

01268-EPA-988

**Daniel
Kanninen/DC/USEPA/US**

02/11/2011 11:29 AM

To Seth Oster, Adora Andy, Brendan Gilfillan, David McIntosh,
Arvin Ganesan, Richard Windsor, Bob Perciasepe, Diane
Thompson

cc

bcc

Subject Milwaukee Journal Sentinal-- Don't weaken EPA

(b)(5) deliberative**Don't weaken EPA****Congress should reject attempts to weaken the regulation of carbon emissions by the EPA****Feb. 10, 2011 |**

Temperatures in Wisconsin are expected to rise by midcentury by an annual average of 6 to 7 degrees, according to a study by University of Wisconsin-Madison scientists and others in state government. Last month, the National Atmospheric Administration reported that 2010 tied with 2005 as the warmest year on record based on temperature. It was also the wettest year on record worldwide, the NOAA reported.

It's true that one year doesn't a pattern make, but the evidence continues to mount. Climate change, as carbon dioxide emissions from coal plants and vehicles - appears to be a major contributing factor. The science on the topic.

Yet there are members of Congress who are busily introducing bills to limit or bar or delay the federal Environmental Protection Agency from regulating the carbon emissions that contribute to climate change. On what planet are we living on the planet that's continuing to see a warming trend and more volatile weather patterns. Congress has failed time and again to pass adequate energy and climate legislation. In 2007, a Supreme Court ruling gave the authority to regulate carbon emissions. Thanks to Congress' failure to act, that court-conferred authority on the federal government can mitigate the human impact on climate change.

The EPA is moving forward with rules - some already proposed, some stronger rules to come later. It's regulating the oldest and dirtiest coal-fired plants around the country. That's a big step forward in reducing greenhouse gas emissions. The rules are modest and reasonable, and unlikely to affect the majority of businesses and industries. They will help manufacturers reduce their energy consumption and their energy costs. At the same time, they will make the air and water cleaner and reduce greenhouse gases.

Which makes it all the more important for Congress to, first, reject attempts to hinder the EPA in doing its job, second, create legislation to really combat climate change and grow green jobs. The United States should be taking the lead here, not falling back.

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01268-EPA-991

Seth Oster/DC/USEPA/US

02/14/2011 01:10 PM

To Bob Perciasepe, Richard Windsor, Bob Sussman, David
McIntosh, Diane Thompson

cc

bcc

Subject WH Boiler Mact Meeting Today

Gina emailed a few of us over the weekend about this meeting that Heather apparently threw together last minute for today to discuss the roll out. I have not been invited formally, though I would have gone anyway -- if it were any day other than today with the budget roll out and two other key meetings at that time. Wanted to be sure you all know about it too [REDACTED] (b)(5) deliberative

[REDACTED] So I believe we're in good shape -- or will be, by end of week -- regardless.

Seth

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01268-EPA-992

**David
McIntosh/DC/USEPA/US**

02/14/2011 04:42 PM

To Richard Windsor

cc

bcc

Subject CARB at last week's hearing

Pasted immediately below is a rough transcript of Mr. Dingell's colloquy at last Wednesday's hearing with the CARB witness. The answer to the first question is the one that especially troubled Mr. Dingell.

Q: Does CARB plan on finalizing CA's GHG emissions standards before the federal standards are finalized?

A: Yes

Q: Would you explain how CA has already stated fuel economy goals of 50-62 mpg, **before** information and analysis needed to complete the regulatory development process are available?

A: We have made a public commitment to do joint proposal, Sept 1. No commitments to specific numbers. We have announced a range of goals.

Q: But have you gotten the information and scientific work to support those mpg goal numbers?

A: We have a lot of work that has been peer reviewed. We don't have final peer-reviewed studies yet.

Q: Does CARB look at job impacts of regs?

A: Yes (agreed to supply for record). We don't have them for new standards yet, but have them for older standards.

Q: What is CARB's safety expertise? Do you have safety expertise under CA standards?

A: No--but that's why we are working with DOT. We have jointly funded a study.

Q: Isn't it true that CARB issued its statement regarding the timing of proposed joint-GHG standards (Sept 1 proposal) **only after** Issa sent letter out, **only after** Alliance sent letter back to Issa, and **only after** the Obama Administration pressured CA to delay its own standards?

A: We all along have made statements saying we won't get ahead of our partners at EPA. It is true that we sent our letter only after Alliance sent their letter to Issa.

Q: is CAA right tool for climate change regs? Will it be simple and easy to do? Or will it be a long "grind"...?

A: EPA is hoping to avoid complexity. I think there's a way to make sure rules are easy to understand and implement. We've proven that in our own (CA) clean car standards.

01268-EPA-993

Seth Oster/DC/USEPA/US
02/15/2011 08:38 AM

To Gina McCarthy, Richard Windsor, "David McIntosh"
cc
bcc

Subject Re: WH question

[REDACTED] (b)(5) deliberative

Gina McCarthy

----- Original Message -----

From: Gina McCarthy
Sent: 02/14/2011 09:42 PM EST
To: Richard Windsor; "Seth Oster" <oster.seth@epa.gov>; "David McIntosh" <McIntosh.David@EPA.GOV>
Subject: WH question

The mtg went well on Boiler MACT today. Heather left me a voice mail with one question. Apparently the President has a jobs summit on Tuesday in Ohio. [REDACTED] (b)(5) deliberative

[REDACTED]

01268-EPA-997

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

02/16/2011 04:30 PM

cc David McIntosh

bcc

Subject Congressman Paul Tonko

...he in on the floor and he is being great. In addition to climate, he's talking about WOUS and other EPA issues. (b)(5) deliberative

(b)(5) deliberative

Thanks.

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01268-EPA-998

**Barbara
Bennett/DC/USEPA/US**
02/17/2011 06:40 AM

To Richard Windsor
cc Bob Perciasepe, Diane Thompson, "David McIntosh", Arvin
Ganesan, "Seth Oster"
bcc
Subject Amendments so far

This is what I have as a report about 1230a. David, you may have more?

(b) (5) D.P.

[Redacted]

[Redacted]

[Redacted]

01268-EPA-1001

Seth Oster/DC/USEPA/US

To Richard Windsor

02/18/2011 05:14 PM

cc

bcc

Subject Re: Wheels down in case you need anything. Lisa

All is good. [REDACTED] (b)(5) deliberative Govt
shutdown talk on the Hill ramped up today, and so there is a lot more attention to it and the predictions
that it is becoming more likely -- will likely need to consider some messaging to EPA staff next week if it
keeps up. [REDACTED] (b)(5) deliberative
[REDACTED]

Hope the trip went well.

Seth

Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 02/18/2011 02:30 PM EST

To: "Seth Oster" <oster.seth@epa.gov>

Subject: Wheels down in case you need anything. Lisa

01268-EPA-1002

**Brendan
Gilfillan/DC/USEPA/US**
02/23/2011 06:51 PM

To: Brendan Gilfillan
cc: Arvin Ganesan, Bob Perciasepe, Dru Ealons, Gina McCarthy,
Janet McCabe, Joseph Goffman, Mathy Stanislaus, Seth
Oster, Richard Windsor, Adora Andy
bcc:
Subject: Re: Bloomberg: EPA Overhauls Boiler Rules After
Complaints About Cost

All -

A wrap-up of coverage for the day is below. One thing to note is the fact that "scaled back" is appearing in several different places. Though we've pushed back wherever we've seen it - NY Times updated their story and took it out of their lede, and they're taking it out of the headline - several reporters continue to use it because they have folks from the environmental community saying the regs ARE scaled back, despite the fact that we're getting the same pollution reductions and health benefits. We're continuing to push back on this.

- Brendan

EPA trims costs to control toxic air pollution

By DINA CAPPIELLO, AP

E.P.A. Scales Back Emissions Rules for Industry

By [JOHN M. BRODER](#), *NY Times*

EPA Overhauls Boiler Rules After Complaints About Cost

By *Kim Chipman, Bloomberg News*

EPA compromises on industrial pollution rules

Tim Gardner, Reuters

EPA issues regulations to cut harmful air pollution from boilers

By Andrew Restuccia, The Hill

EPA scales back final boiler rules

Gabriel Nelson, E&E

EPA trims costs to control toxic air pollution

By DINA CAPPIELLO, AP

Faced with stiff opposition in Congress and a court-ordered deadline, the Environmental Protection Agency on Wednesday said it will make it much cheaper for companies to reduce toxic air pollution from industrial boilers and incinerators.

In an overhaul of air pollution regulations, the EPA said it found ways to control pollution at more than 200,000 industrial boilers, heaters and incinerators nationwide at a 50 percent cost savings to the companies and institutions that run them. Those operating large boilers that burn renewable fuels would not be required to install some expensive technologies, and only maintenance would be required for smaller boilers. That would cost \$1.8 billion less each year than the original proposal, and still avert thousands of heart attacks and asthma cases a year, the agency said.

These rules "are realistic, they are achievable and reasonable and they come at about half the cost to industry to comply," said Gina McCarthy, EPA's top air pollution official in a conference call with reporters Wednesday. "EPA...found we could reduce emissions at a lower cost and still achieve the health benefits required by law."

EPA had said initially that the annual cost would be \$3.9 billion when all the rules took effect. An updated jobs analysis completed by the agency shows the changes will create 2,200 jobs, and that doesn't include employment stemming from purchases of pollution-control technology.

The EPA said the cost reduction for polluting industries is in line with President Barack Obama's Jan. 18 executive order to review regulations that hurt job growth.

Republicans and some Democrats in Congress have harshly criticized the EPA recently over the costs of a whole host of regulations, including the first-ever rules to control the gases blamed for global warming. At least a half-dozen bills have been introduced this year to block or curtail agency regulations, and House Republicans succeeded last week in attaching numerous anti-EPA measures to a bill aimed at funding the government for the rest of this fiscal year.

"If this doesn't satisfy the critics, I don't think they will take yes for an answer. I don't know how you can expect EPA to do any more than cut the cost of a rule in half," said Jim Pew, a staff attorney with Earthjustice, an advocacy group which sued the agency to draft new boiler regulations.

Despite the changes, groups representing industries with boilers said the rule was still inflexible. In a statement, Aric Newhouse, a vice president with the National Association of Manufacturers, said the regulation "would have an immediate, negative impact on manufacturers' bottom lines."

EPA was under a court-ordered deadline to release a final regulation this week after a federal court in 2007 threw out regulations drafted by the Bush administration. The Obama administration had asked the court for a 15-month extension in order to review the more than 4,800 public comments that came in, but the court gave the agency 30 days. The EPA said Wednesday it would reconsider the rule and take additional public comment, since the regulation included significant changes based on data and information provided by industry.

In a letter sent to administrator Lisa Jackson Friday, six senators expressed concern about whether the EPA had enough time to make improvements to the rule. The four Republicans and two Democrats wrote that the boiler rule could make municipalities, universities, and federal facilities vulnerable to "excessive and expensive regulatory burdens."

Rep. Edward Markey, D-Mass., in contrast, said Wednesday that the regulations "provide another example of how EPA can both curb toxic air pollution and save lives cost-effectively, using industry input and sound science."

Industrial boilers, which burn coal and other fuels to generate steam and hot water for heat and electricity, are used by refineries, chemical plants, hospitals and even churches. They are also the second-largest source of toxic mercury emissions in the United States after coal-fired power plants. Mercury is a metal that even at low levels can cause subtle but serious damage to the brain and senses.

Under the new rule, the bulk of industrial boilers at small facilities would not have to meet certain pollution standards. Instead, they would have to do tune-ups every two years to reduce emissions. The roughly 13,800 large industrial boilers at refineries, chemical plants and other factories would still have to comply with new emissions standards requiring them to install technologies to reduce pollution in three years.

The EPA also reduced compliance costs by exempting clean-burning fuels from meeting the new emissions limits, something that initially applied only to natural gas-fired boilers.

E.P.A. Scales Back Emissions Rules for Industry

By [JOHN M. BRODER](#), *NY Times*

Responding to a changed political climate and a court-ordered deadline, the Obama administration issued significantly revised new [air pollution rules](#) on Wednesday that will make it easier for operators of thousands of industrial boilers and incinerators to meet federal air quality standards.

The new regulations represent a major step back from more demanding and costly rules proposed last spring that provoked an outcry from members of Congress from both parties and from thousands of affected businesses. One industry-financed study said the proposed standard would cost businesses \$20 billion to comply and cause the loss of more than 300,000 jobs.

[E.P.A.](#) officials said on Wednesday that the altered rule would cost half as much as the previous proposal while achieving virtually the same health benefits. The agency pegged compliance costs for the new version of the rule at \$2.1 billion a year and said it would generate more than 2,000 new jobs.

Gina McCarthy, director of the E.P.A.'s air and radiation office, said that the pollution reductions would save from 2,600 to 6,600 lives per year by 2014 and avert 4,100 heart attacks and 42,000 asthma attacks annually.

"These health protections will save between \$23 billion and \$56 billion in health-related costs," Ms. McCarthy said in a conference call for reporters. "They are realistic, they are achievable, and they are reasonable, and they come at roughly half the cost to comply compared to that in the proposed rule in May 2010."

The E.P.A. withdrew the earlier rule in December, saying it needed another 15 months to refashion the rule to respond to complaints and new data. A federal judge rejected the extension, saying the agency had already spent three years developing the regulation, and ordered it to produce a new rule by this week.

The agency grudgingly met the deadline but said it would remain open to comments and proposals for changes from lawmakers, businesses and citizens.

