week in the CPP reconsideration denial litigation.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Let me know if you concur or would like to discuss.

Thanks,

Eric

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Gunasekara, Amanda
Sent: Fri 3/24/2017 12:17:06 AM
Subject: Re: CPP Talkers

Yes- I've got an explanation I can send. Will follow up shortly.

Sent from my iPhone

On Mar 23, 2017, at 7:40 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Ex. 5 - Deliberative Process

Let me know – I think this was a somewhat time-sensitive request on their part.

SD

Samantha Dravis

Senior Counsel / Associate Adminstrator for Policy

U.S. Environmental Protection Agency

TO: EPW Majority LAs and Staff
FR: EPW Staff
RE: EPW Field Hearing on Clean Power Plan Impacts on West Virginia
DT: March 23, 2015

The Committee on Environment and Public Works (EPW) will hold a field hearing on Monday, March 23, 2015, at 9:30 AM at the Raleigh County Courthouse in Beckley, West Virginia, entitled "Regional Impacts of EPA Carbon Regulations: The Case of West Virginia." The purpose of this hearing is to examine the cumulative impacts of EPA carbon regulations in southern West Virginia.

WITNESSES

Majority:

- **Charles "Chuck" Farmer,** President, Rouster Rope, Wire, and Rigging
- **Eugene M. Trisko,** Counsel, United Mine Workers Association
- **Charles Patton,** President and COO, Appalachian Power Company

Minority:

- **James M. Van Nostrand,** Associate Professor, Director, Center for Energy and Sustainable Development, West Virginia University College of Law
- **L. Jeremy Richardson, Ph.D.,** Senior Energy Analysts, Union of Concerned Scientists

PURPOSE

This is the third hearing related to oversight of the Clean Power Plan. On February 11th, the full committee heard from Acting Assistant Administrator Janet McCabe on the new, modified and existing source proposals. On March 11th, the committee heard from state officials from Indiana, Wisconsin, Wyoming, California and New York focusing on the existing source rule.

The purpose of this hearing is to assess the impacts the President's proposed climate regulations will have in West Virginia, a state that's electricity generation and economic success is closely tied to the health of the coal industry. Despite the large role coal has in West Virginia's economy and multiple invitations by federal and state legislators, the Environmental Protection Agency has not held a meeting in the state to discuss the impacts of the proposed climate regulations with local citizens. This hearing will provide that opportunity. Majority witnesses represent businesses and entities who will discuss the proposed regulations many negative impacts on energy production, electricity generation and cost, and economic development throughout the state.

STATE SNAPSHOT

In 2013, coal provided 95% of West Virginia's electricity and is responsible for 89,000 direct and indirect jobs within the state. Renewable energy generation – primarily hydroelectric power and wind energy – contributed 4.1%. West Virginia is a net electricity exporter providing low cost energy to neighboring states. Over half of the states households are low-income and middle-income families that spend 20% of their after tax income on energy.

Under the existing source proposal, West Virginia is required to reduce its CO_2 emissions rate 8% by 2020 and 20% by 2030. In calculating the state's emissions rate target, the EPA assume West Virginia would be able to decrease average coal plant heat rates by 6%, increase renewable energy output by 700% and cut customer demand by 10% through energy efficiency programs by 2030. According to NERA, the existing source proposal will cause a 10 to 14% increase in electricity prices annually.

Numerous West Virginia entities submitted public comments on the existing source proposal. The most cited includes comments submitted by the West Virginia Department of Environment Protection, which calls the proposal "patently illegal" and urges the agency to "abandon its current attempts to regulate CO_2 emission from existing electric generating units under the Clean Air Act section 111(d)." Other themes of concern WVDEP highlighted in its comments include: economic consequences and high costs, reliability, achievability of all four building blocks, rushed timeline, interim target requirements and stranded assets.

West Virginia is leading state opposition against the existing source proposal. The state is the lead Plaintiff in the case *West Virginia v. EPA* challenging the agency's legal authority (*full summary below*). In early March, Gov. Tomblin signed a law requiring legislative approval of any state plan submitted to comply with the existing source proposal.

WEST VIRGINIA V. EPA

West Virginia and 11 other states (Alabama, Indiana, Kansas, Kentucky, Louisiana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, and Wyoming) are suing EPA over its existing source proposal by challenging a March 2011 settlement agreement between EPA and other states and environmental groups in which EPA agreed to set greenhouse gas standards for new and existing power plants under sections 111(b) and (d) of the Clean Air Act.

The states make two main legal arguments. First, the settlement agreement must be vacated because it commits EPA to take action that is now illegal: regulate power plants under Section 111(d) when plants are already subject to regulation under Section 112 and there is an explicit provision in 112 that excludes any dual regulation. Second, the settlement agreement is final agency action, the challenge is ripe for review and the case presents a live controversy as "States will suffer great "hardship" if the case is not review because they "are currently and will continue expending substantial resources designing State Plans to comply with the proposed rule."

Oral arguments are scheduled for April 16 before the U.S. Court of Appeals for the

District of Columbia Circuit. The case will be argued on the same day and before the same panel as two related cases *In re: Murray Energy Corporation* and *Murray Energy Corporation v. EPA and Regina A. McCarthy*. The three-panel judge includes Judge Karen Henderson, appointed by President George H.W. Bush, and Judges Thomas Griffith and Brett Kavanaugh, both appointed by President George W. Bush.

BACKGROUND

On June 25, 2013, Pres. Obama announced his "Climate Action Plan" which directs the EPA to establish GHG emissions standards for new and existing fossil fuel-fired power plants.

September 20, 2013, the EPA re-proposed CO_2 limits for new power plants that would require the use of carbon capture and storage (CCS) technology for any coal-fired plants. Since CCS technology is not commercially viable, this is an effective ban on building any new coal-fired power plants.

On June 2, 2014, the EPA proposed a rule to limit CO_2 emissions from existing power plants. The so-called Clean Power Plan is the core component of the President's Climate Action Plan. The proposal is intended to achieve a 30% reduction in CO_2 emissions from the U.S. power sector by 2030 when compared to 2005 levels. An interim goal must be met starting in 2020. Using a baseline year of 2012, the proposal assigns emissions rate targets each State must meet measured in pounds of CO_2 emitted per kilowatt hour. State-by-state reductions range from an 11% to 72% from 2012 emission levels. State targets were calculated using 4 main assumptions, or "building blocks":

- **Building Block 1**: EPA assumes all fossil fuel power plants can be run more efficiently, with an average heat-rate improvement of 6% at coal plants.
- **Building Block 2**: EPA assumes states can use more low-emitting power sources by switching coal, oil or gas-fired plants to natural gas combined cycle plants and run them at a 70% capacity factor.
- **Building Block 3**: EPA assumes states can use more zero- and low-emitting power sources by building additional renewable and nuclear power generation while maintaining the current nuclear generation.
- **Building Block 4**: EPA assumes states and utilities can reduce the use of electricity through energy efficiency programs by an average of 1.5% annually.

States are not required to use the 4 building blocks, but are required to assess an emissions rate reduction strategy by looking at all levels of energy generation, development, transmission, and use. In effect, EPA is forcing States to consider actions taken beyond the fenceline of a covered unit – and beyond the jurisdiction of the agency – to meet the proposal's requirements.

A final rule is expected by "midsummer" along with the new and modified plant proposals, and a model plan. The deadline for states to submit implementation plans is expected to be June 2016, which can be extended one year for single state plans, or two year for multi-state plants.

EPA estimates annual electric sector compliance costs between $5.4 and $7.4 billion in 2020, climbing to $8.8 billion in 2030. Independent analyses, including one by NERA, estimate costs will be closer to $73 billion per year and between $366 billion to $479 billion over a 15-year period. Additional impacts include reduced reliability – rolling brownouts and blackouts – and double-digit electricity price increases in 43 states.

WITNESS BIOS

Charles Patton, *President/COO,* Appalachian Power

Charles Patton is president and chief operating officer for Appalachian Power, serving approximately 1 million customers in West Virginia, Virginia and Tennessee. He has authority for distribution operations and a wide range of customer and regulatory relationships. Patton has almost 30 years in the electric utility business and has served in numerous capacities throughout AEP.

Previously, Patton served in Columbus in the parent company's headquarters of American Electric Powers as executive vice president – AEP Utilities West and senior vice president – Regulatory and Public Policy. A significant amount of Mr. Patton's career was in Texas where he served as president and chief operating officer of AEP Texas, serving approximately 901,000 customers and in varying executive rules responsible for external affairs in Texas and in the Southwestern region of AEP--Texas, Louisiana, Oklahoma and Arkansas.

Prior to joining AEP, Patton spent nearly 11 years in the energy and telecommunications business with Houston Industries/Houston Lighting & Power. While there, he worked in regulatory affairs assisting in the litigation and management of regulatory proceedings. He later became a policy specialist in government affairs and a lobbyist in Texas and Washington, D.C.

Patton has been active in state energy policy matters. He was appointed by former Texas Governor George Bush to serve on the Texas Energy Coordination Council and the Interstate Oil and Gas Compact Commission. Later, Governor Rick Perry appointed Patton to the Texas Energy Planning Council, which was established to advise the governor on energy matters.

Patton received a bachelor's degree (cum laude) from Bowdoin College in Brunswick, Maine, and a master's degree from the LBJ School of Public Policy at the University of Texas in Austin. He completed, with honors, undergraduate programs at Boston University, Harvard and American University.

He has served and chaired numerous professional civic organizations in the communities in which he has lived. Charles and his family currently reside in Charleston, West Virginia, where he currently serves on the Boards of the University of Charleston, the West Virginia Education Alliance, the West Virginia Regional Technology Park, the Clay Center for the Arts and Sciences of West Virginia and the Buckskin Council of the Boy Scouts of America. He has received numerous awards, most notably the NAACP's President's Award for his support in Texas. Mr. Patton also serves on the Advisory Board for the School of Natural Sciences at the

University of Texas.

Gene Trisko, *Counsel*, United Mine Workers of America

Gene Trisko is an energy economist and an environmental attorney. He has lectured on the Clean Air Act and climate change at The Pennsylvania State University and West Virginia University College of Law. He has testified on energy and environmental policy issues before Congress and state legislatures on many occasions. Mr. Trisko served as an appointed member of U.S. EPA's Clean Air Act Advisory Committee from 2003 until 2010. Prior to entering private practice, he was as an energy economist with Nathan Associates in Washington, D.C., and an attorney with the Federal Trade Commission. He also has appeared as an expert witness on utility cost of capital before several state public utility commissions. Mr. Trisko has served as a consultant to the American Coalition for Clean Coal Electricity since 1998, and advises ACCCE on a variety of matters involving the Clean Air Act. Mr. Trisko earned a B.A. in economics and politics from New York University and a J.D. from Georgetown University Law Center.

Charles "Chuck" Farmer, *President*, Rouster Rope, Wire, and Rigging

Mr. Farmer is a native of Beckley, West Virginia and a graduate of West Virginia University. Mr. Farmer started Rouster in 1993. Prior to starting the company, he worked on oil rigs all over the world. Along with being owner and president of Rouster, Mr. Farmer is also the company engineer. In 2012, Mr. Farmer received the Miner's Celebration Equipment Innovation Award, which is rewarded to for making a significant contribution to overall productivity and safety. utstanding individuals or groups that have made or are making significant contributions to the mining enterprise 'ecosystem

James M. Van Nostrand, *Associate Professor, Director, Center for Energy and Sustainable Development*, West Virginia University College of Law

Before coming to WVU in July 2011, Mr. Van Nostrand spent three years as a member of the adjunct faculty at Pace Law School in White Plains, NY and Executive Director of the Pace Energy and Climate Center, which is an environmental policy and advocacy organization active on energy and environmental issues in New York and the Northeast. Before entering into law school teaching, Mr. Van Nostrand had a successful career in private law practice as a partner in the Environmental and Natural Resources practice group of large law firms based in the Pacific Northwest. In his 22-year career in private practice, Mr. Van Nostrand represented energy clients in state regulatory proceedings in eight western states, as well as proceedings before the Federal Energy Regulatory Commission. Mr. Van Nostrand was recognized by the Energy Bar Association as its 2007 State Regulatory Practitioner of the Year. Before going into private practice, he spent five years with the New York Public Service Commission as an Assistant to the Commission for Opinions and Review and as Assistant to the Chairman.