Agency officials [said the new rule](#) was consistent with [an executive order](#) issued by [President Obama](#) in January calling for a broad review of environmental, health, safety and [financial regulations](#) to ensure that they were not imposing too heavy a cost on the economy. Changes to the boiler rule could foreshadow a less muscular approach to air pollution rules due for power plants next month and a series of regulations

of greenhouse gases to be rolled out over the next several years.

The power plant rules are currently being scrubbed by the White House [Office of Management and Budget](#).

The rule issued on Wednesday affects roughly 200,000 boilers, small power plants and incinerators operated by factories, chemical plants, municipalities, universities, churches and commercial buildings.

About 187,000 of these are relatively small sources of the target pollutants — lead, mercury, soot and toxic gases — and will have to do little more than perform routine “tune-ups” every year or two to meet the new standard. They will be allowed to achieve the cuts using readily available control technology at what the E.P.A. said was a reasonable cost. The agency said the earlier version, which would have required boiler operators to apply “maximum achievable control technology,” set too high a bar.

“The original standards for these have been dramatically refined and updated to ensure maximum flexibility for these sources,” the agency said in a press release.

The 13,800 larger facilities, including refineries, chemical plants and large factories, will have to meet numerical targets for pollution reduction, although the agency said it had narrowed the standards to lower compliance costs. The government will provide technical assistance in meeting the new standards and grant incentives for switching to cleaner-burning fuels such as natural gas and biomass.

Bob Bessette, president of the [Council of Industrial Boiler Owners](#), said it appeared that the E.P.A. had provided some relief for operators of smaller units but nonetheless called it a “terrible disappointment” because it was not clear that its standards could be met at a reasonable cost.

He noted that because the new rule was so different from the previous version, E.P.A. would immediately reopen it to comment.

“This is a good plan given our nation’s current economic challenges,” Mr. Bessette said. “It makes much more sense for E.P.A. and all stakeholders to revisit key challenges, take additional time and get the rule right.”

EPA Overhauls Boiler Rules After Complaints About Cost

By Kim Chipman, Bloomberg News

The Obama administration said it issued pollution rules for industrial boilers that are 50 percent less expensive than regulations proposed last year that drew industry opposition.

The Environmental Protection Agency’s final rules for boilers and incinerators will provide health benefits comparable to the previous standards while cutting costs, EPA Assistant Administrator Gina McCarthy said today on a conference call with reporters.

The EPA had estimated the earlier rules would cost \$9.5 billion, while the [Council of Industrial Boiler Owners](#) set the cost at \$20 billion and as many as 300,000 lost jobs. The agency’s revamping of the rules followed President [Barack Obama](#)’s pledge to review regulations that companies call excessive and a court order to act by this week.

“We’ve done a great job,” and the agency is “pretty comfortable” with the revised rules, McCarthy said.

The regulations remain too costly to business, according to the [National Association of Manufacturers](#).

The rules will have an “immediate, negative impact on manufacturers’ bottom lines at a time when they are trying to rebound economically and create jobs,” Aric Newhouse, senior vice president for policy and government relations for the Washington-based trade association, said in a statement.

The requirements to cut air pollutants such as mercury and dioxin would set emission limits for boilers used in paper pulp mills, refineries and chemical and manufacturing plants. Existing boilers that exceeded the limits would have to be upgraded or replaced.

Federal Judge

The administration lost a bid last month to postpone the rules by 15 months when a federal judge ordered action within 30 days. The EPA will reconsider parts of the rules issued today, enabling companies to give feedback to the agency, according to McCarthy.

The regulations aimed at cutting toxic air emissions such as mercury and soot will create 2,200 new jobs, not including making or installing pollution controls, according to McCarthy. The reduced emissions will prevent 2,600 to 6,600 premature deaths, the EPA said today in a statement.

For every dollar spent to cut pollutants, the public will get \$10 to \$24 in health benefits, according to the agency.

U.S. Agriculture Secretary [Tom Vilsack](#) praised the EPA for revising the rule to ease requirements for biomass alternative- fuel producers.

The EPA is "retaining important energy choices such as biomass that provide heat and power to rural hospitals and schools," Vilsack said in a statement.

Oil Industry

The [American Petroleum Institute](#), the biggest U.S. lobbying group for the oil and gas industry and a critic of the rules proposed last year, said it welcomed the EPA's efforts to change the regulations.

"API is committed to work with the agency during its reconsideration period to ensure that the final rule protects the environment while allowing businesses to create jobs and get Americans back to work," Howard Feldman, director of science and regulatory policy at the Washington-based group, said in a statement today before release of the rules.

EPA compromises on industrial pollution rules

Tim Gardner, Reuters

WASHINGTON, Feb 23 (Reuters) - The Obama administration scaled back on demands for heavy industrial boilers to cut toxic air emissions, a sign it may be willing to compromise with businesses and Republicans on future air pollution rules.

The Environmental Protection Agency on Wednesday issued final regulations on cutting air pollutants such as mercury and soot at boilers, which are basically on-site power plants at factories, and incinerators.

The EPA said the move would cost companies \$1.8 billion to cut pollution, about half the amount that would have resulted from rules proposed last year.

While the rules are only a minor part of the EPA's agenda this year, they come at a time when the agency is racing to deliver on President Barack Obama's promise to show the world that the United States is taking action on climate change.

Manufacturers and other industries have complained that a slate of looming EPA rules on toxic pollution and greenhouse gases would kill jobs while the economy is fragile. Many lawmakers in the Republican-controlled House of Representatives have said the EPA would unfairly burden business.

EPA Administrator Lisa Jackson is battling fierce legal and legislative challenges in her drive to crack down on greenhouse gas emissions, but Wednesday's decision -- which came after receiving about 4,800 comments from industry and communities -- suggests the agency is able to compromise.

"Because the final standards have been informed by a robust data set and comments we've received following the proposal, they are realistic, they are achievable ... and come at about half the cost to industry," Gina McCarthy, an EPA assistant administrator for air, told reporters in a teleconference.

The final rules were more flexible than the proposed regulation, by allowing, for example, companies to fine-tune their pollution systems rather than add costly new controls.

It was unclear how much more pollution would be emitted as a result of the EPA rules rewrite, but the agency said many health benefits would be achieved.

The standards will avert between 2,600 and 6,600 premature deaths, prevent 4,100 heart attacks and forestall 42,000 asthma attacks per year in 2014, it said. The rules will create a net of about 2,000 jobs, it added.

"In the end it still provides huge health protections, not as much as before, but enough," considering the pressures on the EPA to compromise, said Bill Becker, executive director of the National Association of Clean Air Agencies.

The somewhat arcane boiler rules aim to reduce emissions with so-called "maximum achievable control technology" or MACT.

Next month the EPA is expected to propose more widely watched MACT rules on toxic emissions from power plants. Those will likely be opposed by some power companies and lawmakers from states with economies that depend heavily on fossil fuels.

The EPA also plans to issue rules on emissions of greenhouse gases from oil refineries and power plants later this year. [ID:nN23440737]

Environmentalists and industry expressed cautious optimism about the rules, though neither group was completely pleased.

Bob Bessette, president of the Council of Industrial Boiler Owners, said the rules still need work but "decrease the economic impacts and achieve greater health benefits".

Shelley Vinyard, a toxics advocate for Environment America, said: "While this rule is modest in comparison to the standard proposed last April, we applaud the EPA for its continued commitment to our health and our environment."

The EPA said because the final rule had been changed substantially from the proposal, it would allow further public review of the standards.

EPA issues regulations to cut harmful air pollution from boilers

By Andrew Restuccia, The Hill

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The Environmental Protection Agency issued final regulations Wednesday that will cut harmful air pollution from industrial boilers and incinerators.

EPA officials touted the rules Wednesday, arguing they will result in significant health benefits at a reasonable cost. The regulations will cost 50 percent, or \$1.8 billion, less than draft rules proposed by the agency last year, EPA said. The draft regulations prompted an outcry from industry groups, who argued that the rules were unrealistic.

"EPA revised the draft standards and found that we could reduce emissions at a lower cost and still meet the requirements under the law," EPA air chief Gina McCarthy said Wednesday.

The final regulations represent one of EPA's first efforts to rework rules based in part on an executive order outlined by President Obama last month that requires all federal agencies to review their regulations to ensure they are not overly burdensome.

Overall, the standards will have significant health benefits, EPA says. They will "avoid between 2,600-6,600 premature deaths, prevent 4,100 heart attacks and avert 42,000 asthma attacks per year in 2014," according to the agency.

McCarthy said the public will see \$10 to \$24 in health benefits for every \$1 dollar spent on the rules. She also said the rules will result in a net increase of 2,200 jobs.

EPA had asked a federal judge for 15 months to issue its final rules, but the judge gave the agency just 30 days. But McCarthy said the final regulations were not affected by the shortened timeframe. "We're pretty comfortable with the rule we put out," she said.

Clean air groups praised the rules Wednesday. Bill Becker, executive director of the National Association of Clean Air Agencies, said in a statement, "NACAA is pleased that EPA has issued its long-awaited rules that will reduce mercury, benzene, acid gases and other hazardous air pollutants from thousands of industrial facilities across the country. The benefits are huge and far outweigh the costs."

But industry groups said the final rules are too stringent. Aric Newhouse, senior vice president for policy and government relations at the National Association of Manufacturers, said the rule is an example of "EPA's aggressive, overreaching agenda."

"This is a harsh, inflexible rule that will cost jobs, hurt global competitiveness and may discourage projects that could otherwise lead to environmental improvements," Newhouse said in a statement.

Industry groups will have an opportunity to weigh in on the proposal. Because the final regulations are so different from the proposed rule, the agency will take public comment on key portions of the rule.

EPA scales back final boiler rules

[Gabriel Nelson, E&E](#)

Bound by a court-ordered deadline and facing intense pressure from Congress, U.S. EPA has overhauled its rules for toxic air pollution from industrial boilers to go easier on businesses.

With a set of final [rules](#) released today, EPA claims to have found a more cost-effective way to protect public health by sparing cleaner boilers and small facilities from the strictest limits on chemicals such as mercury, lead and dioxins. Because of those changes, the final rules will cost about \$1.8 billion less per year than the rules that were proposed last spring.

The boiler rules have been labeled as an early test of President Obama's executive order to review the effects of new rules on businesses, and today's announcement seems to reflect a desire to show the administration is serious about balancing public health and the economy.

In a letter to stakeholders that was obtained by *Greenwire*, EPA Administrator Lisa Jackson said the final rule would cut compliance costs in half while greatly reducing exposure to toxic pollution.

"I am proud of the work that the EPA has done to craft protective, sensible standards," Jackson wrote in the letter, which was dated today. "The standards reflect what industry has told the agency about the practical reality of operating these units."

Under the final rules, the roughly 13,800 largest industrial boilers will still need to meet specific limits on toxic emissions. Those limits will force some facilities such as chemical plants and refineries to install new controls, cutting back on air pollution that is linked to asthma, heart attacks and early death.

Based on updated figures, EPA estimates that the rules would prevent 2,500 to 6,500 premature deaths once the rules take effect in 2014, along with 4,000 heart attacks and 41,000 cases of aggravated asthma.

But smaller boilers that release less pollution will only need tuneups to show they are doing as much as possible to limit their emissions, according to the Associated Press. Boilers powered by cleaner-burning fuels such as natural gas will also need to use certain work practices rather than stay under a hard limit on their pollution.

"We continue to believe that this is the appropriate control measure," said Howard Feldman, director of regulatory and scientific affairs at the American Petroleum Institute, in a statement. He said the group would keep working with the agency to "ensure that the final rule protects the environment while allowing businesses to create jobs and get Americans back to work."

The final rules also create a subcategory for boilers that burn biomass, distinguishing them from coal-fired boilers, and granting a request by the American Forest & Paper Association. The trade group claimed that the rules proposed last year couldn't be achieved by many paper mills that use wood waste to power their operations.

Environmentalists said the rule appears to protect public health despite concessions to industry groups.

Bill Becker, executive director of the National Association of Clean Air Agencies, said he was pleased that the agency didn't allow certain exemptions based on the risk of toxic pollution to public health, which he described as "illegal and inappropriate."

"It appears that EPA has addressed many of the industry complaints while still putting out standards that would bring significant public health benefits," said Frank O'Donnell, president of the advocacy group Clean Air Watch. "Let's hope that EPA stands its ground when industries argue for further changes. "

When the agency analyzed the costs and benefits of the proposed rule last year, it found a bigger bang for the buck in reducing pollution from the largest boilers. Controlling the smaller "area source" boilers would produce \$900 million to \$2.4 billion in benefits per year at an upfront cost of \$2.5 billion and an annual cost of \$1 billion, but controlling the larger "major source" boilers would yield \$17 billion to \$41 billion in benefits per year at an upfront cost of \$9.5 billion and an annual cost of \$2.9 billion.

Concerns from Congress

While today's announcement drew cautious praise from both industry groups and environmentalists, the final rules might still evolve because EPA has signaled that it will work out more kinks in the months ahead.

Over the next two months, businesses and environmental groups with concerns about the rules will be allowed to file petitions with the agency, which has the option to delay the implementation of the new rules for an extra three months as it reviews the arguments.

It also remains unclear how the changes will be received on Capitol Hill, where hundreds of lawmakers have signed letters urging EPA to ensure that the final rules don't impose unnecessary costs on businesses.

Among the critics is Sen. Rob Portman, a freshman Republican from Ohio. Last week, he joined three Republican colleagues and two Democrats in signing a letter that asked whether EPA would welcome a congressional assist in reworking the boiler rules.

Yesterday afternoon, while President Obama was stumping for innovative businesses at Cleveland State University, Portman was 200 miles southwest in Chillicothe, Ohio, visiting a specialty paper plant that would be subject to EPA's new air pollution rules.

Portman told *Greenwire* he is worried that the boiler rules could hurt the competitiveness of the P.H. Glatfelter Co. plant, which employs about 1,200 workers at an average salary of more than \$60,000 per year. The company told him the rules proposed last year couldn't be met with existing technology, and that complying could wipe out a whole year's worth of profits for the U.S. printing industry.

The backlash in Congress reflects that the shock waves from the rule would be felt up and down the supply chain, from the producers of wood fiber to the companies that use the finished paper products, Portman said. So, too, with the public sector, because many schools and hospitals use boilers to provide heat and power.

"I can't believe, with the thousands of comments that they've received, that they wouldn't be rethinking the rule," Portman said yesterday. "This is not workable."

The boiler rule is one of the Obama administration's most closely watched efforts under the Clean Air Act. It was prompted, like a similar upcoming rule for coal-fired boilers at power plants, by a court ruling that decided the pollution rules issued by the George W. Bush administration were illegal.

Both environmentalists and industry sources agree that the rules issued today were a particular challenge because so many facilities use boilers in different ways. When EPA issued its proposal last year, businesses hadn't provided enough information, so it was difficult to "calculate standards that fully reflected operational reality," EPA Administrator Lisa Jackson wrote in a letter to members of Congress.

During the public comment period, the agency received a lot of new information, an EPA spokesman said at the time. He said the agency would need to make substantial changes, which is what appears to have happened today.

"The final standards, which are not due until early next year, will reflect all of the relevant new information, and that is exactly how this process is supposed to work," the spokesman said

Brendan Gilfillan EPA Overhauls Boiler Rules After Co... 02/23/2011 02:39:58 PM

From: Brendan Gilfillan/DC/USEPA/US
 To: Brendan Gilfillan/DC/USEPA/US@EPA
 Cc: Arvin Ganesan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Seth Oster <oster.seth@epa.gov>, Richard Windsor/DC/USEPA/US@EPA
 Date: 02/23/2011 02:39 PM
 Subject: Bloomberg: EPA Overhauls Boiler Rules After Complaints About Cost

EPA Overhauls Boiler Rules After Complaints About Cost

Bloomberg
Kim Chipman
Feb 23, 2011

The Obama administration issued pollution rules for industrial boilers that it said are 50 percent less expensive than regulations proposed last year that drew industry opposition.

The Environmental Protection Agency's rules for boilers and incinerators will provide health benefits while reducing costs from last year's proposal, the EPA said today in a statement.

The EPA lost a bid last month to postpone the rules by 15 months when a federal judge ordered action within 30 days. Companies and business groups such as the Council of Industrial Boiler Owners in Burke, Virginia, said the previous version may cost \$20 billion and kill 300,000 jobs. EPA Administrator Lisa Jackson has said the agency will reconsider the rules issued today and make any necessary changes.

The American Petroleum Institute, the biggest U.S. lobbying group for the oil and gas industry and a critic of the 2010 proposed boiler rules, said it welcomes EPA's effort to change the regulations.

"API is committed to work with the agency during its reconsideration period to ensure that the final rule protects the environment while allowing businesses to create jobs and get Americans back to work," Howard Feldman, director of science and regulatory policy at Washington-based API, said in a statement today before release of the rules.

U.S. Agriculture Secretary Tom Vilsack praised the EPA for revising the rule to ease requirements for biomass alternative- fuel producers.

The EPA is "retaining important energy choices such as biomass that provide heat and power to rural hospitals and schools," Vilsack said in a statement.

To contact the reporter on this story: Kim Chipman in Washington at kchipman@bloomberg.net

Brendan Gilfillan	WASHINGTON (AP) _ Faced with stiff...	02/23/2011 10:19:54 AM
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Cc: Arvin Ganesan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Seth Oster <oster.seth@epa.gov>, Richard Windsor/DC/USEPA/US@EPA
Date: 02/23/2011 10:19 AM
Subject: Re: AP boilers - second story

WASHINGTON (AP) _ Faced with stiff opposition in Congress and a court-ordered deadline, the Environmental Protection Agency on Wednesday will make it much cheaper for companies to reduce toxic air pollution from industrial boilers and incinerators.

¶ In a vastly overhauled regulation obtained by The Associated Press in advance of its release, the EPA says it has found ways to control pollution at more than 200,000 industrial boilers, heaters and incinerators nationwide at 50 percent less cost to the companies and institutions. That would save businesses \$1.8 billion and still avert thousands of heart attacks and asthma cases a year.

¶ These rules "put in place important public health safeguards...at costs substantially lower than we had estimated under our original proposal," said Gina McCarthy, EPA's top air pollution official, in a news release provided to the AP.

¶ The deep discount for polluting industries will likely send a message to

Congress that public health benefits can be achieved more economically, and that the Obama administration is serious about an executive order to review regulations that are onerous for business. The EPA, in its release, says the rules are in line with the review called for by Obama earlier this year.

¶ Republicans and some Democrats have been extremely critical of EPA recently over the costs of a whole host of regulations, including the first-ever rules to control the gases blamed for global warming.

¶ In a letter sent to EPA administrator Lisa Jackson on Monday, six senators expressed concern specifically about the boiler rule, saying that municipalities, universities, and federal facilities could be vulnerable to "excessive and expensive regulatory burdens."

¶ Industrial boilers, which burn coal and other fuels to generate heat and electricity, are used by refineries, chemical plants, hospitals and even churches. They are also the second largest source of toxic mercury emissions in the United States after coal-fired power plants. Mercury is a metal that even at low levels can cause subtle but serious damage to the brain and senses.

¶ Under the new rule, the bulk of industrial boilers at small facilities would not have to meet certain pollution standards. Instead, they would have to do biannual tune ups to reduce emissions. The roughly 13,800 large industrial boilers at refineries, chemical plants and other factories would be subjected to emissions standards requiring them to install technologies to reduce pollution. Facilities already in operation also would not have to comply with the regulation for three years.

Brendan Gilfillan

WASHINGTON (AP) _ The Environm...

02/23/2011 09:12:14 AM

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 Cc: Dru Ealons/DC/USEPA/US@EPA
 Date: 02/23/2011 09:12 AM
 Subject: AP boilers - first story

WASHINGTON (AP) _ The Environmental Protection Agency is making it much cheaper for companies to release toxic air pollution from industrial boilers and incinerators.

¶ In a vastly overhauled regulation obtained by The Associated Press in advance of its release Wednesday, the EPA says it has found ways to control pollution at more than 200,000 industrial boilers, heaters and incinerators nationwide at 50 percent less cost. That would save businesses \$1.8 billion and avert thousands of heart attacks and asthma cases a year.

¶ Republicans and some Democrats in Congress have criticized the EPA over the boiler rule, saying it would be too expensive for industry.

¶ A senior EPA official told the AP that cost wasn't the driving factor, but the changes made were driven in part by an executive order to review burdensome regulations.

¶

01268-EPA-1003

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

02/25/2011 02:41 PM

cc

bcc

Subject Re: Fw: From Greenwire -- WATER POLLUTION: EPA loses enthusiasm for swift rollback of Bush 'fill rule'

Will do. And at our next briefing session we'll talk about the things that will ACTUALLY come up, as opposed to these sessions.

Welcome back!

 ARVIN R. GANESAN
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Richard Windsor

Need a fact sheet for approps hearing...

02/25/2011 02:39:42 PM

From: Richard Windsor/DC/USEPA/US
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 Date: 02/25/2011 02:39 PM
 Subject: Fw: From Greenwire -- WATER POLLUTION: EPA loses enthusiasm for swift rollback of Bush 'fill rule'

Need a fact sheet for approps hearing.

----- Forwarded by Richard Windsor/DC/USEPA/US on 02/25/2011 02:39 PM -----

From: David McIntosh/DC/USEPA/US
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 Date: 02/25/2011 01:36 PM
 Subject: Fw: From Greenwire -- WATER POLLUTION: EPA loses enthusiasm for swift rollback of Bush 'fill rule'

From: David McIntosh
Sent: 02/25/2011 01:22 PM EST
To: David McIntosh
Subject: From Greenwire -- WATER POLLUTION: EPA loses enthusiasm for swift rollback of Bush 'fill rule'

This Greenwire story was sent to you by: mcintosh.david@epa.gov

Personal message:

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WATER POLLUTION: EPA loses enthusiasm for swift rollback of

Bush 'fill rule' (Friday, February 25, 2011)

Paul Quinlan, E&E reporter

After vowing last year to revisit a controversial George W. Bush-era policy that made it easier for mining companies to dump debris into waterways, U.S. EPA may be having second thoughts. The fate of the "fill rule" will largely hinge on the public's reception of another upcoming Clean Water Act regulatory move, the Obama administration's soon-to-be-released reinterpretation of Bush's guidance for federal wetland regulators, according to a senior administration official.

"There is some waiting to see how this guidance goes before we start throwing out new rules or proposed rules on the Clean Water Act," said the official, who was granted anonymity in exchange for speaking candidly on the behind-the-scenes deliberations.

Due for release any day, the Obama White House's wetlands guidance aims to clarify a confusing 2006 Supreme Court ruling in a major Clean Water Act case, *Rapanos v. United States*, by revamping the Bush administration's take on that decision ([Greenwire](#), Feb. 17; [Greenwire](#), Feb. 7). The guidance is anticipated to place more waterways and wetlands under federal protection than currently are under the more narrow Bush administration policy.

But with President Obama vowing to reduce unnecessary federal regulations and the Republican-led House in an anti-regulatory mood, the administration has increasingly downplayed its still-unofficial efforts to draft a rule to replace Bush's 2002 fill rule ([Greenwire](#), Jan. 18).

That was not the case early last year. In a January 2010 interview with *Rolling Stone* magazine, EPA Administrator Lisa Jackson said the agency was considering a revision of the fill rule and that her staff was "working on it now." The intention, she said, was to clean up gold mining operations in Alaska, adding that the rule would also "curtail" mountaintop-removal coal mining in Appalachian states. Mountaintop removal is a controversial mining technique that involves the dynamiting of mountaintops to expose coal seams and the dumping of debris into adjacent valleys.

In a statement issued days after the magazine story to West Virginia's *Charleston Gazette*, EPA said work on the rule was under way, with a goal "to improve the Clean Water Act review of mining related discharges." EPA said it was "eager to move ahead quickly" with that effort and other Clean Water Act improvements.

But EPA backed off yesterday, issuing this statement: "We don't have plans to move forward at this time with guidance or rulemaking on the definition of fill material."

Top priority for enviro groups

At issue is whether the administration will bar the mining industry's disposal of debris as "fill material" in waterways using dredge-and-fill permits issued by the Army Corps of Engineers under Section 404 of the Clean Water Act.

Critics of the Bush fill rule -- which specifically added "overburden, slurry, or tailings or similar mining-related materials" to the definition of fill -- want mining spoils reclassified as waste, whose disposal would be overseen by U.S. EPA.

Killing the Bush rule topped the list of priorities that environmental groups submitted to the Obama administration transition team in 2008, said Joan Mulhern, senior legislative counsel for Earthjustice. "We've been talking with them about this ever since," said Mulhern. "If the Obama administration and [EPA] administrator [Lisa] Jackson want to take actions to address these waste dump issues, they need to dig in and start now," Mulhern said in an interview. "We'll do what we can to try to support their actions. Taking a wait-and-see attitude is going to run out the clock."

There have been efforts on Capitol Hill to reverse the Bush fill rule, but they have failed to advance ([E&ENews PM](#), March 4, 2009).

Carol Raulston, spokeswoman for the National Mining Association, said revisiting the rule now would kill jobs.

"This is unfortunate because after many years of litigation, this issue was finally resolved, and now it's thrown up in the air again," said Raulston. "In the end, you have a lot of impact on employment and the ability of mines to operate."

Outrage over the 2002 Bush-era definition of fill peaked in June 2009, when the Supreme Court -- citing ambiguity in the Clean Water Act -- upheld the right of gold miners at the Kensington Mine in Alaska to dump mine tailings -- wastes from the metals-extraction process -- into the Lower Salt Lake under a dredge-and-fill permit issued by the Army Corps.

In the wake of that ruling, EPA said it was "reviewing" the decision "and its potential implications regarding EPA's authority to ensure effective environmental protection under the Clean Water Act" ([E&ENews PM](#), June 22, 2009).

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01268-EPA-1004

Seth Oster/DC/USEPA/US

02/26/2011 08:57 PM

To Richard Windsor, Bob Perciasepe, Diane Thompson, Bob Sussman, Brendan Gilfillan, David McIntosh, Arvin Ganesan, Scott Fulton

cc Brendan Gilfillan, "Betsaida Alcantara", Adora Andy

bcc

Subject NY Times Story -- Must Read

All,

Below is an extensive story regarding hydraulic fracturing, which prominently features EPA, that is now posted on the New York Times web site, which we should expect will be on page one of tomorrow's Sunday edition. The story is one we have known for some time is coming -- and have been working on -- but which we were last told would more likely run some time next week .