Mr. Van Nostrand has taught courses in energy and regulated industries, environmental

law, emissions trading, administrative law and business associations in various capacities at Lewis & Clark Law School, the University of Tennessee College of Law, the University of Iowa College of Law, and Pace Law School. He has published and lectured widely on emissions trading and strategies for reducing greenhouse gas (GHG) emissions, climate change, energy policy, renewable energy, utility rates and electric restructuring plans, and utility mergers and acquisitions. At the WVU College of Law, Mr. Van Nostrand teaches Energy Regulation, Markets and the Environment; Environmental Protection Law; Siting and Permitting of Energy Facilities; the Science and Technology of Energy; and Renewable Energy & Alternative Fuels. In his role as Director of the Center for Energy and Sustainable Development, Mr. Van Nostrand is involved in various energy and environmental efforts in West Virginia and the Appalachian region, offering objective, unbiased research and policy analyses and promoting policies that strike a proper balance between the development of energy resources and protection of environment.

Mr. Van Nostrand received his LL.M. in Environmental Law from Pace Law School in May 2011, his J.D. from the University of Iowa College of Law, his masters degree in economics from SUNY at Albany, and an undergraduate degree in economics from the University of Northern Iowa.

L. Jeremy Richardson, Ph.D., *Senior Energy Analysts*, Union of Concerned Scientists

Jeremy Richardson is a Senior Energy Analyst in the Climate and Energy Program, conducting analytical work on the Environmental Protection Agency's carbon regulations and other areas of energy research. He is continuing his research on economic diversification in his native West Virginia that he began while in his previous position as the program's Kendall Science Fellow.

Specifically, Dr. Richardson's Kendall work examined the economic impacts of projected future coal production on the state's economy and looked at the potential of other sectors for creating jobs. His research found strong support for economic diversification, culminating in a two-day forum held in Charleston, West Virginia, called *A Bright Economic Future for the Mountain State*, which brought together leaders to discuss visions for the state in 30 years.

Before joining UCS, he was a senior analyst at New West Technologies and, previous to that, a senior fellow for science policy at the Pew Center on Global Climate Change. He was also a science and technology policy fellow at the American Association for the Advancement of Science, where he analyzed the potential for energy efficiency and renewable energy in the United States. He served as a postdoctoral fellow at the NASA Goddard Space Flight Center, studying the atmospheres of planets around other stars. He received his Ph.D. and M.S. in physics from the University of Colorado at Boulder and has a B.S. in physics from West Virginia University.

Statement of Eugene M. Trisko
On behalf of
United Mine Workers of America, AFL-CIO

Before the
U.S. Senate Environment and Public Works Committee
Subcommittee on Clean Air and Nuclear Safety
Chief Logan State Park, WV
October 5, 2016

Good afternoon, Chair Capito and distinguished members of the Subcommittee.

I am Eugene M. Trisko, an attorney in private practice. I am here on behalf of the United Mine Workers of America (UMWA), whom I have represented in environmental matters for some 30 years. Several exhibits are attached to my statement, which I will summarize briefly.

The UMWA appreciates this opportunity to testify on the impacts of EPA's Clean Power Plan. We also want to express our great appreciation to Chair Capito for her continuing strong leadership in securing passage of the Miners Protection Act.

The UMWA, along with West Virginia and other petitioners, have challenged the validity of the EPA carbon rule in Federal court. Last February, the Supreme Court issued an unprecedented stay of the rule pending the conclusion of all legal challenges.

We believe that the Power Plan oversteps EPA's authority under section 111(d) of the Clean Air Act because it forces utilities to switch from coal to natural gas or renewable energy in a manner

inconsistent with the legal requirements of the Clean Air Act. West Virginia depends on coal for 96% of its electricity.

West Virginia's economy, and the coal miners, communities, electric generators and allied industries that depend on coal for their livelihoods will all suffer greatly if this rule is implemented.

Recent studies by the PJM Interconnection, a multistate power grid, indicate that EPA's rule could cause West Virginia to lose up to 34% of its coal-based electric generation by 2025 if the state met its EPA targets by in-state means. Smaller losses would result if West Virginia participated in an interstate trading program, in effect asking West Virginia ratepayers to subsidize new renewable facilities in other states. These impacts do not consider the losses of coal production due to reduced coal shipments to other states covered by EPA's rule. Less than one-third of West Virginia's coal production is consumed in-state.

Between 2009 and 2014, West Virginia lost 32 million tons of coal output and the high-wage jobs created by coal mining. These losses are attributable largely to lower natural gas prices and the EPA mercury MATS rule. DOE estimates that the mercury rule has caused the closure of some 40,000 Megawatts of coal capacity across the nation. EPA's estimate of these closures was 4,700 Megawatts.

The WVU Bureau of Business and Economic Research estimates that the EPA Power Plan would lead to the loss of some 20 million tons of West Virginia coal production. Using data from DOE's analysis of the carbon rule and an "Extended Clean Power Plan," we estimate that another 20 million tons of production would be

lost if the national CO2 reduction requirement were expanded from 32% in 2030 to 45% by 2040. DOE's Extended Power Plan scenario is consistent with the pledges that the U.S. made in the December 2015 Paris Agreement. This would reduce total West Virginia coal production from about 100 million tons today to 60 million tons by 2040.

The consequences of these coal production losses would be devastating for jobs and the overall state economy. Applying U.S. Department of Commerce economic multipliers for the West Virginia mining sector, we estimate that the EPA carbon rule would lead to the cumulative loss of $47 billion of state economic output, $11 billion of household income, and 229,000 job-years of employment by 2040.

Even larger losses would occur if an Extended Power Plan were adopted. West Virginia state output could be reduced by a cumulative $60 billion by 2040, along with a $14 billion loss of household income. A total of 288,000 job-years of employment would be lost.

Clearly West Virginia cannot afford such draconian economic impacts. The U.S. Census Bureau reports that pre-tax median household income in West Virginia in 2015 was $42,824, 24% below the national median income and $5,292 below 2007 pre-recession levels.

The UMWA supports reasonable measures to address global climate change, consistent with established Clean Air Act principles, but we cannot support rules that seek to solve this

global challenge on the backs of Appalachian families, causing further disruption to already depressed rural communities.

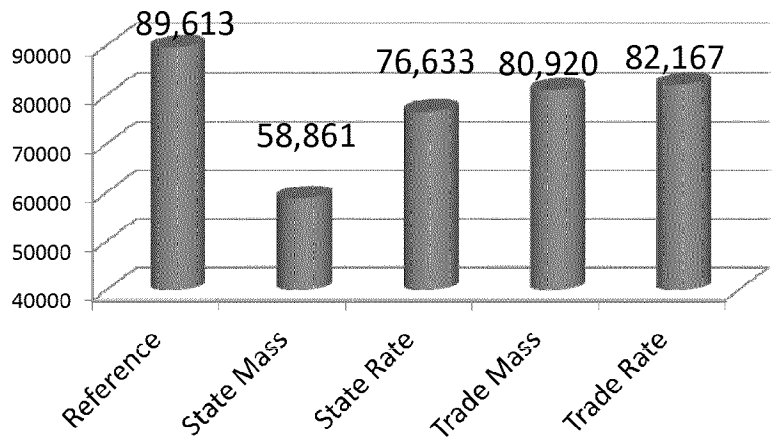
We need instead a major infusion of R&D capital, both Federal and private, to lower the cost of carbon capture technologies so that coal can continue to play a vital role in baseload power generation. We look forward to working with the Congress, the Department of Energy, and other responsible parties to ensure this future for our members, and for our nation.

Thank you for the opportunity to appear today.

Exhibits to Statement of
Eugene M. Trisko
On Behalf of
United Mine Workers of America

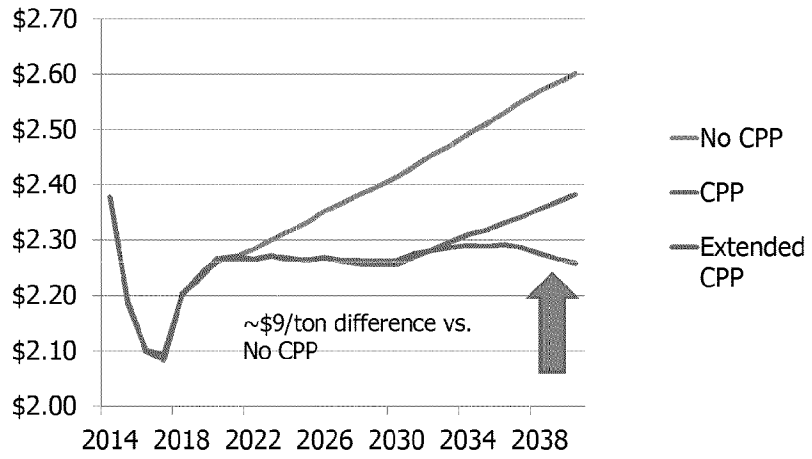
Before the
U.S. Senate Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety
Chief Logan State Park, WV
October 5, 2016

PJM Estimates of WV Coal Generation 2025 (GWh)



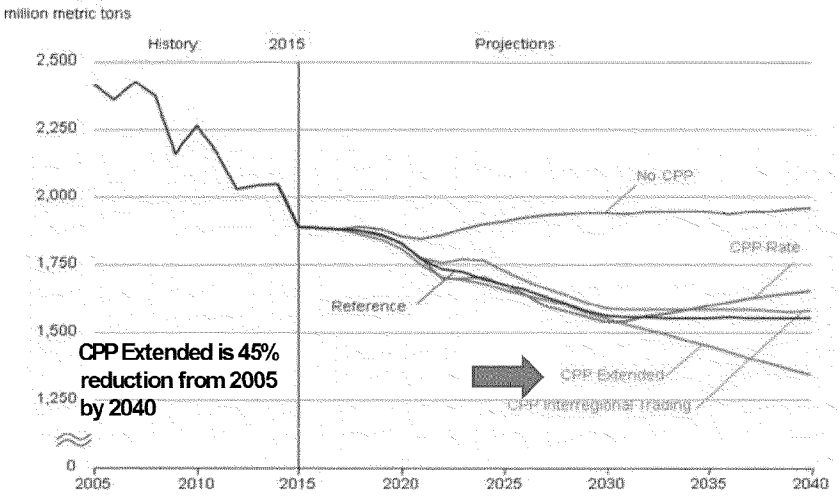
Source: PJM Analysis of Clean Power Plan, September 2016.

CPP Impacts Coal Prices: EIA Steam Coal Prices, 2014-2040 Constant 2015 $/MMBTU



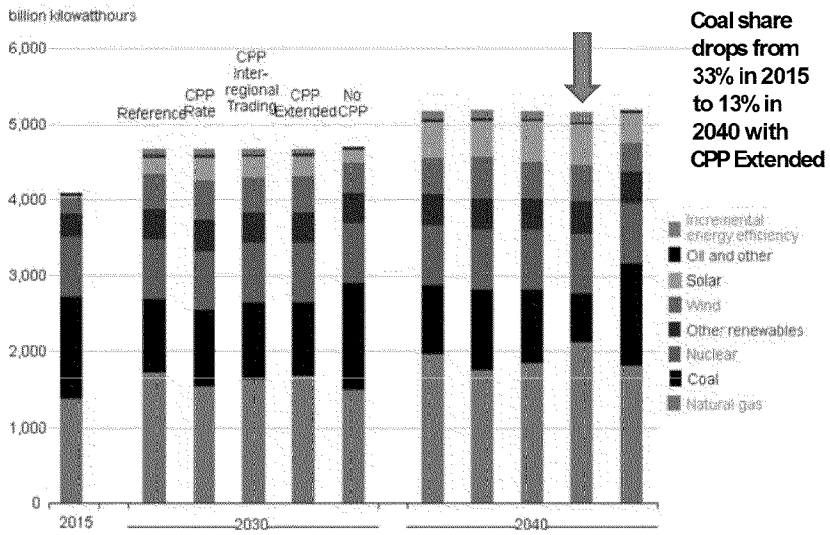
Source: DOE/EIA 2016 Annual Energy Outlook.

Figure IF1-1. CO2 emissions from the electric power sector in five cases, 2005–40



Source: DOE/EIA 2016 Annual Energy Outlook, Impacts of Clean Power Plan (July 2016).

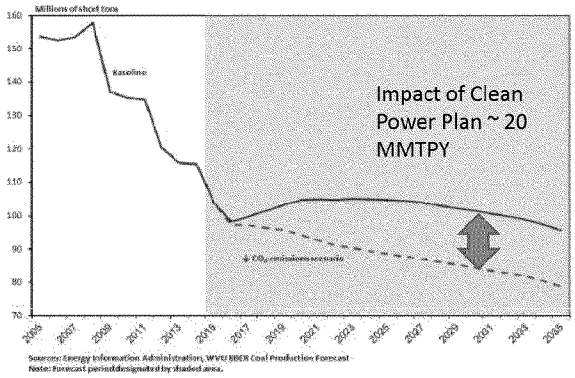
Figure IF1-3. Electricity generation by fuel in five cases, 2015, 2030, and 2040



Source: DOE/EIA 2016 Annual Energy Outlook, Impacts of Clean Power Plan (July 2016)

WVU BBER Projections of WV Coal Production to 2035 (Spring 2015)

Figure 11: Coal Production Forecast- Baseline vs Reduced Coal Generation Scenario

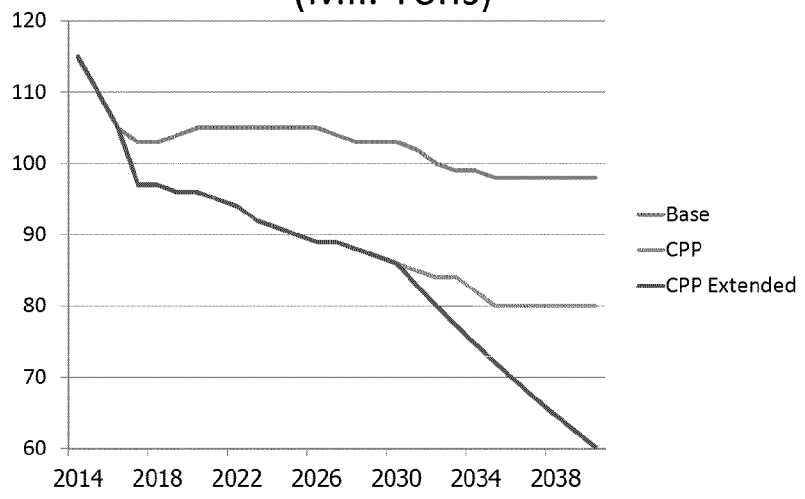


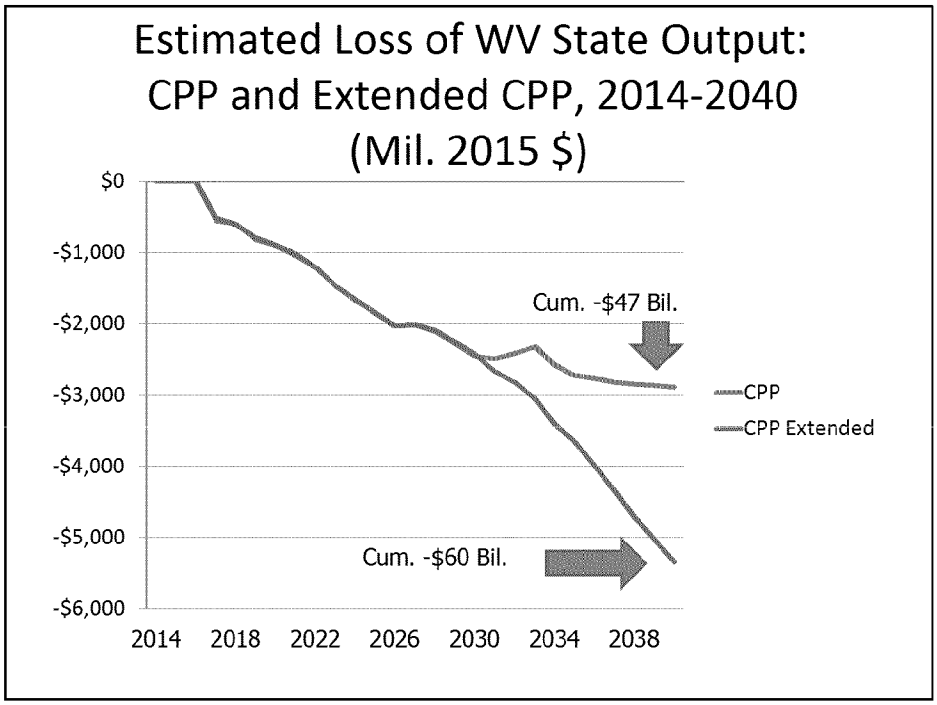
Source: WVU Bureau of Business & Economic Research (2015). Coal impacts based on proposed CPP (less stringent WV targets than final rule).

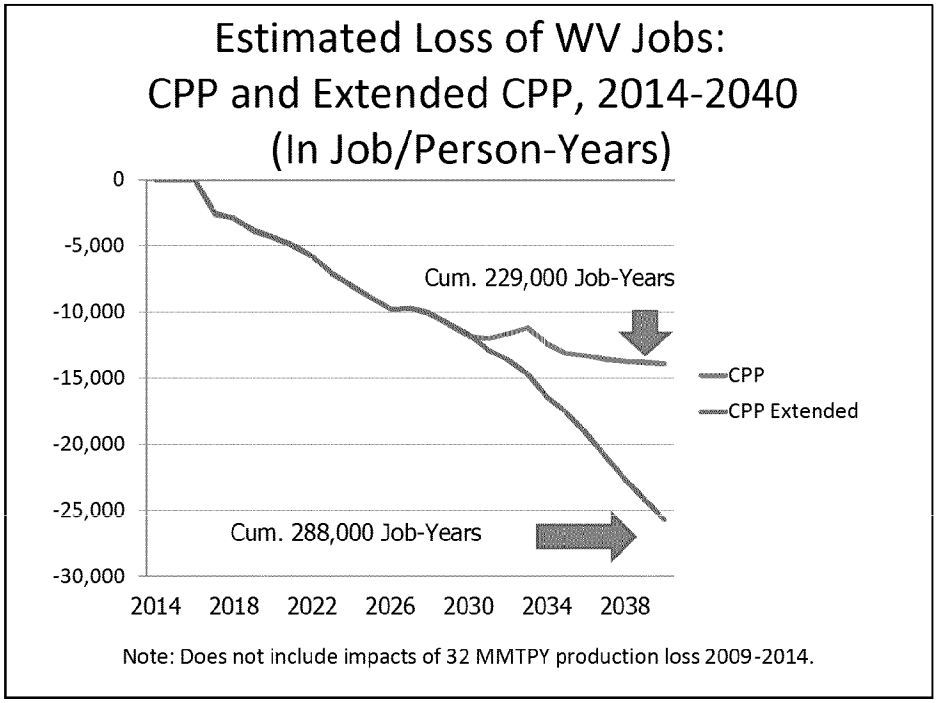
Estimating Impacts to 2040

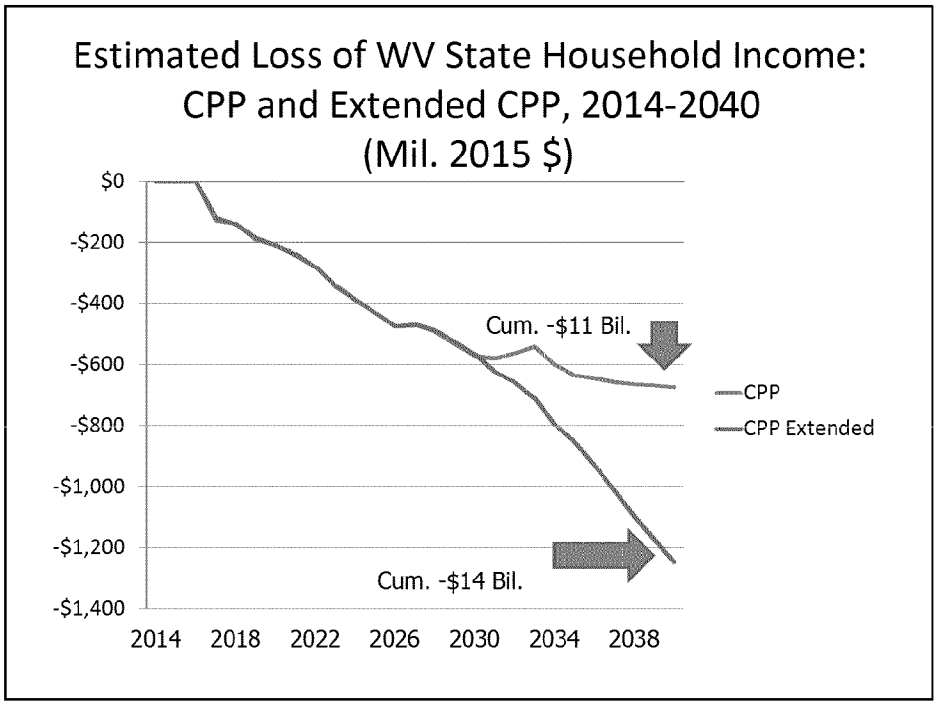
- Use WVU BBER estimates of CPP production losses, extended to 2040 and adjusted for CPP Extended additional CO2 reductions 2025-40.
- Apply DOE/EIA steam coal prices to estimate industry revenue impacts for CPP and CPP Extended cases.
- Use U.S. Dept. of Commerce economic and job multipliers for the WV coal industry to estimate impacts on WV state output and household income.
- These estimates do not include impacts of MATS rule and other factors causing loss of 32 MMTPY of WV coal production from 2009 to 2014.

Estimated WV Coal Production: Base Case, CPP and Extended CPP, 2014-2040 (Mil. Tons)




Estimated Loss of WV State Output:
CPP and Extended CPP, 2014-2040
(Mil. 2015 $)
$0
-$1,000
-$2,000
-$3,000
-$4,000
-$5,000
-$6,000
2014
2018
2022
2026
2030
2034
2038
Cum. -$47 Bil.
Cum. -$60 Bil.
CPP
CPP Extended


Estimated Loss of WV Jobs:
CPP and Extended CPP, 2014-2040
(In Job/Person-Years)
0
-5,000
-10,000
-15,000
-20,000
-25,000
-30,000
2014
2018
2022
2026
2030
2034
2038
Cum. 229,000 Job-Years
Cum. 288,000 Job-Years
CPP
CPP Extended
Note: Does not include impacts of 32 MMTPY production loss 2009-2014.


Estimated Loss of WV State Household Income:
CPP and Extended CPP, 2014-2040
(Mil. 2015 $)
$0
-$200
-$400
-$600
-$800
-$1,000
-$1,200
-$1,400
2014
2018
2022
2026
2030
2034
2038
Cum. -$11 Bil.
Cum. -$14 Bil.
CPP
CPP Extended

Eugene M. Trisko
P.O. Box 596
Berkeley Springs, WV 25411
(304) 259-1977
(301) 639-5238 (cell)
emtrisko@earthlink.net

Curriculum Vitae

Eugene M. Trisko is an energy economist and attorney who represents labor clients in energy and environmental matters.

Mr. Trisko has a dual B.A. in economics and politics from New York University (1972) and a J.D. degree from Georgetown University Law Center (1977). Before entering private practice in 1991, he was an energy economist with Robert Nathan Associates in Washington, DC, (1973-77), an attorney with the U.S. Federal Trade Commission (1977-79), and executive vice president of Stern Bros., Inc., an energy holding company in West Virginia (1986-91).

He was involved from 1981 until 1990 in the legislative development of the Clean Air Act Amendments of 1990, focusing on the Title IV acid rain program. He is the author of more than 30 articles on energy and environmental policy issues published in economic, energy, environmental, and law journals, and has testified before Congress and state legislatures on numerous occasions.

Mr. Trisko has participated as an NGO on behalf of the United Mine Workers of America in all United Nations climate change negotiating sessions subsequent to the 1992 Rio Earth Summit. In 2007, he helped to negotiate the clean coal technology and emission allowance allocation provisions of the bipartisan Bingaman-Specter climate bill. *The Hill* has recognized Mr. Trisko as one of Washington's "Top Grassroots Lobbyists." In 2008 and 2009, he helped to negotiate the carbon capture and storage provisions of the Boucher-Rahall and Waxman-Markey climate bills.

Mr. Trisko served for nine years as an appointed member of U.S. EPA's Clean Air Act Advisory Committee. In 2000 and 2007, he was named by the U.S. Department of State as a non-government member of the U.S. Delegation in U.S.-Canada air quality negotiations. He is a Fellow of the American College of Environmental Lawyers. He currently represents labor petitioners in litigation before the D.C. Circuit Court of Appeals concerning EPA's Clean Power Plan and NSPS carbon rules.