It is important to read. The story mainly focuses on Pennsylvania. Overall, it largely confirms the questions and concerns that have led to the two-year EPA study now underway to determine the effects of the fracking process on drinking water and why the agency has stepped up efforts to investigate incidents of concern -- such as the Range case in Texas -- across the country. There are a number of aspects to the story that we knew from our work with the reporter would be included. There ere emails leaked from Region 3 to the reporter that, it turns out, were not ultimately included in the final piece. And it references E.P.A. scientists being "alarmed, warning that the drilling waste is a threat to drinking water in Pennsylvania" -- their concern "based partly on a 2009 study, never made public, written by an E.P.A. consultant who concluded that some sewage treatment plants were incapable of removing certain drilling waste contaminants and were probably violating the law."

I will send this to the revelant RAs. And we will work on an anaylsis of it, as well as prepare a statement for what will almost certainly be follow-up from other press outlets and the Hill (David has circulated the letter alrdady received from Mr. Markey).

Seth

Seth Oster
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February 26, 2011

NEW YORK TIMES

Regulation Is Lax for Water From Gas Wells

By [IAN URBINA](#)

The American landscape is dotted with hundreds of thousands of new wells and drilling rigs, as the country scrambles to tap into this century's gold rush — for [natural gas](#).

The gas has always been there, of course, trapped deep underground in countless tiny bubbles, like frozen spills of seltzer water between thin layers of shale rock. But drilling companies have only in recent years developed techniques to unlock the enormous reserves, thought to be enough to supply the country with gas for heating buildings, generating electricity and powering vehicles for up to a hundred years.

So energy companies are clamoring to drill. And they are getting rare support from their usual sparring partners. Environmentalists say using natural gas will help slow [climate change](#) because it burns more cleanly than coal and [oil](#). Lawmakers hail the gas as a source of jobs. They also see it as a way to wean the United States from its dependency on other countries for oil.

But the relatively new drilling method — known as high-volume horizontal hydraulic fracturing, or hydrofracking — carries significant environmental risks. It involves injecting huge amounts of water, mixed with sand and chemicals, at high pressures to break up rock formations and release the gas.

With hydrofracking, a well can produce over a million gallons of wastewater that is often laced with highly corrosive salts, carcinogens like benzene and radioactive elements like radium, all of which can occur naturally thousands of feet underground. Other carcinogenic materials can be added to the wastewater by the chemicals used in the hydrofracking itself.

While the existence of the toxic wastes has been reported, thousands of internal documents obtained by The New York Times from the [Environmental Protection Agency](#), state regulators and drillers show that the [dangers](#) to the environment and health are greater than previously understood.

The documents reveal that the wastewater, which is sometimes hauled to sewage plants not designed to treat it and then discharged into rivers that supply drinking water, contains radioactivity at levels higher than previously known, and far higher than the level that federal regulators say is safe for these treatment plants to handle.

Other documents and interviews show that many E.P.A. scientists are alarmed, warning that the drilling waste is a threat to drinking water in Pennsylvania. Their concern is based partly on a 2009 study, never made public, written by an E.P.A. consultant who concluded that some sewage treatment plants were incapable of removing certain drilling waste contaminants and were probably violating the law.

The Times also found never-reported studies by the [E.P.A.](#) and a [confidential study](#) by the drilling industry that all concluded that radioactivity in drilling waste cannot be fully diluted in rivers and other waterways.

But the E.P.A. has not intervened. In fact, federal and state regulators are allowing most sewage treatment plants that accept drilling waste not to test for radioactivity. And most drinking-water intake plants downstream from those sewage treatment plants in Pennsylvania, with the blessing of regulators, have not tested for radioactivity since before 2006, even though the drilling boom began in 2008.

In other words, there is no way of guaranteeing that the drinking water taken in by all these plants is safe.

That has experts worried.

"We're burning the furniture to heat the house," said John H. Quigley, who left last month as secretary of Pennsylvania's Department of Conservation and Natural Resources. "In shifting away from coal and toward natural gas, we're trying for cleaner air, but we're producing massive amounts of toxic wastewater with salts and naturally occurring radioactive materials, and it's not clear we have a plan for properly handling this waste."

The risks are particularly severe in Pennsylvania, which has seen a sharp increase in drilling, with roughly 71,000 active gas wells, up from about 36,000 in 2000. The level of radioactivity in the wastewater has sometimes been hundreds or even thousands of times the maximum allowed by the federal standard for drinking water. While people clearly do not drink drilling wastewater, the reason to use the drinking-water standard for comparison is that there is no comprehensive federal standard for what constitutes safe levels of radioactivity in drilling wastewater.

Drillers trucked at least half of this waste to public sewage treatment plants in Pennsylvania in 2008 and 2009, according to state officials. Some of it has been sent to other states, including [New York](#) and [West Virginia](#).

Yet sewage treatment plant operators say they are far less capable of removing radioactive contaminants than most other toxic substances. Indeed, most of these facilities cannot remove enough of the radioactive material to meet federal drinking-water standards before discharging the wastewater into rivers, sometimes just miles upstream from drinking-water intake plants.

In Pennsylvania, these treatment plants discharged waste into some of the state's major river basins. Greater amounts of the wastewater went to the Monongahela River, which provides drinking water to more than [800,000 people](#) in the western part of the state, including Pittsburgh, and to the Susquehanna River, which feeds into Chesapeake Bay and provides drinking water to more than six million people, including some in Harrisburg and Baltimore.

Lower amounts have been discharged into the Delaware River, which provides drinking water for more than 15 million people in Philadelphia and eastern Pennsylvania.

In [New York](#), the wastewater was sent to two plants that discharge into Southern Cayuga Lake, near Ithaca, and Owasco Outlet, near Auburn. In [West Virginia](#), a plant in Wheeling discharged gas-drilling wastewater into the Ohio River.

"Hydrofracking impacts associated with health problems as well as widespread air and water contamination have been reported in at least a dozen states," said Walter Hang, president of Toxics Targeting, a business in Ithaca, N.Y., that compiles data on gas drilling.

Problems in Other Regions

While Pennsylvania is an extreme case, the [risks](#) posed by hydrofracking extend across the country.

There were more than 493,000 active natural-gas wells in the United States in 2009, almost double the number in 1990. Around 90 percent have used hydrofracking to get more gas flowing, according to the drilling industry.

Gas has seeped into underground drinking-water supplies in at least five states, including Colorado, Ohio, Pennsylvania, Texas and West Virginia, and residents blamed natural-gas drilling.

Air pollution caused by natural-gas drilling is a growing threat, too. Wyoming, for example, failed in 2009 to meet federal standards for air quality for the first time in its history partly because of the fumes containing benzene and toluene from roughly 27,000 wells, the vast majority drilled in the past five years.

In a sparsely populated Sublette County in Wyoming, which has some of the highest concentrations of wells, vapors reacting to sunlight have contributed to levels of ozone higher than those recorded in Houston and Los Angeles.

Industry officials say any dangerous waste from the wells is handled in compliance with state and federal laws, adding that drilling companies are recycling more wastewater now. They also say that hydrofracking is well regulated by the states and that it has been used safely for decades.

But hydrofracking technology has become more powerful and more widely used in recent years, producing far more wastewater. Some of the problems with this drilling, including its environmental impact and the challenge of disposing of waste, have been documented by ProPublica, The Associated Press and other news organizations.

And recent incidents underscore the dangers. In late 2008, drilling and coal-mine waste released during a drought so overwhelmed the Monongahela that local officials advised people in the Pittsburgh area to drink [bottled water](#). E.P.A. officials described the incident in an internal memorandum as "one of the largest failures in U.S. history to supply clean drinking water to the public."

In Texas, which now has about 93,000 natural-gas wells, up from around 58,000 a dozen years ago, a hospital system in six counties with some of the heaviest drilling said in 2010 that it found a 25 percent asthma rate for young children, more than three times the state rate of about 7 percent.

"It's ruining us," said Kelly Gant, whose 14-year-old daughter and 11-year-old son have experienced severe asthma attacks, dizzy spells and headaches since a compressor station and a gas well were set up about two years ago near her house in Bartonville, Tex. The industry and state regulators have said it is not clear what role the gas industry has played in causing such problems, since the area has had high air pollution for a while.

"I'm not an activist, an alarmist, a Democrat, environmentalist or anything like that," Ms. Gant said. "I'm just a person who isn't able to manage the health of my family because of all this drilling."

And yet, for all its problems, natural gas offers some clear environmental advantages over coal, which is used more than any other fuel to generate electricity in the United States. Coal-fired power plants without updated equipment to capture pollutants are a major source of radioactive pollution. Coal mines annually produce millions of tons of toxic waste.

But the hazards [associated](#) with natural-gas production and drilling are far less understood than those associated with other fossil fuels, and the regulations have not kept pace with the natural-gas industry's expansion.

Pennsylvania, Ground Zero

Pennsylvania, which sits atop an enormous reserve called the Marcellus Shale, has been called the Saudi Arabia of natural gas.

This rock formation, roughly the size of Greece, lies more than a mile beneath the Appalachian landscape, from Virginia to the southern half of New York. It is believed to hold enough gas to supply the country's energy needs for heat and electricity, at current consumption rates, for more than 15 years.

Drilling companies were issued roughly 3,300 Marcellus gas-well permits in Pennsylvania last year, up from just 117 in 2007.

This has brought thousands of jobs, five-figure windfalls for residents who lease their land to the drillers and revenue for a state that has struggled with budget deficits. It has also transformed the landscape of southwestern Pennsylvania and brought heavy burdens.

Drilling derricks tower over barns, lining rural roads like feed silos. Drilling sites bustle around the clock with workers, some in yellow hazardous material suits, and 18-wheelers haul equipment, water and waste along back roads.

The rigs announce their presence with the occasional boom and quiver of underground explosions. Smelling like raw sewage mixed with gasoline, drilling-waste pits, some as large as a football field, sit close to homes.

Anywhere from 10 percent to 40 percent of the water sent down the well during hydrofracking returns to the surface, [carrying](#) drilling chemicals, very high levels of salts and, at times, naturally occurring radioactive material.

While most states require drillers to dispose of this water in underground storage wells below impermeable rock layers, Pennsylvania has [few such wells](#). It is the only state that has allowed drillers to discharge much of their waste through sewage treatment plants into rivers.

Regulators have theorized that passing drilling waste through the plants is safe because most toxic material will settle during the treatment process into a sludge that can be trucked to a landfill, and whatever toxic material remains in the wastewater will be diluted when mixed into rivers. But some plants were taking such large amounts of waste with high salt levels in 2008 that downstream utilities started complaining that the river water was eating away at their machines.

Regulators and drilling companies have said that these cases, and others, were isolated.

"The wastewater treatment plants are effective at what they're designed to do — remove material from wastewater," said Jamie Legenos, a spokeswoman for the Pennsylvania Department of Environmental Protection, adding that the radioactive material and the salts were being properly handled.

Overwhelmed, Underprepared

For proof that [radioactive](#) elements in drilling waste are not a concern, industry spokesmen and regulators often point to the results of wastewater tests from a 2009 draft report conducted by New York State and a [1995 report](#) by Pennsylvania that found that radioactivity in drilling waste was not a threat. These two reports were based on samples from roughly 13 gas wells in New York and 29 in Pennsylvania.

But a review by The Times of more than 30,000 pages of federal, state and company records relating to more than 200 gas wells in Pennsylvania, 40 in West Virginia and 20 public and private wastewater treatment plants offers a fuller picture of the wastewater such wells produce and the threat it poses.

Most of the information was drawn from drilling reports from the last three years, obtained by visiting regional offices throughout Pennsylvania, and from [documents](#) or databases provided by state and federal regulators in response to records requests.

Among The Times's findings:

¶ More than 1.3 billion gallons of wastewater was produced by Pennsylvania wells over the past three years, far more than has been previously disclosed. Most of this water — enough to cover Manhattan in three inches — was sent to treatment plants not equipped to remove many of the toxic materials in drilling waste.

¶ At least 12 sewage treatment plants in three states accepted gas industry wastewater and discharged waste that was only partly treated into rivers, lakes and streams.

¶ Of more than 179 wells producing wastewater with high levels of radiation, at least 116 reported levels of radium or other radioactive materials 100 times as high as the levels set by federal drinking-water standards. At least 15 wells produced wastewater carrying more than 1,000 times the amount of radioactive elements considered acceptable.

Results came from [field surveys](#) conducted by state and federal regulators, year-end reports filed by drilling companies and state-ordered tests of some public treatment plants. Most of the tests measured drilling wastewater for radium or for "gross alpha" radiation, which typically comes from radium, uranium and other elements.

Industry officials say they are not concerned.

"These low levels of radioactivity pose no threat to the public or worker safety and are more a public perception issue than a real health threat," said James E. Grey, chief operating officer of Triana Energy.

In interviews, industry trade groups like the Marcellus Shale Coalition and Energy in Depth, as well as representatives from energy companies like Shell and [Chesapeake Energy](#), said they were producing far less wastewater because they were recycling much of it rather than disposing of it after each job.

But even with recycling, the amount of wastewater produced in Pennsylvania is expected to increase because, according to industry projections, more than 50,000 new wells are likely to be drilled over the next two decades.

The [radioactivity](#) in the wastewater is not necessarily dangerous to people who are near it. It can be blocked by thin barriers, including skin, so exposure is generally harmless.

Rather, E.P.A. and [industry researchers](#) say, the bigger danger of radioactive wastewater is its potential to contaminate drinking water or enter the food chain through fish or farming. Once radium enters a person's body, by eating, drinking or breathing, it can cause cancer and other health problems, many federal studies show.

Little Testing for Radioactivity

Under federal law, testing for radioactivity in drinking water is required only at drinking-water plants. But federal and state regulators have given nearly all drinking-water intake facilities in Pennsylvania permission to test only once every six or nine years.