To: Middleton, Brandon (ENRD)[Brandon.Middleton@usdoj.gov]; bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]; Lipshultz, Jon (ENRD)[Jon.Lipshultz@usdoj.gov]; Vaden, Christopher (ENRD)[Christopher.Vaden@usdoj.gov]; Grishaw, Letitia (ENRD)[Letitia.Grishaw@usdoj.gov]; Jordan, Scott[Jordan.Scott@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
Cc: Hostetler, Eric (ENRD)[Eric.Hostetler@usdoj.gov]
From: Lynk, Brian (ENRD)
Sent: Wed 3/29/2017 3:07:37 AM
Subject: RE: Filed NSPS abeyance motion
ENV_DEFENSE-#801503-v1-North_Dakota_(DC_Cir)_(NSPS)___As-docketed_EPA_Abeyance_Motion_w__attachments.PDF

P.S. – And here is the docketed version (with ECF formatting).

From: Lynk, Brian (ENRD)
Sent: Tuesday, March 28, 2017 11:04 PM
To: Middleton, Brandon (ENRD) <BMiddleton@ENRD.USDOJ.GOV>; Gelber, Bruce (ENRD) <BGELBER@enrd.usdoj.gov>; Lipshultz, Jon (ENRD) <JLipshultz@ENRD.USDOJ.GOV>; Vaden, Christopher (ENRD) <CVaden@ENRD.USDOJ.GOV>; Grishaw, Letitia (ENRD) <LGRISHAW@enrd.usdoj.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Cc: Hostetler, Eric (ENRD) <EHostetler@ENRD.USDOJ.GOV>
Subject: Filed NSPS abeyance motion

Everyone:

The NSPS abeyance motion also was filed this evening. Attached are the motion and its attachments as filed.

Best regards,

Brian

From: Hostetler, Eric (ENRD)
Sent: Tuesday, March 28, 2017 9:34 PM

To: Middleton, Brandon (ENRD) <BMiddleton@ENRD.USDOJ.GOV>; Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>; Lipshultz, Jon (ENRD) <JLipshultz@ENRD.USDOJ.GOV>; Vaden, Christopher (ENRD) <CVaden@ENRD.USDOJ.GOV>; Grishaw, Letitia (ENRD) <LGrishaw@ENRD.USDOJ.GOV>; Jordan, Scott <Jordan.Scott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Cc: Lynk, Brian (ENRD) <BLynk@ENRD.USDOJ.GOV>
Subject: Filed CPP Abeyance Motion

Attached is the CPP abeyance motion as filed with the Court. Brian will be filing the new source abeyance motion this evening as well. Thanks for all of your assistance with this.

Eric

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]
Cc: Jordan, Scott[Jordan.Scott@epa.gov]
From: Hostetler, Eric (ENRD)
Sent: Tue 3/28/2017 9:16:48 PM
Subject: Revised Draft Abeyance Motions Attached
ENV_DEFENSE-#801319-v1-CPP__March_28_abeyance_draft.DOC
ENV_DEFENSE-#801323-v1-NSPS_North_Dakota__March_28_Abeyance_Motion.DOC

To: Hostetler, Eric (ENRD)[Eric.Hostetler@usdoj.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
Cc: Lipshultz, Jon (ENRD)[Jon.Lipshultz@usdoj.gov]
From: Jordan, Scott
Sent: Mon 3/27/2017 5:11:11 PM
Subject: RE: Revised Draft CPP Abeyance Motion

Ex. 5 - Attorney Client -- Deliberative Process

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Hostetler, Eric (ENRD) [mailto:Eric.Hostetler@usdoj.gov]
Sent: Monday, March 27, 2017 12:55 PM
To: Jordan, Scott <Jordan.Scott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Cc: Lipshultz, Jon (ENRD) <Jon.Lipshultz@usdoj.gov>
Subject: RE: Revised Draft CPP Abeyance Motion

Scott,

Ex. 5 - Attorney Client -- Deliberative Process

Ex. 5 - Attorney Client -- Deliberative Process

From: Jordan, Scott [mailto:Jordan.Scott@epa.gov]
Sent: Monday, March 27, 2017 11:42 AM
To: Hostetler, Eric (ENRD) <EHostetler@ENRD.USDOJ.GOV>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Cc: Lipshultz, Jon (ENRD) <JLipshultz@ENRD.USDOJ.GOV>
Subject: RE: Revised Draft CPP Abeyance Motion

Eric –

Two points on the attached draft:

Ex. 5 - Attorney Client -- Deliberative Process

Ex. 5 - Attorney Client -- Deliberative Process

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Hostetler, Eric (ENRD) [mailto:Eric.Hostetler@usdoj.gov]
Sent: Monday, March 27, 2017 10:58 AM
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Cc: Lipshultz, Jon (ENRD) <Jon.Lipshultz@usdoj.gov>; Lynk, Brian (ENRD) <Brian.Lynk@usdoj.gov>; Berman, Amanda (ENRD) <Amanda.Berman@usdoj.gov>; Rave, Norman (ENRD) <Norman.Rave@usdoj.gov>; Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Subject: Revised Draft CPP Abeyance Motion

Ex. 5 - Attorney Client -- Deliberative Process

Eric

To: Lynk, Brian (ENRD)[Brian.Lynk@usdoj.gov]
Cc: Kolman, Chloe (ENRD)[Chloe.Kolman@usdoj.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Jordan, Scott
Sent: Tue 5/30/2017 5:30:10 PM
Subject: RE: CPP/New Source Rule Litigation - Drafts of Status Reports

That sounds fine to me. Thanks for the update.

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Lynk, Brian (ENRD) [mailto:Brian.Lynk@usdoj.gov]
Sent: Tuesday, May 30, 2017 1:27 PM
To: Jordan, Scott <Jordan.Scott@epa.gov>
Cc: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Subject: RE: CPP/New Source Rule Litigation - Drafts of Status Reports

Scott,

Ex. 5 - Attorney Client -- Deliberative Process

Thanks,

Brian

From: Jordan, Scott [mailto:Jordan.Scott@epa.gov]
Sent: Tuesday, May 30, 2017 10:35 AM
To: Hostetler, Eric (ENRD) <EHostetler@ENRD.USDOJ.GOV>
Cc: Zenick, Elliott <Zenick.Elliott@epa.gov>; Lynk, Brian (ENRD) <BLynk@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>
Subject: CPP/New Source Rule Litigation - Drafts of Status Reports

Two suggestions:

Ex. 5 - Attorney Client -- Deliberative Process

Ex. 5 - Attorney Client -- Deliberative Process

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Hostetler, Eric (ENRD) [mailto:Eric.Hostetler@usdoj.gov]
Sent: Tuesday, May 30, 2017 9:53 AM
To: Jordan, Scott <Jordan.Scott@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Cc: Lynk, Brian (ENRD) <Brian.Lynk@usdoj.gov>; Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Subject: Drafts of CPP Status Reports

Scott and Elliott:

Here are the most recent drafts of the 30-day status reports. The language you suggested has been included. We plan to file these by COB today.

To: Jordan, Scott[Jordan.Scott@epa.gov]
Cc: Kolman, Chloe (ENRD)[Chloe.Kolman@usdoj.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Hostetler, Eric (ENRD)
Sent: Fri 2/17/2017 7:12:54 PM
Subject: CPP Reconsideration Denial Litigation - Industry Motion to Intervene on behalf of Petitioners
Chamber of Commerce Motion to Intervene.pdf

A number of industry groups who participated as petitioners in the underlying CPP litigation, including the Chamber of Commerce and National Association of Manufacturers, have filed a motion to intervene on behalf of petitioners in the reconsideration denial case. Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Eric

Eric Hostetler

Senior Counsel for Appellate Matters

Environmental Defense Section

United States Department of Justice

202-305-2326

From: Jordan, Scott [mailto:Jordan.Scott@epa.gov]
Sent: Friday, February 17, 2017 7:41 AM
To: Hostetler, Eric (ENRD) <EHostetler@ENRD.USDOJ.GOV>
Cc: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: CPP Reconsideration Denial Litigation - Draft Motion for Extension of initial deadlines

Eric - This motion looks good. Thanks.

Ex. 5 - Attorney Client

I don't think that you or other OGC managers need to review this, but let us know if you have any questions or comments.

Please note that DOJ intends to fill this motion today, so that it will be granted in advance of next Thursday's procedural motions deadline.

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Hostetler, Eric (ENRD) <Eric.Hostetler@usdoj.gov>
Sent: Thursday, February 16, 2017 4:18 PM
To: Jordan, Scott
Cc: Kolman, Chloe (ENRD); Zenick, Elliott; Schmidt, Lorie
Subject: RE: State of North Dakota v. EPA, Case Number 17-1014 (consolidated)

Scott,

Ex. 5 - Attorney Client

Eric

From: Jordan, Scott [mailto:Jordan.Scott@epa.gov]
Sent: Thursday, February 16, 2017 4:11 PM
To: Hostetler, Eric (ENRD) <EHostetler@ENRD.USDOJ.GOV>
Cc: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: RE: State of North Dakota v. EPA, Case Number 17-1014 (consolidated)

Eric –

Thanks for clarifying that.

Ex. 5 - Attorney Client

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Hostetler, Eric (ENRD) [mailto:Eric.Hostetler@usdoj.gov]
Sent: Thursday, February 16, 2017 4:05 PM
To: Jordan, Scott <Jordan.Scott@epa.gov>
Cc: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: RE: State of North Dakota v. EPA, Case Number 17-1014 (consolidated)

Scott,

Ex. 5 - Attorney Client

From: Jordan, Scott [mailto:Jordan.Scott@epa.gov]
Sent: Thursday, February 16, 2017 3:23 PM
To: Hostetler, Eric (ENRD) <EHostetler@ENRD.USDOJ.GOV>
Cc: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: RE: State of North Dakota v. EPA, Case Number 17-1014 (consolidated)

Eric –

Ex. 5 - Attorney Client

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Hostetler, Eric (ENRD) [mailto:Eric.Hostetler@usdoj.gov]
Sent: Thursday, February 16, 2017 3:14 PM
To: Jordan, Scott <Jordan.Scott@epa.gov>
Cc: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: FW: State of North Dakota v. EPA, Case Number 17-1014 (consolidated)

Scott,

Ex. 5 - Attorney Client

Thanks,

Eric

From: Lipshultz, Jon (ENRD)
Sent: Thursday, February 16, 2017 2:54 PM
To: Hostetler, Eric (ENRD) <EHostetler@ENRD.USDOJ.GOV>
Subject: FW: State of North Dakota v. EPA, Case Number 17-1014 (consolidated)

From: McDevitt, John (ENRD)
Sent: Thursday, February 16, 2017 2:51 PM
To: Lipshultz, Jon (ENRD) <JLipshultz@ENRD.USDOJ.GOV>
Subject: FW: State of North Dakota v. EPA, Case Number 17-1014 (consolidated)

Thanks Jon. The Clerk also forwarded this email to me.

John

From: Michael_Terry@cadc.uscourts.gov [mailto:Michael_Terry@cadc.uscourts.gov]
Sent: Thursday, February 16, 2017 2:35 PM
To: sebyp@gtlaw.com; maiolson@nd.gov; ndag@nd.gov; stouckj@gtlaw.com; Robert.Byrne@doj.ca.gov; gavin.mccabe@doj.ca.gov; Elaine.Meckenstock@doj.ca.gov; jonathan.wiener@doj.ca.gov; david.zonana@doj.ca.gov; scott.koschwitz@ct.gov; matthew.levine@ct.gov; kirsten.rigney@ct.gov; valerie.edge@state.de.us; gkarr@atg.state.il.us; jacob.larson@iowa.gov; jerry.reid@maine.gov; christophe.courchesne@state.ma.us; Melissa.Hoffer@state.ma.us; max.kieley@ag.state.mn.us; jyar@nmag.gov; paul.garrahan@doj.state.or.us; mgooch@oag.state.va.us; gschultz@riag.ri.gov; nick.persampieri@vermont.gov; james.mckay@dc.gov; kays1@atg.wa.gov; scott.schwarz@phila.gov; kalishd@bouldercolorado.gov; benna.solomon@cityofchicago.org; jacoffey@broward.org; mjourney@broward.org; thomaspepe@pepenemire.com; jduffy@catf.us; aweeks@catf.us; tcarbonell@edf.org; sean@donahuegoldberg.com; blevitan@edf.org; vpatton@edf.org; mroberts@edf.org; susannah@donahuegoldberg.com; ddoniger@nrdc.org; blongstreth@nrdc.org; llynch@nrdc.org; kbundy@biologicaldiversity.org; vpardee@biologicaldiversity.org; dbaron@earthjustice.org; hfox@earthjustice.org; andres.restrepo@sierraclub.org; joanne.spalding@sierraclub.orgwilliam.depaulo; michael.myers@ag.ny.gov; geoffrey.barnes@squirepb.com; bobby.cheren@squirepb.com; wendy.lavey@squirepb.com; john.lazzaretti@squirepb.com; aknudsen@hunton.com; hnickel@hunton.com; tszymanski@hunton.com; awood@hunton.com; bbrownell@hunton.com; emurdock@hunton.com; tlorenzen@crowell.com; Rae.Cronmiller@NRECA.org; patrick.morrisey@wvago.gov; elbert.lin@wvago.gov; erica.n.peterson@wvago.gov; scott.keller@texasattorneygeneral.gov; cam.barker@texasattorneygeneral.gov; rtambling@ago.state.al.us; dominic.draye@azag.gov; keith.miller@azag.gov; mscott@azcc.gov; JWagner@cc.state.az.us; lee.rudofsky@arkansasag.gov; jamie.ewing@arkansasag.gov; swarren@law.ga.gov; tom.fisher@atg.in.gov; jeff.chanay@ag.ks.gov; bryan.clark@ag.ks.gov; jonesst@ag.state.la.us; donna_hodges@mdeq.ms.gov; tepalmer@michaelbest.com; vlgreen@michaelbest.com; dales@mt.gov; justin.lavene@nebraska.gov; John.Renella@dd.lps.state.nj.us; eric.murphy@ohioattorneygeneral.gov; steven.blair@state.sd.us; tylergreen@utah.gov; tseytlinm@doj.state.wi.us; breuerdm@doj.state.wi.us; james.kaste@wyo.gov;

elizabeth.morrisseau@wyo.gov; erik.petersen@wyo.gov; esmith@scag.gov; gmoore@balch.com; jbarber@balch.com; margaret.campbell@troutmansanders.com; ecgerhar@southernco.com; twyly@balch.com; bstone@balch.com; tlduncan@shb.com; tgrever@shb.com; jmassey@masseygail.com; william.bumpers@bakerbotts.com; megan.berge@bakerbotts.com; leslie.couvillion@bakerbotts.com; McDevitt, John (ENRD) <JMcDevitt@ENRD.USDOJ.GOV>
Subject: State of North Dakota v. EPA, Case Number 17-1014 (consolidated)

Dear Attorneys

Dear Attorneys:

We write to find out if you might be interested in exploring settlement of this matter through our mediation program. This is a routine inquiry that we try to make in all civil cases pending in the circuit.

Please respond by March 2, 2017. Your comments and suggestions are taken seriously. Our experience has been that the mediation process is usually more productive when the parties have agreed to participate and have some ideas about how the case might be resolved or how some of the issues could be simplified.

If you have any questions about the mediation process or would like to discuss this matter in general, please feel free to contact me separately. I have attached a copy of the court's mediation procedures.

Please note that a referral to mediation does not automatically stay the dates for filing the docketing statement, certificate as to parties, statement of issues, the filing of the underlying decision, appendix statement, procedural motions , dispositive motions, initial submissions, procedural motions, entry of appearance, briefing schedule **or oral argument**. However, the court is usually receptive to a joint motion or a consent motion to postpone or stay these matters to accommodate settlement talks. However, please note that if the court grants such a request to stay the briefing schedule or oral argument, you may lose your panel if one has been assigned.

Please also note that if your case goes into mediation or you engage in serious direct settlement negotiations, you will be required to inform the Clerk Of the Court. This is to better enable the judges to make the best use of their time and resources. Please see the attached Notice. We have interpreted this notice requirement to come into play on the date you receive notice of the oral argument.

We appreciate your cooperation and assistance.

Michael A. Terry

Circuit Mediator
202/216-7343 Phone
202/273-0331 Fax
michael_terry@cadc.uscourts.gov

To: Jordan, Scott[Jordan.Scott@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]
From: Hostetler, Eric (ENRD)
Sent: Thur 2/23/2017 8:36:59 PM
Subject: CPP: North Carolina withdrawing from case
North Carolina withdrawal motion.pdf

FYI – North Carolina's motion to withdraw is attached

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ORAL ARGUMENT SCHEDULED FOR APRIL 17, 2017

No. 15-1381 (and consolidated cases)

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NORTH DAKOTA, *et al.*,

Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY, *et al.*,

Respondents.

On Petition for Review of Final Agency Action
of the U.S. Environmental Protection Agency
80 Fed. Reg. 64,510 (Oct. 23, 2015)

STATE OF NORTH DAKOTA'S REPLY

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Counsel for Petitioner State of North Dakota

DATED: January 23, 2017
CORRECTED: January 24, 2017
FINAL FORM: February 2, 2017

FOIA: EPA-HQ-FOIA 008391 Production Set #8

TABLE OF CONTENTS

INTRODUCTION AND SUMMARY OF THE ARGUMENT 1

ARGUMENT 2

I. Canada's Boundary Dam does not "adequately demonstrate" the BSER at new lignite-fueled EGUs in North Dakota. 2

II. EPA asserts that the BSER is "achievable" for lignite, but only if the lignite is dried first. 4

III. EPA should have subcategorized lignite, establishing standards that reflect its unique characteristics. 7

CONCLUSION 9

ED_0011318_00011139-00002

FOIA: EPA-HQ-FOIA 008391 Production Set #8

TABLE OF AUTHORITIES

Cases

Essex Chem. Corp. v. Ruckelshaus,
486 F.2d 427 (D.C. Cir. 1973) 1

Nat'l Lime Ass'n v. EPA,
627 F.2d 416 (D.C. Cir. 1980) 4,7

Portland Cement Ass'n, v. Ruckelshaus,
486 F.2d 375 (D.C.Cir. 1973) 1

Sierra Club v. Costle,
657 F.2d 298 (D.C. Cir. 1981) 1, 4, 7

Steger v. Def. Investigative Serv.,
717 F.2d 1402 (D.C. Cir. 1983) 8

United States v. Minnkota Power Coop., Inc.,
831 F. Supp. 2d 1109 (D.N.D. 2011) 2

Statutes

42 U.S.C. § 15962(i) 3

CAA § 112 7,8

CAA § 307(d)(9) 2,9

N.D. Cent. Code § 54-17.5-01 6

Other Authorities

40 C.F.R. § 60.5580 4

40 C.F.R. Subpart Y. 6

77 Fed. Reg. 9304, 9306 8

77 Fed. Reg. 9304, 9379 (Feb. 16, 2012) 2

80 Fed. Reg. 64,512 8

80 Fed. Reg. 64,513 .....4, 5, 7

CBC News, "Sask. Carbon capture plant doubles the price of power,"
http://www.cbc.ca/news/canada/saskatchewan/carbon-capture-power-prices-1.3641066.....3

ED_0011318_00011139-00003

FOIA: EPA-HQ-FOIA 008391 Production Set #8

Lignite Energy Council, Power Plants, available at https://lignite.com/mines-plants/power-plants/ 3

National Coal Council, "Reliable and Resilient: The Value of Our Existing Coal Fleet,"at 59, available at http://www.nationalcoalcouncil.org/reports/1407/NCCValueExistingCoalFleet.pdf 6

ED_0011318_00011139-00004

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GLOSSARY

BSER	Best System of Emission Reduction
CAA	Clean Air Act
CCS	Carbon Capture and Sequestration
CO_2	Carbon Dioxide
CO_2/MWh	Carbon Dioxide per Megawatt-hour
EGU	Electric Generating Unit
EPA	United States Environmental Protection Agency
EPAct	Energy Policy Act of 2005
JA	Joint Appendix
RIA	EPA, Regulatory Impact Analysis for the Final Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units
Rule	U.S. Environmental Protection Agency, Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units, Final Rule, 80 Fed. Reg. 64,510 (Oct. 23, 2015)

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INTRODUCTION AND SUMMARY OF THE ARGUMENT

As in the preamble to its Rule, EPA's response brief offers up a patchwork of partial, small-scale, hypothetical demonstrations as purported "proof" that its BSER is "adequately demonstrated" and that its new 1,400 CO_2/MWh performance standard for all new coal-fired EGUs can be met through application of the BSER, even at lignite-fueled EGUs. Despite its lengthy brief, EPA still fails to show that the *entire* BSER is *commercially available* for implementation at new, *full-scale*, lignite-burning EGUs and that the standard is *achievable* for new lignite-burning EGUs.

Instead of pointing to a single real example of where the Rule's BSER is adequately demonstrated—that is, commercially available, *Sierra Club v. Costle*, 657 F.2d 298, 364 (D.C. Cir. 1981); *Portland Cement Ass'n, v. Ruckelshaus,* 486 F.2d 375, 391 (D.C. Cir. 1973), "reasonably efficient," *Essex Chem. Corp. v. Ruckelshaus*, 486 F.2d 427, 433 (D.C. Cir. 1973), and not "unreasonably costly," *Costle*, 657 F.2d at 343—EPA instead rests its rebuttal to North Dakota on one unit, SaskPower's Boundary Dam Unit #3, a Canadian government-subsidized unit operating at approximately one-fourth to one-half the megawatt capacity of a typical lignite-fueled unit in North Dakota. EPA cannot put forth any better example, because none exist.

EPA's effort to bypass Congress and enact legislation-by-regulation—which has the practical effect of ensuring lignite coal has no future in America's energy portfolio—must be rejected, as it is unlawful, arbitrary and capricious, and will devastate the State of North Dakota, where coal accounts for 99.4 percent of the

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State's fossil-fuel-powered electricity generation—nearly all of that from lignite. Both EPA and the courts have recognized lignite coal has unique characteristics that present distinctive technological challenges, including with respect to emission-control technologies. *See* National Emission Standards for Hazardous Air Pollutants From Coal and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units, 77 Fed. Reg. 9304, 9379 (Feb. 16, 2012) ("MATS Rule"), JA4851; *see also United States v. Minnkota Power Coop., Inc.*, 831 F. Supp. 2d 1109, 1125 (D.N.D. 2011). The result of this Rule is a *de facto* ban on new power plants fueled by North Dakota lignite. N.D. Br. at 6 (citing Glatt Decl. ¶¶ 7, 9).

EPA's failure to account for the distinctness of lignite in its achievability analysis—or, consequently, to show that the Rule's performance standard can be met by the "industry as a whole"—makes the Rule invalid, and EPA's failure to subcategorize for lignite violates CAA § 307(d)(9) because it is arbitrary and capricious.

ARGUMENT

I. Canada's Boundary Dam does not "adequately demonstrate" the BSER at new lignite-fueled EGUs in North Dakota.

EPA gives short shrift to North Dakota's demonstration that EPA failed to properly consider lignite by glibly asserting that "CCS is adequately demonstrated for

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lignite-burning units" because "the Boundary Dam facility itself burns lignite." Resp. Br. at 81. North Dakota and other petitioners have discussed the many reasons why Boundary Dam fails to "adequately demonstrate" the BSER—including its exorbitant cost implications,[1] the fact that it was heavily subsidized by the Canadian federal government and thus violates the Congressionally-stated purpose of EPAct,[2] the fact that it does not employ all components of the BSER,[3] and its myriad operational and financial failings.[4] Perhaps the most compelling distinction that demonstrates EPA's misplaced reliance on Boundary Dam is that unit's diminutive size. At 110 net megawatts, Boundary Dam is dwarfed by five of the six lignite-fueled EGUs in North Dakota: Antelope Valley Station (two 450-megawatt units), Coal Creek Station (two 550-megawatt units), Coyote Station (one 420-megawatt unit), Leland Olds Station (one 447-megawatt unit, one 222-megawatt unit), and Milton R. Young Station (one 455-megawatt unit, one 250-megawatt unit).[5] New EGUs would most likely be built

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[1] *See e.g.*, CBC News, "Sask. Carbon capture plant doubles the price of power," http://www.cbc.ca/news/canada/saskatchewan/carbon-capture-power-prices-1.3641066.

[2] N.D. Br. at 11 (citing 42 U.S.C. § 15962(i)).

[3] Non-State Pet'rs Br. at 26–30.

[4] N.D. Br. at 11–12.

[5] *See* Lignite Energy Council, Power Plants, available at https://lignite.com/mines-plants/power-plants/

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FOIA: EPA-HQ-FOIA 008391 Production Set #8

on the scale of the current existing EGUs, particularly the larger ones, and cannot count on the support of large government subsidies.