The Times reviewed data from more than 65 intake plants downstream from some of the busiest drilling regions in the state. Not one has tested for radioactivity [since 2008](#), and most have not tested since at least 2005, before most of the drilling waste was being produced.

And in 2009 and 2010, public sewage treatment plants directly upstream from some of these drinking-water intake facilities [accepted](#) wastewater that contained radioactivity levels as high as 2,122 times the drinking-water standard. But most sewage plants are not required to monitor for radioactive elements in the water they discharge. So there is virtually no data on such contaminants as water leaves these plants. Regulators and gas producers have repeatedly said that the waste is not a threat because it is so [diluted](#) in rivers or by treatment plants. But industry and federal research cast doubt on those statements.

A confidential industry study from 1990, conducted for the [American Petroleum Institute](#), concluded that "using conservative assumptions," radium in drilling wastewater dumped off the Louisiana coast posed "potentially significant risks" of cancer for people who eat fish from those waters regularly.

The industry [study](#) focused on drilling industry wastewater being dumped into the Gulf of Mexico, where it would be far more diluted than in rivers. It also used estimates of radium levels far below those found in Pennsylvania's drilling waste, according to the study's lead author, Anne F. Meinhold, an environmental risk expert now at [NASA](#).

Other federal, state and academic studies have also found dilution problems with radioactive drilling waste.

In December 2009, these very risks led E.P.A. scientists to advise in a letter to New York that sewage treatment plants not accept drilling waste with radium levels 12 or more times as high as the drinking-water standard. The Times found wastewater containing radium levels that were hundreds of times this standard. The scientists also said that the plants should never discharge radioactive contaminants at levels higher than the drinking-water standard.

In 2009, E.P.A. scientists studied the matter and also determined that certain Pennsylvania rivers were ineffective at sufficiently diluting the radium-laced drilling wastewater being [discharged into them](#).

Asked about the studies, Pennsylvania regulators said they were not aware of them.

"Concerned? I'm always concerned," said Dave Allard, director of the Bureau of Radiation Protection. But he added that the threat of this waste is reduced because "the dilutions are so huge going through those treatment plants."

Three months after The Times began asking questions about radioactive and other toxic material being discharged into specific rivers, state regulators placed monitors for radioactivity near where drilling waste is discharged. Data will not be available until next month, state officials said.

But the monitor in the Monongahela is placed upstream from the two public sewage treatment plants that the state says are still discharging large amounts of drilling waste into the river, leaving the [discharges](#) from these plants unchecked and Pittsburgh exposed.

Plant Operators in the Dark

In interviews, five treatment plant operators said they did not believe that the drilling wastewater posed risks to the public. Several also said they were not sure of the waste's contents because the limited information drillers provide usually goes to state officials.

"We count on state regulators to make sure that that's properly done," said Paul McCurdy, environmental specialist at Ridgway Borough's public sewage treatment plant, in Elk County, Pa., in the northwest part of the state.

Mr. McCurdy, whose plant discharges into the Clarion River, which flows into the Ohio and Mississippi Rivers, said his plant was taking about 20,000 gallons of drilling waste per day.

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Part of the problem is that industry has outpaced regulators. "We simply can't keep up," said one inspector with the Pennsylvania Department of Environmental Protection who was not authorized to speak to reporters. "There's just too much of the waste."

"If we're too hard on them," the inspector added, "the companies might just stop reporting their mistakes."

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Drilling contamination is [entering the environment](#) in Pennsylvania through spills, too. In the past three years, at least 16 wells whose records showed high levels of radioactivity in their wastewater also [reported spills](#), leaks or failures of pits where hydrofracking fluid or waste is stored, according to state records.

Gas producers are generally left to police themselves when it [comes to spills](#). In Pennsylvania, regulators do not perform unannounced inspections to check for signs of

spills. Gas producers report their own spills, write their own [spill response plans](#) and lead their own cleanup efforts.

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01268-EPA-1005

Shawn Garvin/R3/USEPA/US

02/27/2011 11:01 AM

To Richard Windsor, "Judith Enck"

cc "Bob Perciasepe", "Diane Thompson", "Seth Oster", Heidi Ellis

bcc

Subject Re: NY Times Story -- Must Read

(b)(5) Look forward to talking to you.

Sent by EPA Wireless E-Mail Services

From: Richard Windsor
Sent: 02/27/2011 05:19 AM EST
To: Shawn Garvin; "Judith Enck" <enck.judith@epa.gov>
Cc: "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; Heidi Ellis
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Seth

Seth Oster
Associate Administrator
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(202) 564-1918
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February 26, 2011

NEW YORK TIMES

Regulation Is Lax for Water From Gas Wells

By [IAN URBINA](#)

The American landscape is dotted with hundreds of thousands of new wells and drilling rigs, as the country scrambles to tap into this century's gold rush – for [natural gas](#).

The gas has always been there, of course, trapped deep underground in countless tiny bubbles, like frozen spills of seltzer water between thin layers of shale rock. But drilling companies have only in recent years developed techniques to unlock the enormous reserves, thought to be enough to supply the country with gas for heating buildings, generating electricity and powering vehicles for up to a hundred years.

So energy companies are clamoring to drill. And they are getting rare support from their usual sparring partners. Environmentalists say using natural gas will help slow [climate change](#) because it burns more cleanly than coal and [oil](#). Lawmakers hail the gas as a source of jobs. They also see it as a way to wean the United States from its dependency on other countries for oil.

But the relatively new drilling method – known as high-volume horizontal hydraulic fracturing, or hydrofracking – carries significant environmental risks. It involves injecting huge amounts of water, mixed with sand and chemicals, at high pressures to break up rock formations and release the gas.

With hydrofracking, a well can produce over a million gallons of wastewater that is often laced with highly corrosive salts, carcinogens like benzene and radioactive elements like radium, all of which can occur naturally thousands of feet underground. Other carcinogenic materials can be added to the wastewater by the chemicals used in the hydrofracking itself.

While the existence of the toxic wastes has been reported, thousands of internal documents obtained by The New York Times from the [Environmental Protection Agency](#), state regulators and drillers show that the [dangers](#) to the environment and health are greater than previously understood.

The documents reveal that the wastewater, which is sometimes hauled to sewage plants not designed to treat it and then discharged into rivers that supply drinking water, contains radioactivity at levels higher than previously known, and far higher than the level that federal regulators say is safe for these treatment plants to handle.

Other documents and interviews show that many E.P.A. scientists are alarmed, warning that the drilling waste is a threat to drinking water in Pennsylvania. Their concern is based partly on a 2009 study, never made public, written by an E.P.A. consultant who concluded that some sewage treatment plants were incapable of removing certain drilling waste contaminants and were probably violating the law.

The Times also found never-reported studies by the [E.P.A.](#) and a [confidential study](#) by the drilling industry that all concluded that radioactivity in drilling waste cannot be fully diluted in rivers and other waterways.

But the E.P.A. has not intervened. In fact, federal and state regulators are allowing most sewage treatment plants that accept drilling waste not to test for radioactivity. And most drinking-water intake plants downstream from those sewage treatment plants in Pennsylvania, with the blessing of regulators, have not tested for radioactivity since before 2006, even though the drilling boom began in 2008.

In other words, there is no way of guaranteeing that the drinking water taken in by all these plants is safe.

That has experts worried.

"We're burning the furniture to heat the house," said John H. Quigley, who left last month as secretary of Pennsylvania's Department of Conservation and Natural Resources. "In shifting away from coal and toward natural gas, we're trying for cleaner air, but we're producing massive amounts of toxic wastewater with salts and naturally occurring radioactive materials, and it's not clear we have a plan for properly handling this waste."

The risks are particularly severe in Pennsylvania, which has seen a sharp increase in drilling, with roughly 71,000 active gas wells, up from about 36,000 in 2000. The level of radioactivity in the wastewater has sometimes been hundreds or even thousands of times the maximum allowed by the federal standard for drinking water. While people clearly do not drink drilling wastewater, the reason to use the drinking-water standard for comparison is that there is no comprehensive federal standard for what constitutes safe levels of radioactivity in drilling wastewater.

Drillers trucked at least half of this waste to public sewage treatment plants in Pennsylvania in 2008 and 2009, according to state officials. Some of it has been sent to other states, including [New York](#) and [West Virginia](#).

Yet sewage treatment plant operators say they are far less capable of removing radioactive contaminants than most other toxic substances. Indeed, most of these facilities cannot remove enough of the radioactive material to meet federal drinking-water standards before discharging the wastewater into rivers, sometimes just miles upstream from drinking-water intake plants.

In Pennsylvania, these treatment plants discharged waste into some of the state's major river basins. Greater amounts of the wastewater went to the Monongahela River, which provides drinking water to more than [800,000 people](#) in the western part of the state, including Pittsburgh, and to the Susquehanna River, which feeds into Chesapeake Bay and provides drinking water to more than six million people, including some in Harrisburg and Baltimore.

Lower amounts have been discharged into the Delaware River, which provides drinking water for more than 15 million people in Philadelphia and eastern Pennsylvania.

In [New York](#), the wastewater was sent to two plants that discharge into Southern Cayuga Lake, near Ithaca, and Owasco Outlet, near Auburn. In [West Virginia](#), a plant in Wheeling discharged gas-drilling wastewater into the Ohio River.

"Hydrofracking impacts associated with health problems as well as widespread air and water contamination have been reported in at least a dozen states," said Walter Hang, president of Toxics Targeting, a business in Ithaca, N.Y., that compiles data on gas drilling.

Problems in Other Regions

While Pennsylvania is an extreme case, the [risks](#) posed by hydrofracking extend across the country.

There were more than 493,000 active natural-gas wells in the United States in 2009, almost double the

number in 1990. Around 90 percent have used hydrofracking to get more gas flowing, according to the drilling industry.

Gas has seeped into underground drinking-water supplies in at least five states, including Colorado, Ohio, Pennsylvania, Texas and West Virginia, and residents blamed natural-gas drilling.

Air pollution caused by natural-gas drilling is a growing threat, too. Wyoming, for example, failed in 2009 to meet federal standards for air quality for the first time in its history partly because of the fumes containing benzene and toluene from roughly 27,000 wells, the vast majority drilled in the past five years.

In a sparsely populated Sublette County in Wyoming, which has some of the highest concentrations of wells, vapors reacting to sunlight have contributed to levels of ozone higher than those recorded in Houston and Los Angeles.

Industry officials say any dangerous waste from the wells is handled in compliance with state and federal laws, adding that drilling companies are recycling more wastewater now. They also say that hydrofracking is well regulated by the states and that it has been used safely for decades.

But hydrofracking technology has become more powerful and more widely used in recent years, producing far more wastewater. Some of the problems with this drilling, including its environmental impact and the challenge of disposing of waste, have been documented by ProPublica, The Associated Press and other news organizations.

And recent incidents underscore the dangers. In late 2008, drilling and coal-mine waste released during a drought so overwhelmed the Monongahela that local officials advised people in the Pittsburgh area to drink [bottled water](#). E.P.A. officials described the incident in an internal memorandum as "one of the largest failures in U.S. history to supply clean drinking water to the public."

In Texas, which now has about 93,000 natural-gas wells, up from around 58,000 a dozen years ago, a hospital system in six counties with some of the heaviest drilling said in 2010 that it found a 25 percent asthma rate for young children, more than three times the state rate of about 7 percent.

"It's ruining us," said Kelly Gant, whose 14-year-old daughter and 11-year-old son have experienced severe asthma attacks, dizzy spells and headaches since a compressor station and a gas well were set up about two years ago near her house in Bartonville, Tex. The industry and state regulators have said it is not clear what role the gas industry has played in causing such problems, since the area has had high air pollution for a while.

"I'm not an activist, an alarmist, a Democrat, environmentalist or anything like that," Ms. Gant said. "I'm just a person who isn't able to manage the health of my family because of all this drilling."

And yet, for all its problems, natural gas offers some clear environmental advantages over coal, which is used more than any other fuel to generate electricity in the United States. Coal-fired power plants without updated equipment to capture pollutants are a major source of radioactive pollution. Coal mines annually produce millions of tons of toxic waste.

But the hazards [associated](#) with natural-gas production and drilling are far less understood than those associated with other fossil fuels, and the regulations have not kept pace with the natural-gas industry's expansion.

Pennsylvania, Ground Zero

Pennsylvania, which sits atop an enormous reserve called the Marcellus Shale, has been called the Saudi Arabia of natural gas.

This rock formation, roughly the size of Greece, lies more than a mile beneath the Appalachian landscape, from Virginia to the southern half of New York. It is believed to hold enough gas to supply the

country's energy needs for heat and electricity, at current consumption rates, for more than 15 years.

Drilling companies were issued roughly 3,300 Marcellus gas-well permits in Pennsylvania last year, up from just 117 in 2007.

This has brought thousands of jobs, five-figure windfalls for residents who lease their land to the drillers and revenue for a state that has struggled with budget deficits. It has also transformed the landscape of southwestern Pennsylvania and brought heavy burdens.

Drilling derricks tower over barns, lining rural roads like feed silos. Drilling sites bustle around the clock with workers, some in yellow hazardous material suits, and 18-wheelers haul equipment, water and waste along back roads.

The rigs announce their presence with the occasional boom and quiver of underground explosions. Smelling like raw sewage mixed with gasoline, drilling-waste pits, some as large as a football field, sit close to homes.

Anywhere from 10 percent to 40 percent of the water sent down the well during hydrofracking returns to the surface, [carrying](#) drilling chemicals, very high levels of salts and, at times, naturally occurring radioactive material.