EPA cannot rationally extrapolate from Boundary Dam to conclude that the BSER is "adequately demonstrated" when it is only one-fourth to one-half the generating capacity of an existing EGU in North Dakota, *see Nat'l Lime Ass'n v. EPA*, 627 F.2d 416, 433 (D.C. Cir. 1980) (rejecting standard that did not account for "regional variations"), and does not even attempt to explain how this comparison could be valid. EPA fails to demonstrate that the standards derived from the BSER are "achievable" by sources in "the industry as a whole," *id.* at 429, 431 & n.46, 433. Stated differently, EPA must evaluate the "demonstration of *commercial-scale* systems"—a "crucial" legal issue that must be considered in any BSER determination. *Costle*, 657 F.2d at 341, n.157 (emphasis added). EPA's failure to do that renders the Rule unlawful.

II. EPA asserts that the BSER is "achievable" for lignite, but only if the lignite is dried first.

Because EPA explicitly seeks to regulate lignite-fueled EGUs under the Rule—"[c]oal means all solid fuels classified as anthracite, bituminous, subbituminous, or *lignite* . . . ," 40 C.F.R. § 60.5580 (emphasis added)— the agency must show that the BSER it selected is "adequately demonstrated" for lignite-fueled EGUs and that the standard of performance is "achievable" for lignite-fueled EGUs.

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Instead of doing that, EPA assumes only the use of "dried lignite" in discussing the achievability of employing its BSER, *see* 80 Fed. Reg. at 64,513, JA5, and fails to conduct *any* analysis of achievability for units fueled by virgin, non-dried lignite, which, as EPA indirectly acknowledges, is higher in moisture and produces more CO_2 emissions. *Id.*, n.7, JA5 ("Drying the lignite prior to combustion in the boiler is . . . an effective way to . . . reduce the CO_2 emissions from lignite-fired power plants") (citation omitted).

EPA now sidesteps the reality of its omission, stating that "EPA is not obligated to incorporate less efficient and more polluting means of production into its Best Systems." Resp. Br. at 86. That might be true if EPA was considering two different "means of production," but here, EPA is considering the use of lignite in its natural state, which is virgin, not dried. Virgin lignite is the baseline state in which EPA seeks to regulate it under the Rule. Yet EPA does not evaluate virgin lignite; it only addresses dried lignite, which is virgin lignite after being put through additional (apparently now mandatory) chemical processing for which EPA's own cited studies confess "cost and techno-economic information is limited." *See id.* at 64,513, n.7, JA5 (citation omitted). As a result, EPA has effectively established an entirely separate BSER for EGUs burning lignite, and that BSER includes drying the lignite first. This leads to a host of material legal defects.

First, contrary to EPA's assertion, there is nothing in the record that supports the commercial availability and effectiveness of lignite drying for use in newly

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constructed EGUs. EPA claims that "both the National Coal Council and the IEA Clean Coal Centre have concluded that '[c]oal drying with waste heat is a commercially available option.'" Resp. Br. at 85 (citation omitted). However, EPA glaringly omits the second part of that actual quotation, presumably because it contradicts the agency's argument:

> Coal drying with waste heat is a commercially available option, **but one that not every plant can effectively deploy.**[6]

Second, by mandating that lignite-fueled EGUs dry lignite prior to combustion, the Rule changes the definition of the source category it regulates—"electric generating units"—to include coal preparation and processing. However, coal drying facilities are subject to their own separate new source performance standards.[7] As a result, EPA's attempt to subject lignite-fueled EGUs to additional, rigorous, and undemonstrated standards must be rejected—especially in this instance in which it grossly prejudices North Dakota, where lignite is the primary electric utility fuel source, and where the State has long promoted lignite through a statutory state-industry partnership aimed at protecting and enhancing future use of North Dakota's abundant lignite resources. *See* N.D. Cent. Code § 54-17.5-01.

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[6] The National Coal Council, "Reliable and Resilient: The Value of Our Existing Coal Fleet," at 59, available at http://www.nationalcoalcouncil.org/reports/1407/NCCValueExistingCoalFleet.pdf (emphasis added).

[7] *See* 40 C.F.R. Subpart Y., Standards of Performance for Coal Preparation and Processing Plants.

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FOIA: EPA-HQ-FOIA 008391 Production Set #8

EPA has failed to discuss "achievability" in the context of virgin, non-dried lignite, and that omission is fatal to the Rule, because the performance standard mandated by the Rule is not "representative of potential industry-wide performance, given the range of variables that affect the achievability of the standard," *Costle*, 657 F.2d at 377, or of the "regional variations" of the coal types native to North Dakota. *Nat'l Lime*, 627 F.2d at 441–43. EPA's claim that the standard for new coal-fueled units is achievable "for all fuel types, under a wide range of conditions, throughout the United States," 80 Fed. Reg. at 64,513, JA5, therefore lacks the necessary record support and should not be accepted.

III. EPA should have subcategorized lignite, establishing standards that reflect its unique characteristics.

EPA claims that its decision in the Rule not to subcategorize lignite should be afforded deference, despite the fact that EPA took the opposite approach in the MATS Rule, which is EPA's most recent—and most significant—rule imposing emission limits on new EGUs prior to this Rule. EPA says its decision to subcategorize lignite in the MATS Rule should simply be disregarded here because it "was compelled by the different statutory provisions being implemented [under CAA 112]." While the MATS Rule arose under a different provision of the CAA, the MATS Rule still regulated emissions from *new coal-fired Electric Utility Steam Generating Units* based on the fuel characteristics of the coal utilized—precisely the same sources (burning the same coal types) it seeks to regulate under this Rule. That makes the

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FOIA: EPA-HQ-FOIA 008391 Production Set #8

MATS Rule a highly relevant precedent for this case. There is no rational basis for treating lignite differently under these two provisions of the CAA.

Similarly, EPA's contention that the MATS Rule should be disregarded because the agency "declined to subcategorize for lignite with respect to numerous other pollutants regulated under the rule," *id.*, fails to pass muster. The primary purpose of the MATS rule was to establish uniform emissions-control standards to address the presence of *mercury emissions* in the environment,[8] and EPA's decision to subcategorize lignite in the MATS Rule was, as the agency admits, because "the level of *mercury emissions* achieved in practice for lignite-burning units was higher than for other coal types, so a subcategory was warranted in that narrow circumstance." Resp. Br. at 89–90 (quotations omitted) (emphasis added). The purpose of the present Rule is to "address *carbon pollution*" in the environment, 80 Fed. Reg. 64,512 (emphasis added), and EPA admits that lignite-fueled EGUs produce more *carbon pollution* than EGUs fueled with other coal types, *see e.g.*, RIA at 2-26, JA2829. Thus, EPA's stated rationale for subcategorizing mercury in the MATS Rule applies here with equal force. These are undeniably similar situations, and EPA cannot "treat similar situations dissimilarly and, indeed, can be said to be at its most arbitrary when it does so." *Steger v. Def. Investigative Serv.*, 717 F.2d 1402, 1406 (D.C. Cir. 1983).

The only plausible explanation is that subcategorization would have revealed that the performance standard is not achievable for lignite-fueled EGUs. N.D. Br. at

[8] 77 Fed. Reg. 9304, 9305, JA4847.

ED_0011318_00011139-00013

FOIA: EPA-HQ-FOIA 008391 Production Set #8

13–15. By lumping lignite with other coal types, EPA conveniently but improperly avoided that fact, and adopted a Rule that grossly penalizes North Dakota's continued ability to rely on low-cost and native lignite-fueled baseload generation facilities to meet the State's substantial projected increased demand for electricity. By refusing to subcategorize lignite coal, the Rule is arbitrary and capricious under CAA § 307(d)(9).

CONCLUSION

The State of North Dakota's petition should be granted, and the Rule should be vacated.

ED_0011318_00011139-00014

FOIA: EPA-HQ-FOIA 008391 Production Set #8

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 32(a)(7)(C) of the Federal Rules of Appellate Procedure and Circuit Rules 32(a)(1) and 32(a)(2)(C), I hereby certify that the foregoing State of North Dakota's Reply contains 1,998 words, as counted by a word processing system that includes headings, footnotes, quotations, and citations in the count, and therefore is within the word limit set by the Court.

Dated: February 2, 2017

/s/ Paul M. Seby

ED_0011318_00011139-00015

FOIA: EPA-HQ-FOIA 008391 Production Set #8

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of February, 2017, a copy of the foregoing State of North Dakota's Reply was served electronically through the Court's CM/ECF system on all ECF-registered counsel.

/s/ Paul M. Seby

ED_0011318_00011139-00016

To: Jordan, Scott[Jordan.Scott@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
Cc: Kolman, Chloe (ENRD)[Chloe.Kolman@usdoj.gov]
From: Hostetler, Eric (ENRD)
Sent: Thur 3/30/2017 1:46:33 PM
Subject: Draft Abeyance Motion in CPP Reconsideration Cases
ENV_DEFENSE-#801583-v1-CPP_Reconsideration__March_29__2017_Abeyance_Motion.DOC

Ex. 5 - Attorney Client

Can you please review today and share any comments.

Thanks,

Eric

To: Macpherson, Alex[Macpherson.Alex@epa.gov]
Cc: Marten, Alex[Marten.Alex@epa.gov]
From: Evans, DavidA
Sent: Mon 5/1/2017 2:51:32 PM
Subject: RE: Quick check in

Ex. 5 - Deliberative Process

From: Macpherson, Alex
Sent: Monday, May 01, 2017 10:02 AM
To: Evans, DavidA <Evans.DavidA@epa.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: RE: Quick check in

Thanks. I'll look a little later. I'm going to try to read the EWM draft today.

Ex. 5 - Deliberative Process

From: Evans, DavidA
Sent: Monday, May 01, 2017 9:52 AM
To: Macpherson, Alex <Macpherson.Alex@epa.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: RE: Quick check in

Okay. I made the edits. I have a few small comments/suggestions in there for you, too. I haven't heard anything.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Dave

From: Macpherson, Alex
Sent: Monday, May 01, 2017 9:15 AM
To: Evans, DavidA <Evans.DavidA@epa.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: RE: Quick check in

Thanks. I have still heard nothing over where it was left Friday pm… Ex. 6 - Personal Privacy Ex. 6 - Personal Privacy if anything comes up.

Alex

From: Evans, DavidA
Sent: Monday, May 01, 2017 9:00 AM
To: Macpherson, Alex <Macpherson.Alex@epa.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: RE: Quick check in

Okay Alex. I will drop those edits in momentarily.

Dave

From: Macpherson, Alex
Sent: Saturday, April 29, 2017 2:58 PM
To: Evans, DavidA <Evans.DavidA@epa.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: RE: Quick check in

Hi Dave

Ex. 6 - Personal Privacy As far as I know, the draft package went to Sarah et al. I have heard nothing since then. If you want to correct the typos, please do in RLSO, but strictly limit to typos or obvious grammar things. Not sure if we will get comments and or a chance to revise but we'll see.

Alex

From: Evans, DavidA
Sent: Friday, April 28, 2017 7:12 PM
To: Macpherson, Alex <Macpherson.Alex@epa.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: Quick check in

Hi Alex,

I'm leaving. I'm not sure where things stand with the memo. I read it over about an hour ago and noticed a few typos and run-on sentences that could use a quick edit. I haven't edited sharepoint version, though. I will check email over the weekend, so if an opportunity comes up to edit them

let me know.

Dave

To: McGartland, Al[McGartland.Al@epa.gov]
Cc: Weatherhead, Darryl[Weatherhead.Darryl@epa.gov]; Sasser, Erika[Sasser.Erika@epa.gov]; Evans, DavidA[Evans.DavidA@epa.gov]
From: Macpherson, Alex
Sent: Thur 5/25/2017 1:20:36 PM
Subject: RE: Great work.

Thanks, Al. That's very nice of you to say. That this is coming together so quickly and well is really due to the team. They've risen to the challenge with hard work, good thinking, and great professionalism.

Best
Alex

-----Original Message-----
From: McGartland, Al
Sent: Wednesday, May 24, 2017 7:54 PM
To: Macpherson, Alex <Macpherson.Alex@epa.gov>
Cc: Weatherhead, Darryl <Weatherhead.Darryl@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Evans, DavidA <Evans.DavidA@epa.gov>
Subject: Great work.

Hi Alex. After skimming the RIA draft I had to drop a note about the fantastic job done on this. You have not only my admiration but everyone in NCEE working in this heaps praise on the job you are doing. I'm honored to work with you and your colleagues.

When we have time (post cpp) I'd love to get your views (and Erika and Darryl's) on how we proceed in some of these newly introduced issues. Let's get this wrapped up first.