While most states require drillers to dispose of this water in underground storage wells below impermeable rock layers, Pennsylvania has [few such wells](#). It is the only state that has allowed drillers to discharge much of their waste through sewage treatment plants into rivers.

Regulators have theorized that passing drilling waste through the plants is safe because most toxic material will settle during the treatment process into a sludge that can be trucked to a landfill, and whatever toxic material remains in the wastewater will be diluted when mixed into rivers. But some plants were taking such large amounts of waste with high salt levels in 2008 that downstream utilities started complaining that the river water was eating away at their machines.

Regulators and drilling companies have said that these cases, and others, were isolated.

"The wastewater treatment plants are effective at what they're designed to do – remove material from wastewater," said Jamie Legenos, a spokeswoman for the Pennsylvania Department of Environmental Protection, adding that the radioactive material and the salts were being properly handled.

Overwhelmed, Underprepared

For proof that [radioactive](#) elements in drilling waste are not a concern, industry spokesmen and regulators often point to the results of wastewater tests from a 2009 draft report conducted by New York State and a [1995 report](#) by Pennsylvania that found that radioactivity in drilling waste was not a threat. These two reports were based on samples from roughly 13 gas wells in New York and 29 in Pennsylvania.

But a review by The Times of more than 30,000 pages of federal, state and company records relating to more than 200 gas wells in Pennsylvania, 40 in West Virginia and 20 public and private wastewater treatment plants offers a fuller picture of the wastewater such wells produce and the threat it poses.

Most of the information was drawn from drilling reports from the last three years, obtained by visiting regional offices throughout Pennsylvania, and from [documents](#) or databases provided by state and federal regulators in response to records requests.

Among The Times's findings:

¶ More than 1.3 billion gallons of wastewater was produced by Pennsylvania wells over the past three years, far more than has been previously disclosed. Most of this water – enough to cover Manhattan in three inches – was sent to treatment plants not equipped to remove many of the toxic materials in drilling

waste.

¶At least 12 sewage treatment plants in three states accepted gas industry wastewater and discharged waste that was only partly treated into rivers, lakes and streams.

¶Of more than 179 wells producing wastewater with high levels of radiation, at least 116 reported levels of radium or other radioactive materials 100 times as high as the levels set by federal drinking-water standards. At least 15 wells produced wastewater carrying more than 1,000 times the amount of radioactive elements considered acceptable.

Results came from [field surveys](#) conducted by state and federal regulators, year-end reports filed by drilling companies and state-ordered tests of some public treatment plants. Most of the tests measured drilling wastewater for radium or for "gross alpha" radiation, which typically comes from radium, uranium and other elements.

Industry officials say they are not concerned.

"These low levels of radioactivity pose no threat to the public or worker safety and are more a public perception issue than a real health threat," said James E. Grey, chief operating officer of Triana Energy.

In interviews, industry trade groups like the Marcellus Shale Coalition and Energy in Depth, as well as representatives from energy companies like Shell and [Chesapeake Energy](#), said they were producing far less wastewater because they were recycling much of it rather than disposing of it after each job.

But even with recycling, the amount of wastewater produced in Pennsylvania is expected to increase because, according to industry projections, more than 50,000 new wells are likely to be drilled over the next two decades.

The [radioactivity](#) in the wastewater is not necessarily dangerous to people who are near it. It can be blocked by thin barriers, including skin, so exposure is generally harmless.

Rather, E.P.A. and [industry researchers](#) say, the bigger danger of radioactive wastewater is its potential to contaminate drinking water or enter the food chain through fish or farming. Once radium enters a person's body, by eating, drinking or breathing, it can cause cancer and other health problems, many federal studies show.

Little Testing for Radioactivity

Under federal law, testing for radioactivity in drinking water is required only at drinking-water plants. But federal and state regulators have given nearly all drinking-water intake facilities in Pennsylvania permission to test only once every six or nine years.

The Times reviewed data from more than 65 intake plants downstream from some of the busiest drilling regions in the state. Not one has tested for radioactivity [since 2008](#), and most have not tested since at least 2005, before most of the drilling waste was being produced.

And in 2009 and 2010, public sewage treatment plants directly upstream from some of these drinking-water intake facilities [accepted](#) wastewater that contained radioactivity levels as high as 2,122 times the drinking-water standard. But most sewage plants are not required to monitor for radioactive elements in the water they discharge. So there is virtually no data on such contaminants as water leaves these plants. Regulators and gas producers have repeatedly said that the waste is not a threat because it is so [diluted](#) in rivers or by treatment plants. But industry and federal research cast doubt on those statements.

A confidential industry study from 1990, conducted for the [American Petroleum Institute](#), concluded that "using conservative assumptions," radium in drilling wastewater dumped off the Louisiana coast posed "potentially significant risks" of cancer for people who eat fish from those waters regularly.

The industry [study](#) focused on drilling industry wastewater being dumped into the Gulf of Mexico, where it would be far more diluted than in rivers. It also used estimates of radium levels far below those found in Pennsylvania's drilling waste, according to the study's lead author, Anne F. Meinhold, an environmental risk expert now at [NASA](#).

Other federal, state and academic studies have also found dilution problems with radioactive drilling waste.

In December 2009, these very risks led E.P.A. scientists to advise in a letter to New York that sewage treatment plants not accept drilling waste with radium levels 12 or more times as high as the drinking-water standard. The Times found wastewater containing radium levels that were hundreds of times this standard. The scientists also said that the plants should never discharge radioactive contaminants at levels higher than the drinking-water standard.

In 2009, E.P.A. scientists studied the matter and also determined that certain Pennsylvania rivers were ineffective at sufficiently diluting the radium-laced drilling wastewater being [discharged into them](#).

Asked about the studies, Pennsylvania regulators said they were not aware of them.

"Concerned? I'm always concerned," said Dave Allard, director of the Bureau of Radiation Protection. But he added that the threat of this waste is reduced because "the dilutions are so huge going through those treatment plants."

Three months after The Times began asking questions about radioactive and other toxic material being discharged into specific rivers, state regulators placed monitors for radioactivity near where drilling waste is discharged. Data will not be available until next month, state officials said.

But the monitor in the Monongahela is placed upstream from the two public sewage treatment plants that the state says are still discharging large amounts of drilling waste into the river, leaving the [discharges](#) from these plants unchecked and Pittsburgh exposed.

Plant Operators in the Dark

In interviews, five treatment plant operators said they did not believe that the drilling wastewater posed risks to the public. Several also said they were not sure of the waste's contents because the limited information drillers provide usually goes to state officials.

"We count on state regulators to make sure that that's properly done," said Paul McCurdy, environmental specialist at Ridgway Borough's public sewage treatment plant, in Elk County, Pa., in the northwest part of the state.

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01268-EPA-1006

Shawn Garvin/R3/USEPA/US
02/27/2011 11:15 AM

To Seth Oster, "perciasepe bob", "Diane Thompson", Judith Enck, Brendan Gilfillan, "Betsaida Alcantara"
cc Richard Windsor, "Nancy Stoner"
bcc

Subject Re: Fw: NY Times Story -- Must Read

Seth - [REDACTED] (b)(5) deliberative [REDACTED]

Thanks - Shawn

Sent by EPA Wireless E-Mail Services

From: Seth Oster
Sent: 02/27/2011 08:14 AM EST
To: perciasepe.bob@epa.gov; "Diane Thompson" <thompson.diane@epa.gov>; Shawn Garvin; Judith Enck; Brendan Gilfillan; "Betsaida Alcantara" <alcantara.betsaida@epa.gov>
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Shawn -- the information the Administrator is requesting would be helpful first thing tomorrow. It is unclear at this point, but this may be the first installment of a series they are doing and we're likely to be dealing with the reporter early tomorrow again.

Seth

Seth Oster
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Office of External Affairs and Environmental Education
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(202) 564-1918
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-----Richard Windsor/DC/USEPA/US wrote: -----
To: "Shawn Garvin" <Garvin.Shawn@epamail.epa.gov>, "Judith Enck" <enck.judith@epa.gov>
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Date: 02/27/2011 05:19AM
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February 26, 2011

NEW YORK TIMES

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By [IAN URBINA](#)

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So energy companies are clamoring to drill. And they are getting rare support from their usual sparring

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But the relatively new drilling method – known as high-volume horizontal hydraulic fracturing, or hydrofracking – carries significant environmental risks. It involves injecting huge amounts of water, mixed with sand and chemicals, at high pressures to break up rock formations and release the gas.

With hydrofracking, a well can produce over a million gallons of wastewater that is often laced with highly corrosive salts, carcinogens like benzene and radioactive elements like radium, all of which can occur naturally thousands of feet underground. Other carcinogenic materials can be added to the wastewater by the chemicals used in the hydrofracking itself.

While the existence of the toxic wastes has been reported, thousands of internal documents obtained by The New York Times from the [Environmental Protection Agency](#), state regulators and drillers show that the [dangers](#) to the environment and health are greater than previously understood.

The documents reveal that the wastewater, which is sometimes hauled to sewage plants not designed to treat it and then discharged into rivers that supply drinking water, contains radioactivity at levels higher than previously known, and far higher than the level that federal regulators say is safe for these treatment plants to handle.

Other documents and interviews show that many E.P.A. scientists are alarmed, warning that the drilling waste is a threat to drinking water in Pennsylvania. Their concern is based partly on a 2009 study, never made public, written by an E.P.A. consultant who concluded that some sewage treatment plants were incapable of removing certain drilling waste contaminants and were probably violating the law.

The Times also found never-reported studies by the [E.P.A.](#) and a [confidential study](#) by the drilling industry that all concluded that radioactivity in drilling waste cannot be fully diluted in rivers and other waterways.

But the E.P.A. has not intervened. In fact, federal and state regulators are allowing most sewage treatment plants that accept drilling waste not to test for radioactivity. And most drinking-water intake plants downstream from those sewage treatment plants in Pennsylvania, with the blessing of regulators, have not tested for radioactivity since before 2006, even though the drilling boom began in 2008.

In other words, there is no way of guaranteeing that the drinking water taken in by all these plants is safe.

That has experts worried.

“We’re burning the furniture to heat the house,” said John H. Quigley, who left last month as secretary of Pennsylvania’s Department of Conservation and Natural Resources. “In shifting away from coal and toward natural gas, we’re trying for cleaner air, but we’re producing massive amounts of toxic wastewater with salts and naturally occurring radioactive materials, and it’s not clear we have a plan for properly handling this waste.”

The risks are particularly severe in Pennsylvania, which has seen a sharp increase in drilling, with roughly 71,000 active gas wells, up from about 36,000 in 2000. The level of radioactivity in the wastewater has sometimes been hundreds or even thousands of times the maximum allowed by the federal standard for drinking water. While people clearly do not drink drilling wastewater, the reason to use the drinking-water standard for comparison is that there is no comprehensive federal standard for what constitutes safe levels of radioactivity in drilling wastewater.

Drillers trucked at least half of this waste to public sewage treatment plants in Pennsylvania in 2008 and 2009, according to state officials. Some of it has been sent to other states, including [New York](#) and [West Virginia](#).

Yet sewage treatment plant operators say they are far less capable of removing radioactive contaminants than most other toxic substances. Indeed, most of these facilities cannot remove enough of the radioactive material to meet federal drinking-water standards before discharging the wastewater into rivers, sometimes just miles upstream from drinking-water intake plants.

In Pennsylvania, these treatment plants discharged waste into some of the state's major river basins. Greater amounts of the wastewater went to the Monongahela River, which provides drinking water to more than [800,000 people](#) in the western part of the state, including Pittsburgh, and to the Susquehanna River, which feeds into Chesapeake Bay and provides drinking water to more than six million people, including some in Harrisburg and Baltimore.

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In [New York](#), the wastewater was sent to two plants that discharge into Southern Cayuga Lake, near Ithaca, and Owasco Outlet, near Auburn. In [West Virginia](#), a plant in Wheeling discharged gas-drilling wastewater into the Ohio River.

"Hydrofracking impacts associated with health problems as well as widespread air and water contamination have been reported in at least a dozen states," said Walter Hang, president of Toxics Targeting, a business in Ithaca, N.Y., that compiles data on gas drilling.

Problems in Other Regions

While Pennsylvania is an extreme case, the [risks](#) posed by hydrofracking extend across the country.

There were more than 493,000 active natural-gas wells in the United States in 2009, almost double the number in 1990. Around 90 percent have used hydrofracking to get more gas flowing, according to the drilling industry.

Gas has seeped into underground drinking-water supplies in at least five states, including Colorado, Ohio, Pennsylvania, Texas and West Virginia, and residents blamed natural-gas drilling.

Air pollution caused by natural-gas drilling is a growing threat, too. Wyoming, for example, failed in 2009 to meet federal standards for air quality for the first time in its history partly because of the fumes containing benzene and toluene from roughly 27,000 wells, the vast majority drilled in the past five years.

In a sparsely populated Sublette County in Wyoming, which has some of the highest concentrations of wells, vapors reacting to sunlight have contributed to levels of ozone higher than those recorded in Houston and Los Angeles.

Industry officials say any dangerous waste from the wells is handled in compliance with state and federal laws, adding that drilling companies are recycling more wastewater now. They also say that hydrofracking is well regulated by the states and that it has been used safely for decades.

But hydrofracking technology has become more powerful and more widely used in recent years, producing far more wastewater. Some of the problems with this drilling, including its environmental impact and the challenge of disposing of waste, have been documented by ProPublica, The Associated Press and other news organizations.