Sent from my iPhone

From: Skinner-Thompson, Jonathan
Location: Call in # 1 Ex. 6 - Personal Privacy Conf Code Ex. 6 - Personal Privacy
Importance: Normal
Subject: Accepted: CPP Next Steps
Start Date/Time: Thur 6/29/2017 2:15:00 PM
End Date/Time: Thur 6/29/2017 3:00:00 PM

To: Sasser, Erika[Sasser.Erika@epa.gov]
From: McGartland, Al
Sent: Tue 11/7/2017 2:13:02 PM
Subject: Re: Benefit per Ton Analysis

Are you sending out a calendar invite? If so can you include Alex Marten, DavidA Evans, and Tammy Thompson (a AAAS fellow) and me? Thanks.

Sent from my iPhone

On Nov 6, 2017, at 5:10 PM, Sasser, Erika <Sasser.Erika@epa.gov> wrote:

Thanks, Lindsey, that's very helpful. We will be happy to explain the approach we adopted in the different analyses you mention. We can use the following EPA conference line for the discussion, if that works for you?

Call-in Number: Ex. 6 - Personal Privacy

Conference Code: Ex. 6 - Personal Privacy

We will talk with you Wed. at 2 pm Central.

Thanks,

Erika

From: Lindsey Jones [mailto:Lindsey.Jones@tceq.texas.gov]
Sent: Monday, November 06, 2017 5:02 PM
To: Sasser, Erika <Sasser.Erika@epa.gov>
Cc: McGartland, Al <McGartland.Al@epa.gov>; Marten, Alex <Marten.Alex@epa.gov>; Wayland, Robertj <Wayland.Robertj@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>; Fox, Tyler <Fox.Tyler@epa.gov>; Fann, Neal <Fann.Neal@epa.gov>; Michael Honeycutt <Michael.honeycutt@tceq.texas.gov>; Sabine Lange <Sabine.Lange@tceq.texas.gov>
Subject: RE: Benefit per Ton Analysis

Hi Erika,

Thank you so much for making time to meet with us! Wednesday afternoon at 2 pm Central would be great. Would you mind sending me the best number for you? Or would it be easier to set up a conference line (in the event that people are calling from different locations)?

Our questions are probably a bit basic at this point. We are not economists; we are health risk assessors, one of whom is fairly familiar with BenMAP. We were hoping that you could walk us through the BPT estimate from the rule in more detail. For example, how or from where you compiled the baseline data, if/how that data was combined with monitoring data, if/how the data was aggregated to the regional and national levels. We also had questions about how BenMAP was used in the BPT estimate. For example, the RIA for the CPP repeal states that modeling and monitoring data were not available, but monitoring/modeling data would be required to input into BenMAP to generate benefits estimates. Related to that, what is the value of using benefits-per-ton calculations (which add more uncertainties), if the benefits from modeling the attainment of the CPP had already been calculated?

Thank you, again, and we're looking forward to talking with you,

Lindsey

From: Sasser, Erika [mailto:Sasser.Erika@epa.gov]
Sent: Monday, November 6, 2017 1:59 PM
To: Lindsey Jones <Lindsey.Jones@tceq.texas.gov>
Cc: McGartland, Al <McGartland.Al@epa.gov>; Marten, Alex <Marten.Alex@epa.gov>; Wayland, Robertj <Wayland.Robertj@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>; Fox, Tyler <Fox.Tyler@epa.gov>; Fann, Neal <Fann.Neal@epa.gov>
Subject: FW: Benefit per Ton Analysis

Hi Lindsey—

I understand you have some questions for us about the BPT method as applied in the Clean Power Plan RIAs. We'd be happy to schedule time to talk with you and your colleagues about it. Based on the times you've indicated, we're thinking Wednesday afternoon might be best, either 2 pm or 3 pm central time. However, there are many inputs to these calculations, so it would be helpful to have a clearer understanding of your questions prior to our discussion. Could you provide a little more detail about which aspects of the method you'd like to focus on? That way we can be sure we have the right experts on hand. We have a number of people out on travel and I want to be sure we can fully address your questions.

Thanks,

Erika

Erika N. Sasser, Ph.D.

Director, Health and Environmental Impacts Division

Office of Air Quality Planning & Standards, U.S. EPA

109 T.W. Alexander Drive, MD C504-02, RTP, NC 27711

(919) 541-3889 sasser.erika@epa.gov

From: Lindsey Jones [mailto:Lindsey.Jones@tceq.texas.gov]
Sent: Friday, November 03, 2017 2:43 PM
To: McGartland, Al <McGartland.Al@epa.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: RE: Benefit per Ton Analysis

Hi and thank you for your response! I will be bringing Sabine Lange and potentially Mike Honeycutt (depending on scheduling).

The following dates and times (central) are open for us.

- Tuesday, November 7: 9-11 am or 2-4 pm
- Wednesday, November 8: 9-10 am or 1-4 pm
- Friday, November 10: 9 am-4 pm
- Tuesday, November 14: 11 am-4 pm

I look forward to speaking with you.

Have a great weekend,

Lindsey

From: McGartland, Al [mailto:McGartland.Al@epa.gov]
Sent: Friday, November 3, 2017 7:04 AM
To: Lindsey Jones <Lindsey.Jones@tceq.texas.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: Re: Benefit per Ton Analysis

Hi. Thank you for your email. I'm out of the office today. But will follow up on Monday.

I think arranging a phone conversation with the right people from epa should be doable. Given that the analysis is out for public comment we may have to take steps to docket our meeting as well.

I would want to have Neal Fann and perhaps others from our air office participate as well. I'm CC'ing Alex Marten, the acting deputy in NCEE as well. (Alex also is pivotal for our future conversations.).

Have a nice weekend.

If there are days and times where a phone meeting would work for your schedule can you send them to Alex and me?

Sent from my iPhone

On Nov 2, 2017, at 4:52 PM, Lindsey Jones <Lindsey.Jones@tceq.texas.gov> wrote:

Good afternoon,

I am a toxicologist with the Texas Commission on Environmental Quality. My colleague and I are currently reviewing the Clean Power Plan Repeal RIA (particularly the health co-benefits portion) and wondered if you or one of your staff would have time to talk with us about the benefit per ton method. We have read through the proposed and final Clean Power Plan RIA, the repeal RIA, the Benefit per Ton TSD, and the Fann et al. (2009) and (2012) papers, but we were hoping we could get additional clarification on methodological steps, inputs, and assumptions. We truly appreciate any help that you could provide and would be happy to work around your schedule.

Best regards,

Lindsey

Lindsey Jones

Senior Toxicologist, Toxicology Division

Texas Commission on Environmental Quality

To: Sasser, Erika[Sasser.Erika@epa.gov]
From: Weatherhead, Darryl
Sent: Fri 6/2/2017 3:02:00 PM
Subject: RE: For review: latest drafts of the CPP documents

Thanks. Kevin has the most up to date version, so I hope that is the version that goes to OMB.

Also, **Ex. 5 - Deliberative Process**

From: Sasser, Erika
Sent: Friday, June 02, 2017 11:00 AM
To: Weatherhead, Darryl <Weatherhead.Darryl@epa.gov>
Subject: Fwd: For review: latest drafts of the CPP documents

Looks like these will go today

Sent from my iPhone

Begin forwarded message:

> **From:** "Rees, Sarah" <rees.sarah@epa.gov>
> **Date:** June 2, 2017 at 10:53:45 AM EDT
> **To:** "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>
> **Cc:** "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Lewis, Josh" <Lewis.Josh@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "McGartland, Al" <McGartland.Al@epa.gov>, "Page, Steve" <Page.Steve@epa.gov>, "Koerber, Mike" <Koerber.Mike@epa.gov>, "Tsirigotis, Peter" <Tsirigotis.Peter@epa.gov>, "Sasser, Erika" <Sasser.Erika@epa.gov>, "Harvey, Reid" <Harvey.Reid@epa.gov>
> **Subject: RE: For review: latest drafts of the CPP documents**
>
> We are ready to send on our end whenever you get the package to us.

> **From:** Gunasekara, Mandy
> **Sent:** Friday, June 02, 2017 10:31 AM
> **To:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>

Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>
Subject: Re: For review: latest drafts of the CPP documents

I talked to Justin about these issues and will defer to his final call on the edits. Once that is done, let's send this to OMB.

Sent from my iPhone

On Jun 2, 2017, at 9:53 AM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Schmidt, Lorie has shared a OneDrive for Business file with you. To view it, click the link below.
<image00001.png> CPP Repeal Proposal.FR Notice.5.31.17.docx

Please find attached our reactions to Mandy's comments. A few things to note:

Ex. 5 - Attorney Client -- Deliberative Process

Let us know if you would like to discuss.

Thanks,

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Gunasekara, Mandy
Sent: Wednesday, May 31, 2017 1:04 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

The attached includes my edits (tracked changes starting page 5). Please incorporate these into the final version.

From: Dunham, Sarah
Sent: Wednesday, May 31, 2017 12:01 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Lewis, Josh

<Lewis.Josh@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

Thank you Mandy—What you laid out below is consistent with how we are proceeding.

For a little more context on the work that is ongoing, OAR and OP have been working together on both documents:

Ex. 5 - Deliberative Process

From: Gunasekara, Mandy
Sent: Wednesday, May 31, 2017 10:18 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

I'd like to make sure we are all on the same page regarding CPP. This is my understanding of the status. Please let me know if any of this needs modification:

Ex. 5 - Deliberative Process

Best,

Mandy

From: Lewis, Josh
Sent: Friday, May 26, 2017 3:00 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: For review: latest drafts of the CPP documents

Attached are the latest drafts of the CPP Rescission Notice Preamble and the RIA. Sarah and others in OAR are still reviewing one/both of these, but we wanted you to have the latest drafts before the long weekend.

A few notes on the preamble:

Ex. 5 - Deliberative Process

- It includes all of the necessary boilerplate related to public comment and public hearing Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

A few important notes on the RIA:

Ex. 5 - Deliberative Process

We anticipate having the next draft of the RIA ready by COB Wednesday, pending comments received from this review.

Josh

From: Sasser, Erika
Location: RTP-C500A-Max40/RTP-Bldg-C
Importance: Normal
Subject: Benefits Approach for CPP Repeal RIA - Room C500A
Start Date/Time: Thur 8/31/2017 3:00:00 PM
End Date/Time: Thur 8/31/2017 3:30:00 PM

To: Mozingo, Kristal[Mozingo.Kristal@epa.gov]
From: Sasser, Erika
Sent: Tue 8/29/2017 12:48:37 PM
Subject: Th meeting request

Hi —Can you set up a 30-minute meeting for me at 11:00 om Thursday 8/31 with the following people:

Neal Fann

Ali Kamal

Bob Hetes

Evan Coffman

Elizabeth Chan

Cc:

Darryl Weatherhead

Alex MacPherson

Bob Wayland

Topic: Benefits Approach for CPP Repeal RIA

Thanks

To: Keating, Martha[keating.martha@epa.gov]
From: Sasser, Erika
Sent: Mon 7/31/2017 1:06:27 PM
Subject: FW: O&G and CPP
Update on CPP Repeal Proposal RIA and O&G Supplemental.docx

Here was the info we sent Steve on Thursday re: CPP. Can we check with Pete to see if Steve talked with her about it (it's really just a heads up that this would be a major lift b/c Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Sasser, Erika
Sent: Thursday, July 27, 2017 3:06 PM
To: Page, Steve <Page.Steve@epa.gov>
Cc: Weatherhead, Darryl <Weatherhead.Darryl@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>
Subject: O&G and CPP

Here is a summary of key points on both Oil and Gas and CPP for your 3:00 pm with Sarah – I brought a hard copy to Lala. Call if you need more.

Update on CPP Repeal Proposal RIA and O&G Supplemental Proposal

1) Oil and Gas Supplemental Proposal

a. We have a path forward and don't think this will hold up the supplemental proposal.

b. OAQPS is working with OAP and NCEE to accommodate Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

c. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

2) CPP Repeal Proposal RIA

a. We received extensive comments from OMB on the RIA

Ex. 5 - Deliberative Process

d. CPP RIA workgroup will meet early next week to discuss in more detail

Ex. 5 - Deliberative Process

To: Keating, Martha[keating.martha@epa.gov]
From: Sasser, Erika
Sent: Wed 5/31/2017 2:40:08 PM
Subject: FW: For review: latest drafts of the CPP documents
EO12866_CPP Rescission 2060-AT55 Proposal_5-26.jl.docx

Kevin would LOVE your help on the E.O. section for EJ and Children's Health. This is the latest draft of the preamble, as far as I know. Kevin is double checking on that. The E.O. section begins on page 16.

Goal is to have a draft of the new E.O. language for both sections by COB today, and then to work with OP and OGC tomorrow to fine tune it. Is that do-able? Package is supposed to go to OMB on Friday.

From: Lewis, Josh
Sent: Friday, May 26, 2017 3:00 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: For review: latest drafts of the CPP documents

Attached are the latest drafts of the CPP Rescission Notice Preamble and the RIA. Sarah and others in OAR are still reviewing one/both of these, but we wanted you to have the latest drafts before the long weekend.

A few notes on the preamble:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

- It includes all of the necessary boilerplate related to public comment and public

hearing Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

A few important notes on the RIA:

Ex. 5 - Deliberative Process

We anticipate having the next draft of the RIA ready by COB Wednesday, pending comments received from this review.

Josh

To: Page, Steve[Page.Steve@epa.gov]
From: Sasser, Erika
Sent: Wed 5/31/2017 2:37:26 PM
Subject: RE: For review: latest drafts of the CPP documents

We will have RIA done today to send to OP by COB, as planned. It is in good shape—the team has really pulled it out.

We're going to work on the preamble E.O. (Children and EJ) today also. Will try to have a draft by COB to send to OP to address Al's comments from yesterday. I would expect we will need to work with OP and OGC tomorrow on those E.O. sections, but they should be ready by Friday.

From: Page, Steve
Sent: Wednesday, May 31, 2017 10:19 AM
To: Sasser, Erika <Sasser.Erika@epa.gov>
Subject: Fwd: For review: latest drafts of the CPP documents

Your guys still on track for Friday?

Sent from my iPhone

Begin forwarded message:

> **From:** "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
> **Date:** May 31, 2017 at 10:17:55 AM EDT
> **To:** "Lewis, Josh" <Lewis.Josh@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "McGartland, Al" <McGartland.Al@epa.gov>, "Rees, Sarah" <rees.sarah@epa.gov>
> **Cc:** "Page, Steve" <Page.Steve@epa.gov>, "Koerber, Mike" <Koerber.Mike@epa.gov>, "Tsirigotis, Peter" <Tsirigotis.Peter@epa.gov>, "Sasser, Erika" <Sasser.Erika@epa.gov>, "Harvey, Reid" <Harvey.Reid@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>
> **Subject: RE: For review: latest drafts of the CPP documents**
>
> I'd like to make sure we are all on the same page regarding CPP. This is my understanding of the status. Please let me know if any of this needs modification:

Ex. 5 - Deliberative Process

Best,

Mandy

From: Lewis, Josh
Sent: Friday, May 26, 2017 3:00 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: For review: latest drafts of the CPP documents

Attached are the latest drafts of the CPP Rescission Notice Preamble and the RIA. Sarah and others in OAR are still reviewing one/both of these, but we wanted you to have the latest drafts before the long weekend.

A few notes on the preamble:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

- It includes all of the necessary boilerplate related to public comment and public hearing. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

A few important notes on the RIA:

Ex. 5 - Deliberative Process

We anticipate having the next draft of the RIA ready by COB Wednesday, pending comments received from this review.

Josh

To: Weatherhead, Darryl[Weatherhead.Darryl@epa.gov]
From: Sasser, Erika
Sent: Wed 5/31/2017 2:35:06 PM
Subject: FW: For review: latest drafts of the CPP documents

We just need to send the draft RIA to OP today with all sections completed. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Gunasekara, Mandy
Sent: Wednesday, May 31, 2017 10:18 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: RE: For review: latest drafts of the CPP documents

I'd like to make sure we are all on the same page regarding CPP. This is my understanding of the status. Please let me know if any of this needs modification:

Ex. 5 - Deliberative Process

Best,

Mandy

From: Lewis, Josh
Sent: Friday, May 26, 2017 3:00 PM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
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A few notes on the preamble:

Ex. 5 - Deliberative Process

•□□□□□□□□ It includes all of the necessary boilerplate related to public comment and public hearing Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

A few important notes on the RIA:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

We anticipate having the next draft of the RIA ready by COB Wednesday, pending comments received from this review.

Josh

To: Wayland, Richard[Wayland.Richard@epa.gov]
From: Sasser, Erika
Sent: Tue 11/7/2017 4:52:26 PM
Subject: Re: Benefit per Ton Analysis

Hi Chet—
Sorry about that, I didn't realize that time was during your presentation, but I hope it will be a staff-led discussion—their questions seem to be very technical but basic. Probably your time is better at Westar anyway...

Sent from my iPhone

On Nov 7, 2017, at 10:48 AM, Wayland, Richard <Wayland.Richard@epa.gov> wrote:

Erika,

Just FYI… unfortunately this time is when I will be presenting at WESTAR, but as long as Tyler is there, we should be good on the modeling side. Sorry for the conflict, but that was the one time I could not make it, but no worries. Hope it goes well.

Thanks

Chet

Richard A. "Chet" Wayland | Director | Air Quality Assessment Division - Mail Code C304-02 | Office of Air Quality Planning & Standards | U.S. Environmental Protection Agency | Research Triangle Park, NC 27711 | Desk: 919-541-4603 | Cell: 919-606-0548 |

From: Sasser, Erika
Sent: Monday, November 06, 2017 5:11 PM
To: lindsey.jones@tceq.texas.gov
Cc: McGartland, Al <McGartland.Al@epa.gov>; Marten, Alex <Marten.Alex@epa.gov>; Wayland, Robertj <Wayland.Robertj@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>; Fox, Tyler <Fox.Tyler@epa.gov>; Fann, Neal <Fann.Neal@epa.gov>; Michael Honeycutt <Michael.honeycutt@tceq.texas.gov>; Sabine Lange <Sabine.Lange@tceq.texas.gov>
Subject: RE: Benefit per Ton Analysis

Thanks, Lindsey, that's very helpful. We will be happy to explain the approach we adopted in the different analyses you mention. We can use the following EPA conference line for the discussion, if that works for you?

Call-in Number: Ex. 6 - Personal Privacy

Conference Code: Ex. 6 - Personal Privacy

We will talk with you Wed. at 2 pm Central.

Thanks,

Erika

From: Lindsey Jones [mailto:Lindsey.Jones@tceq.texas.gov]
Sent: Monday, November 06, 2017 5:02 PM
To: Sasser, Erika <Sasser.Erika@epa.gov>
Cc: McGartland, Al <McGartland.Al@epa.gov>; Marten, Alex <Marten.Alex@epa.gov>; Wayland, Robertj <Wayland.Robertj@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>; Fox, Tyler <Fox.Tyler@epa.gov>; Fann, Neal <Fann.Neal@epa.gov>; Michael Honeycutt <Michael.honeycutt@tceq.texas.gov>; Sabine Lange <Sabine.Lange@tceq.texas.gov>
Subject: RE: Benefit per Ton Analysis

Hi Erika,

Thank you so much for making time to meet with us! Wednesday afternoon at 2 pm Central would be great. Would you mind sending me the best number for you? Or would it be easier to set up a conference line (in the event that people are calling from different locations)?

Our questions are probably a bit basic at this point. We are not economists; we are health risk assessors, one of whom is fairly familiar with BenMAP. We were hoping that you could walk us through the BPT estimate from the rule in more detail. For example, how or from where you compiled the baseline data, if/how that data was combined with monitoring data, if/how the data was aggregated to the regional and national levels. We also had questions about how BenMAP was used in the BPT estimate. For example, the RIA for the CPP repeal states that modeling and monitoring data were not available, but monitoring/modeling data would be required to input into BenMAP to generate benefits estimates. Related to that, what is the value of using benefits-per-ton calculations (which add more uncertainties), if the benefits from modeling the attainment of the CPP had already been calculated?

Thank you, again, and we're looking forward to talking with you,

Lindsey

From: Sasser, Erika [mailto:Sasser.Erika@epa.gov]
Sent: Monday, November 6, 2017 1:59 PM
To: Lindsey Jones <Lindsey.Jones@tceq.texas.gov>
Cc: McGartland, Al <McGartland.Al@epa.gov>; Marten, Alex <Marten.Alex@epa.gov>; Wayland, Robertj <Wayland.Robertj@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>; Fox, Tyler <Fox.Tyler@epa.gov>; Fann, Neal <Fann.Neal@epa.gov>
Subject: FW: Benefit per Ton Analysis

Hi Lindsey—

I understand you have some questions for us about the BPT method as applied in the Clean Power Plan RIAs. We'd be happy to schedule time to talk with you and your colleagues about it. Based on the times you've indicated, we're thinking Wednesday afternoon might be best, either 2 pm or 3 pm central time. However, there are many inputs to these calculations, so it would be helpful to have a clearer understanding of your questions prior to our discussion. Could you provide a little more detail about which aspects of the method you'd like to focus on? That way we can be sure we have the right experts on hand. We

have a number of people out on travel and I want to be sure we can fully address your questions.

Thanks,

Erika

Erika N. Sasser, Ph.D.

Director, Health and Environmental Impacts Division

Office of Air Quality Planning & Standards, U.S. EPA

109 T.W. Alexander Drive, MD C504-02, RTP, NC 27711

(919) 541-3889 sasser.erika@epa.gov

From: Lindsey Jones [mailto:Lindsey.Jones@tceq.texas.gov]
Sent: Friday, November 03, 2017 2:43 PM
To: McGartland, Al <McGartland.Al@epa.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: RE: Benefit per Ton Analysis

Hi and thank you for your response! I will be bringing Sabine Lange and potentially Mike Honeycutt (depending on scheduling).

The following dates and times (central) are open for us.

- Tuesday, November 7: 9-11 am or 2-4 pm
- Wednesday, November 8: 9-10 am or 1-4 pm
- Friday, November 10: 9 am-4 pm
- Tuesday, November 14: 11 am-4 pm

I look forward to speaking with you.

Have a great weekend,

Lindsey

From: McGartland, Al [mailto:McGartland.Al@epa.gov]
Sent: Friday, November 3, 2017 7:04 AM
To: Lindsey Jones <Lindsey.Jones@tceq.texas.gov>
Cc: Marten, Alex <Marten.Alex@epa.gov>
Subject: Re: Benefit per Ton Analysis

Hi. Thank you for your email. I'm out of the office today. But will follow up on Monday.

I think arranging a phone conversation with the right people from epa should be doable. Given that the analysis is out for public comment we may have to take steps to docket our meeting as well.

I would want to have Neal Fann and perhaps others from our air office participate as well. I'm CC'ing Alex Marten, the acting deputy in NCEE as well. (Alex also is pivotal for our future conversations.).

Have a nice weekend.

If there are days and times where a phone meeting would work for your schedule can you send them to Alex and me?

Sent from my iPhone

On Nov 2, 2017, at 4:52 PM, Lindsey Jones <Lindsey.Jones@tceq.texas.gov> wrote:

Good afternoon,

I am a toxicologist with the Texas Commission on Environmental Quality. My colleague and I are currently reviewing the Clean Power Plan Repeal RIA (particularly the health co-benefits portion) and wondered if you or one of your staff would have time to talk with us about the benefit per ton method. We have read through the proposed and final Clean Power Plan RIA, the repeal RIA, the Benefit per Ton TSD, and the Fann et al. (2009) and (2012) papers, but we were hoping we could get additional clarification on methodological steps, inputs, and assumptions. We truly appreciate any help that you could provide and would be happy to work around your schedule.

Best regards,

Lindsey

Lindsey Jones

Senior Toxicologist, Toxicology Division

Texas Commission on Environmental Quality

To: Skinner-Thompson, Jonathan[Skinner-Thompson.Jonathan@epa.gov]; Daniel Schramm (schramm.daniel@epa.gov)[schramm.daniel@epa.gov]; Marks, Matthew[Marks.Matthew@epa.gov]; Vijayan, Abi[Vijayan.Abi@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]
From: Zenick, Elliott
Sent: Tue 5/30/2017 1:38:15 PM
Subject: FW: For review: latest drafts of the CPP documents
CPP Proposed_rescission_draft_RIA_052617.docx
EO12866_CPP Rescission 2060-AT55 Proposal_5-26.jl.docx

Jonathan can you go ahead and post these on the sharepoint site for everyone to take a look at?

From: Lewis, Josh
Sent: Friday, May 26, 2017 3:00 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>
Cc: Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
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A few notes on the preamble:

- It includes executive order language (including language deferring any determinations on the Children's Health and Environmental Justice Executive Orders as directed).
- It includes Ex. 5 - Deliberative Process
- It includes all of the necessary boilerplate related to public comment and public hearing Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

A few important notes on the RIA:

- Ex. 5 - Deliberative Process

- The RIA language is still a work in progress and there are sections of the document that are missing or still need attention, specifically:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

We anticipate having the next draft of the RIA ready by COB Wednesday, pending comments received from this review.

Josh