And recent incidents underscore the dangers. In late 2008, drilling and coal-mine waste released during a drought so overwhelmed the Monongahela that local officials advised people in the Pittsburgh area to drink [bottled water](#). E.P.A. officials described the incident in an internal memorandum as "one of the largest failures in U.S. history to supply clean drinking water to the public."

In Texas, which now has about 93,000 natural-gas wells, up from around 58,000 a dozen years ago, a hospital system in six counties with some of the heaviest drilling said in 2010 that it found a 25 percent asthma rate for young children, more than three times the state rate of about 7 percent.

"It's ruining us," said Kelly Gant, whose 14-year-old daughter and 11-year-old son have experienced severe asthma attacks, dizzy spells and headaches since a compressor station and a gas well were set up about two years ago near her house in Bartonville, Tex. The industry and state regulators have said it is not clear what role the gas industry has played in causing such problems, since the area has had high air pollution for a while.

"I'm not an activist, an alarmist, a Democrat, environmentalist or anything like that," Ms. Gant said. "I'm just a person who isn't able to manage the health of my family because of all this drilling."

And yet, for all its problems, natural gas offers some clear environmental advantages over coal, which is used more than any other fuel to generate electricity in the United States. Coal-fired power plants without updated equipment to capture pollutants are a major source of radioactive pollution. Coal mines annually produce millions of tons of toxic waste.

But the hazards [associated](#) with natural-gas production and drilling are far less understood than those associated with other fossil fuels, and the regulations have not kept pace with the natural-gas industry's expansion.

Pennsylvania, Ground Zero

Pennsylvania, which sits atop an enormous reserve called the Marcellus Shale, has been called the Saudi Arabia of natural gas.

This rock formation, roughly the size of Greece, lies more than a mile beneath the Appalachian landscape, from Virginia to the southern half of New York. It is believed to hold enough gas to supply the country's energy needs for heat and electricity, at current consumption rates, for more than 15 years.

Drilling companies were issued roughly 3,300 Marcellus gas-well permits in Pennsylvania last year, up from just 117 in 2007.

This has brought thousands of jobs, five-figure windfalls for residents who lease their land to the drillers and revenue for a state that has struggled with budget deficits. It has also transformed the landscape of southwestern Pennsylvania and brought heavy burdens.

Drilling derricks tower over barns, lining rural roads like feed silos. Drilling sites bustle around the clock with workers, some in yellow hazardous material suits, and 18-wheelers haul equipment, water and waste along back roads.

The rigs announce their presence with the occasional boom and quiver of underground explosions. Smelling like raw sewage mixed with gasoline, drilling-waste pits, some as large as a football field, sit close to homes.

Anywhere from 10 percent to 40 percent of the water sent down the well during hydrofracking returns to the surface, [carrying](#) drilling chemicals, very high levels of salts and, at times, naturally occurring radioactive material.

While most states require drillers to dispose of this water in underground storage wells below impermeable rock layers, Pennsylvania has [few such wells](#). It is the only state that has allowed drillers to discharge much of their waste through sewage treatment plants into rivers.

Regulators have theorized that passing drilling waste through the plants is safe because most toxic material will settle during the treatment process into a sludge that can be trucked to a landfill, and

whatever toxic material remains in the wastewater will be diluted when mixed into rivers. But some plants were taking such large amounts of waste with high salt levels in 2008 that downstream utilities started complaining that the river water was eating away at their machines.

Regulators and drilling companies have said that these cases, and others, were isolated.

"The wastewater treatment plants are effective at what they're designed to do – remove material from wastewater," said Jamie Legenos, a spokeswoman for the Pennsylvania Department of Environmental Protection, adding that the radioactive material and the salts were being properly handled.

Overwhelmed, Underprepared

For proof that [radioactive](#) elements in drilling waste are not a concern, industry spokesmen and regulators often point to the results of wastewater tests from a 2009 draft report conducted by New York State and a [1995 report](#) by Pennsylvania that found that radioactivity in drilling waste was not a threat. These two reports were based on samples from roughly 13 gas wells in New York and 29 in Pennsylvania.

But a review by The Times of more than 30,000 pages of federal, state and company records relating to more than 200 gas wells in Pennsylvania, 40 in West Virginia and 20 public and private wastewater treatment plants offers a fuller picture of the wastewater such wells produce and the threat it poses.

Most of the information was drawn from drilling reports from the last three years, obtained by visiting regional offices throughout Pennsylvania, and from [documents](#) or databases provided by state and federal regulators in response to records requests.

Among The Times's findings:

¶ More than 1.3 billion gallons of wastewater was produced by Pennsylvania wells over the past three years, far more than has been previously disclosed. Most of this water – enough to cover Manhattan in three inches – was sent to treatment plants not equipped to remove many of the toxic materials in drilling waste.

¶ At least 12 sewage treatment plants in three states accepted gas industry wastewater and discharged waste that was only partly treated into rivers, lakes and streams.

¶ Of more than 179 wells producing wastewater with high levels of radiation, at least 116 reported levels of radium or other radioactive materials 100 times as high as the levels set by federal drinking-water standards. At least 15 wells produced wastewater carrying more than 1,000 times the amount of radioactive elements considered acceptable.

Results came from [field surveys](#) conducted by state and federal regulators, year-end reports filed by drilling companies and state-ordered tests of some public treatment plants. Most of the tests measured drilling wastewater for radium or for "gross alpha" radiation, which typically comes from radium, uranium and other elements.

Industry officials say they are not concerned.

"These low levels of radioactivity pose no threat to the public or worker safety and are more a public perception issue than a real health threat," said James E. Grey, chief operating officer of Triana Energy.

In interviews, industry trade groups like the Marcellus Shale Coalition and Energy in Depth, as well as representatives from energy companies like Shell and [Chesapeake Energy](#), said they were producing far less wastewater because they were recycling much of it rather than disposing of it after each job.

But even with recycling, the amount of wastewater produced in Pennsylvania is expected to increase because, according to industry projections, more than 50,000 new wells are likely to be drilled over the

next two decades.

The [radioactivity](#) in the wastewater is not necessarily dangerous to people who are near it. It can be blocked by thin barriers, including skin, so exposure is generally harmless.

Rather, E.P.A. and [industry researchers](#) say, the bigger danger of radioactive wastewater is its potential to contaminate drinking water or enter the food chain through fish or farming. Once radium enters a person's body, by eating, drinking or breathing, it can cause cancer and other health problems, many federal studies show.

Little Testing for Radioactivity

Under federal law, testing for radioactivity in drinking water is required only at drinking-water plants. But federal and state regulators have given nearly all drinking-water intake facilities in Pennsylvania permission to test only once every six or nine years.

The Times reviewed data from more than 65 intake plants downstream from some of the busiest drilling regions in the state. Not one has tested for radioactivity [since 2008](#), and most have not tested since at least 2005, before most of the drilling waste was being produced.

And in 2009 and 2010, public sewage treatment plants directly upstream from some of these drinking-water intake facilities [accepted](#) wastewater that contained radioactivity levels as high as 2,122 times the drinking-water standard. But most sewage plants are not required to monitor for radioactive elements in the water they discharge. So there is virtually no data on such contaminants as water leaves these plants. Regulators and gas producers have repeatedly said that the waste is not a threat because it is so [diluted](#) in rivers or by treatment plants. But industry and federal research cast doubt on those statements.

A confidential industry study from 1990, conducted for the [American Petroleum Institute](#), concluded that "using conservative assumptions," radium in drilling wastewater dumped off the Louisiana coast posed "potentially significant risks" of cancer for people who eat fish from those waters regularly.

The industry [study](#) focused on drilling industry wastewater being dumped into the Gulf of Mexico, where it would be far more diluted than in rivers. It also used estimates of radium levels far below those found in Pennsylvania's drilling waste, according to the study's lead author, Anne F. Meinhold, an environmental risk expert now at [NASA](#).

Other federal, state and academic studies have also found dilution problems with radioactive drilling waste.

In December 2009, these very risks led E.P.A. scientists to advise in a letter to New York that sewage treatment plants not accept drilling waste with radium levels 12 or more times as high as the drinking-water standard. The Times found wastewater containing radium levels that were hundreds of times this standard. The scientists also said that the plants should never discharge radioactive contaminants at levels higher than the drinking-water standard.

In 2009, E.P.A. scientists studied the matter and also determined that certain Pennsylvania rivers were ineffective at sufficiently diluting the radium-laced drilling wastewater being [discharged into them](#).

Asked about the studies, Pennsylvania regulators said they were not aware of them.

"Concerned? I'm always concerned," said Dave Allard, director of the Bureau of Radiation Protection. But he added that the threat of this waste is reduced because "the dilutions are so huge going through those treatment plants."

Three months after The Times began asking questions about radioactive and other toxic material being discharged into specific rivers, state regulators placed monitors for radioactivity near where drilling waste

is discharged. Data will not be available until next month, state officials said.

But the monitor in the Monongahela is placed upstream from the two public sewage treatment plants that the state says are still discharging large amounts of drilling waste into the river, leaving the [discharges](#) from these plants unchecked and Pittsburgh exposed.

Plant Operators in the Dark

In interviews, five treatment plant operators said they did not believe that the drilling wastewater posed risks to the public. Several also said they were not sure of the waste's contents because the limited information drillers provide usually goes to state officials.

"We count on state regulators to make sure that that's properly done," said Paul McCurdy, environmental specialist at Ridgway Borough's public sewage treatment plant, in Elk County, Pa., in the northwest part of the state.

Mr. McCurdy, whose plant discharges into the Clarion River, which flows into the Ohio and Mississippi Rivers, said his plant was taking about 20,000 gallons of drilling waste per day.

Like most of the sewage treatment plant operators interviewed, Mr. McCurdy said his plant was not equipped to remove radioactive material and was not required to test for it.

Documents filed by drillers with the state, though, show that in 2009 his facility was sent water from wells whose wastewater was laced with radium at 275 times the drinking-water standard and with other types of radiation at more than 780 times the standard.

Part of the problem is that industry has outpaced regulators. "We simply can't keep up," said one inspector with the Pennsylvania Department of Environmental Protection who was not authorized to speak to reporters. "There's just too much of the waste."

"If we're too hard on them," the inspector added, "the companies might just stop reporting their mistakes."

Recently, Pennsylvania has tried to increase its oversight, doubling the number of regulators, improving well-design requirements and sharply decreasing how much drilling waste many treatment plants can accept or release. The state is considering whether to require treatment plants to begin monitoring for radioactivity in wastewater.

Even so, as of last November, 31 inspectors were keeping tabs on more than 125,000 oil and gas wells. The new regulations also allowed at least 18 plants to continue accepting the higher amounts set by their original permits.

Furthermore, environmental researchers from the [University of Pittsburgh](#) tested wastewater late last year that had been discharged by [two treatment plants](#). They say these tests will show, when the results are publicly released in March, that salt levels were far above the legal limit.

Lax Oversight

Drilling contamination is [entering the environment](#) in Pennsylvania through spills, too. In the past three years, at least 16 wells whose records showed high levels of radioactivity in their wastewater also [reported spills](#), leaks or failures of pits where hydrofracking fluid or waste is stored, according to state records.

Gas producers are generally left to police themselves when it [comes to spills](#). In Pennsylvania, regulators do not perform unannounced inspections to check for signs of spills. Gas producers report their own spills, write their own [spill response plans](#) and lead their own cleanup efforts.

A review of response plans for drilling projects at four Pennsylvania sites where there have been accidents in the past year found that these state-approved plans often appear to be in violation of the law.

At one well site where several [spills occurred](#) within a week, including one that flowed into a creek, the well's operator filed a [revised spill plan](#) saying there was little chance that waste would ever enter a waterway.

"There are business pressures" on companies to "cut corners," John Hanger, who stepped down as secretary of the Pennsylvania Department of Environmental Protection in January, has said. "It's cheaper to [dump](#) wastewater than to treat it."

Records back up that assertion.

From October 2008 through October 2010, regulators were more than twice as likely to issue a written warning than to levy a fine for environmental and safety violations, according to state data. During this period, 15 companies were fined for drilling-related violations in 2008 and 2009, and the companies paid an average of about \$44,000 each year, according to state data.

This average was less than half of what some of the companies earned in profits in a day and a tiny fraction of the more than \$2 million that some of them paid annually to haul and treat the waste.

And prospects for drillers in Pennsylvania are looking brighter.

In December, the Republican governor-elect, Tom Corbett, who during his campaign took more gas industry contributions than all his competitors combined, said he would reopen state land to new drilling, reversing a decision made by his predecessor, [Edward G. Rendell](#). The change clears the way for as many as 10,000 wells on [public land](#), up from about 25 active wells today.

In arguing against a proposed gas-extraction tax on the industry, Mr. Corbett said regulation of the industry had been too aggressive.

"I will direct the Department of Environmental Protection to serve as a partner with Pennsylvania businesses, communities and local governments," Mr. Corbett says on his Web site. "It should return to its core mission protecting the environment based on sound science."

01268-EPA-1007

Shawn Garvin/R3/USEPA/US
02/27/2011 12:22 PM

To Richard Windsor, "Judith Enck"
cc "Bob Perciasepe", Bob Sussman, Seth Oster, "Diane Thompson", Heidi Ellis
bcc

Subject Fw: Fw: Major NY Times Story on Hydraulic Fracturing

Administrator - [redacted] (b)(5) deliberative

Thank you - Shawn

Sent by EPA Wireless E-Mail Services
Jon Capacasa

----- Original Message -----

From: Jon Capacasa
Sent: 02/27/2011 12:02 PM EST
To: Shawn Garvin
Cc: William Early; Linda Boornazian; "Dandrea Michael" <dandrea.michael@epa.gov>; Daniel Ryan; Amy Caprio; Marcia Mulkey
Subject: Re: Fw: Major NY Times Story on Hydraulic Fracturing

Deliberative - For Internal Agency Use

Shawn -

[redacted] (b)(5) deliberative

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

We will check further on the status of this further on Monday,. Thanks.

Shawn Garvin From: Shawn Garvin/R3/USEPA/US To... 02/27/2011 11:08:27 AM

From: Shawn Garvin/R3/USEPA/US
To: Jon Capacasa/R3/USEPA/US@EPA
Cc: William Early/R3/USEPA/US, "Linda Boornazian" <Boornazian.Linda@epamail.epa.gov>, "Dandrea Michael" <dandrea.michael@epa.gov>, Daniel Ryan/R3/USEPA/US@EPA, "Amy Caprio" <Caprio.Amy@epamail.epa.gov>
Date: 02/27/2011 11:08 AM
Subject: Fw: Major NY Times Story on Hydraulic Fracturing

Jon - [REDACTED] (b)(5) deliberative

Thanks - Shawn

Sent by EPA Wireless E-Mail Services

From: Seth Oster

Sent: 02/26/2011 09:53 PM EST

To: Cynthia Giles-AA; Paul Anastas; Nancy Stoner; Steve Owens; Matt Bogoshian; Judith Enck; Curt Spalding; Gwendolyn KeyesFleming; Shawn Garvin; Jim Martin; Al Armendariz; Lisa Garcia; Michael Goo; Bicky Corman

Cc: Janet Woodka; Bob Perciasepe; Bob Sussman; "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; Brendan Gilfillan; Adora Andy; David Bloomgren; Bernadette Rappold; David Gray; Diane Thompson; Daniel Kanninen; Arvin Ganesan; David McIntosh; Sarah Pallone; Alisha Johnson; Andra Belknap; Stephanie Owens; Dru Ealons; Michael Moats; Christopher Busch

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All,

I wanted you to be aware of the story below that will likely run on the front page of tomorrow's NY Times. It's an extensive piece on hydraulic fracturing, focusing largely on Pennsylvania but other parts of the country as well, and which features EPA prominently throughout.

The story goes a long way to confirming the importance of the current EPA study looking at the effects of the fracking process on drinking water, as well as the agency's stepped up efforts to investigate incidents of concern -- such as the Range case in Texas -- across the country. You will note the specific reference to E.P.A. scientists being "alarmed, warning that the drilling waste is a threat to drinking water in Pennsylvania" -- their concern, the story says, "based partly on a 2009 study, never made public, written by an E.P.A. consultant who concluded that some sewage treatment plants were incapable of removing certain drilling waste contaminants and were probably violating the law."

We should expect follow-up from other press outlets and the Hill. OCIR has already

received a letter regarding this story from Congressman Markey.

I am sure that Bob Sussman and others involved in coordinating this issue from headquarters will be doing further work as a result of this. Please make sure to work with us -- me, Bob S, Brendan, Betsaida, David M. and Arvin, in particular -- if you feel the need to be responsive to this story in any way, so that we stay coordinated.

Thanks.

Seth

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov
February 26, 2011

NEW YORK TIMES

Regulation Is Lax for Water From Gas Wells

By IAN URBINA

The American landscape is dotted with hundreds of thousands of new wells and drilling rigs, as the country scrambles to tap into this century's gold rush — for natural gas.

The gas has always been there, of course, trapped deep underground in countless tiny bubbles, like frozen spills of seltzer water between thin layers of shale rock. But drilling companies have only in recent years developed techniques to unlock the enormous reserves, thought to be enough to supply the country with gas for heating buildings, generating electricity and powering vehicles for up to a hundred years.

So energy companies are clamoring to drill. And they are getting rare support from their usual sparring partners. Environmentalists say using natural gas will help slow climate change because it burns more cleanly than coal and oil. Lawmakers hail the gas as a source of jobs. They also see it as a way to wean the United States from its dependency on other countries for oil.

But the relatively new drilling method — known as high-volume horizontal hydraulic fracturing, or hydrofracking — carries significant environmental risks. It involves injecting huge amounts of water, mixed with sand and chemicals, at high pressures to break up rock formations and release the gas.

With hydrofracking, a well can produce over a million gallons of wastewater that is often laced with highly corrosive salts, carcinogens like benzene and radioactive elements like

radium, all of which can occur naturally thousands of feet underground. Other carcinogenic materials can be added to the wastewater by the chemicals used in the hydrofracking itself.

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Drilling derricks tower over barns, lining rural roads like feed silos. Drilling sites bustle around the clock with workers, some in yellow hazardous material suits, and 18-wheelers haul equipment, water and waste along back roads.

The rigs announce their presence with the occasional boom and quiver of underground explosions. Smelling like raw sewage mixed with gasoline, drilling-waste pits, some as large as a football field, sit close to homes.

Anywhere from 10 percent to 40 percent of the water sent down the well during hydrofracking returns to the surface, carrying drilling chemicals, very high levels of salts and, at times, naturally occurring radioactive material.

While most states require drillers to dispose of this water in underground storage wells below impermeable rock layers, Pennsylvania has few such wells. It is the only state that has allowed drillers to discharge much of their waste through sewage treatment plants into rivers.

Regulators have theorized that passing drilling waste through the plants is safe because most toxic material will settle during the treatment process into a sludge that can be trucked to a landfill, and whatever toxic material remains in the wastewater will be diluted when mixed into rivers. But some plants were taking such large amounts of waste with high salt levels in 2008 that downstream utilities started complaining that the river water was eating away at their machines.

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"The wastewater treatment plants are effective at what they're designed to do — remove material from wastewater," said Jamie Legenos, a spokeswoman for the Pennsylvania Department of Environmental Protection, adding that the radioactive material and the salts were being properly handled.

Overwhelmed, Underprepared

For proof that radioactive elements in drilling waste are not a concern, industry spokesmen and regulators often point to the results of wastewater tests from a 2009 draft report conducted by New York State and a 1995 report by Pennsylvania that found that radioactivity in drilling waste was not a threat. These two reports were based on samples from roughly 13 gas wells in New York and 29 in Pennsylvania.

But a review by The Times of more than 30,000 pages of federal, state and company records relating to more than 200 gas wells in Pennsylvania, 40 in West Virginia and 20 public and private wastewater treatment plants offers a fuller picture of the wastewater such wells produce and the threat it poses.

Most of the information was drawn from drilling reports from the last three years, obtained by visiting regional offices throughout Pennsylvania, and from documents or databases provided by state and federal regulators in response to records requests.

Among The Times's findings:

¶ More than 1.3 billion gallons of wastewater was produced by Pennsylvania wells over the past three years, far more than has been previously disclosed. Most of this water — enough to cover Manhattan in three inches — was sent to treatment plants not equipped to remove many of the toxic materials in drilling waste.

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¶Of more than 179 wells producing wastewater with high levels of radiation, at least 116 reported levels of radium or other radioactive materials 100 times as high as the levels set by federal drinking-water standards. At least 15 wells produced wastewater carrying more than 1,000 times the amount of radioactive elements considered acceptable.

Results came from field surveys conducted by state and federal regulators, year-end reports filed by drilling companies and state-ordered tests of some public treatment plants. Most of the tests measured drilling wastewater for radium or for "gross alpha" radiation, which typically comes from radium, uranium and other elements.

Industry officials say they are not concerned.

"These low levels of radioactivity pose no threat to the public or worker safety and are more a public perception issue than a real health threat," said James E. Grey, chief operating officer of Triana Energy.

In interviews, industry trade groups like the Marcellus Shale Coalition and Energy in Depth, as well as representatives from energy companies like Shell and Chesapeake Energy, said they were producing far less wastewater because they were recycling much of it rather than disposing of it after each job.

But even with recycling, the amount of wastewater produced in Pennsylvania is expected to increase because, according to industry projections, more than 50,000 new wells are likely to be drilled over the next two decades.

The radioactivity in the wastewater is not necessarily dangerous to people who are near it. It can be blocked by thin barriers, including skin, so exposure is generally harmless.

Rather, E.P.A. and industry researchers say, the bigger danger of radioactive wastewater is its potential to contaminate drinking water or enter the food chain through fish or farming. Once radium enters a person's body, by eating, drinking or breathing, it can cause cancer and other health problems, many federal studies show.

Little Testing for Radioactivity

Under federal law, testing for radioactivity in drinking water is required only at drinking-water plants. But federal and state regulators have given nearly all drinking-water intake facilities in Pennsylvania permission to test only once every six or nine years.

The Times reviewed data from more than 65 intake plants downstream from some of the busiest drilling regions in the state. Not one has tested for radioactivity since 2008, and most have not tested since at least 2005, before most of the drilling waste was being produced.

And in 2009 and 2010, public sewage treatment plants directly upstream from some of these drinking-water intake facilities accepted wastewater that contained radioactivity levels as high as 2,122 times the drinking-water standard. But most sewage plants are not required to monitor for radioactive elements in the water they discharge. So there is virtually no data on such contaminants as water leaves these plants. Regulators and gas producers have repeatedly said that the waste is not a threat because it is so diluted in rivers or by treatment plants. But industry and federal research cast doubt on those

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Other federal, state and academic studies have also found dilution problems with radioactive drilling waste.

In December 2009, these very risks led E.P.A. scientists to advise in a letter to New York that sewage treatment plants not accept drilling waste with radium levels 12 or more times as high as the drinking-water standard. The Times found wastewater containing radium levels that were hundreds of times this standard. The scientists also said that the plants should never discharge radioactive contaminants at levels higher than the drinking-water standard.

In 2009, E.P.A. scientists studied the matter and also determined that certain Pennsylvania rivers were ineffective at sufficiently diluting the radium-laced drilling wastewater being discharged into them.

Asked about the studies, Pennsylvania regulators said they were not aware of them.

"Concerned? I'm always concerned," said Dave Allard, director of the Bureau of Radiation Protection. But he added that the threat of this waste is reduced because "the dilutions are so huge going through those treatment plants."

Three months after The Times began asking questions about radioactive and other toxic material being discharged into specific rivers, state regulators placed monitors for radioactivity near where drilling waste is discharged. Data will not be available until next month, state officials said.

But the monitor in the Monongahela is placed upstream from the two public sewage treatment plants that the state says are still discharging large amounts of drilling waste into the river, leaving the discharges from these plants unchecked and Pittsburgh exposed.

Plant Operators in the Dark

In interviews, five treatment plant operators said they did not believe that the drilling wastewater posed risks to the public. Several also said they were not sure of the waste's contents because the limited information drillers provide usually goes to state officials.

"We count on state regulators to make sure that that's properly done," said Paul McCurdy, environmental specialist at Ridgway Borough's public sewage treatment plant, in Elk County, Pa., in the northwest part of the state.

Mr. McCurdy, whose plant discharges into the Clarion River, which flows into the Ohio and Mississippi Rivers, said his plant was taking about 20,000 gallons of drilling waste per day.

Like most of the sewage treatment plant operators interviewed, Mr. McCurdy said his plant was not equipped to remove radioactive material and was not required to test for it.

Documents filed by drillers with the state, though, show that in 2009 his facility was sent water from wells whose wastewater was laced with radium at 275 times the drinking-water standard and with other types of radiation at more than 780 times the standard.

Part of the problem is that industry has outpaced regulators. "We simply can't keep up," said one inspector with the Pennsylvania Department of Environmental Protection who was not authorized to speak to reporters. "There's just too much of the waste."

"If we're too hard on them," the inspector added, "the companies might just stop reporting their mistakes."

Recently, Pennsylvania has tried to increase its oversight, doubling the number of regulators, improving well-design requirements and sharply decreasing how much drilling waste many treatment plants can accept or release. The state is considering whether to require treatment plants to begin monitoring for radioactivity in wastewater.

Even so, as of last November, 31 inspectors were keeping tabs on more than 125,000 oil and gas wells. The new regulations also allowed at least 18 plants to continue accepting the higher amounts set by their original permits.

Furthermore, environmental researchers from the University of Pittsburgh tested wastewater late last year that had been discharged by two treatment plants. They say these tests will show, when the results are publicly released in March, that salt levels were far above the legal limit.

Lax Oversight

Drilling contamination is entering the environment in Pennsylvania through spills, too. In the past three years, at least 16 wells whose records showed high levels of radioactivity in their wastewater also reported spills, leaks or failures of pits where hydrofracking fluid or waste is stored, according to state records.

Gas producers are generally left to police themselves when it comes to spills. In Pennsylvania, regulators do not perform unannounced inspections to check for signs of spills. Gas producers report their own spills, write their own spill response plans and lead their own cleanup efforts.

A review of response plans for drilling projects at four Pennsylvania sites where there have been accidents in the past year found that these state-approved plans often appear to be in violation of the law.

At one well site where several spills occurred within a week, including one that flowed into a creek, the well's operator filed a revised spill plan saying there was little chance that waste would ever enter a waterway.

"There are business pressures" on companies to "cut corners," John Hanger, who stepped down as secretary of the Pennsylvania Department of Environmental Protection in January, has said. "It's cheaper to dump wastewater than to treat it."

Records back up that assertion.

From October 2008 through October 2010, regulators were more than twice as likely to issue a written warning than to levy a fine for environmental and safety violations, according to state data. During this period, 15 companies were fined for drilling-related violations in 2008 and 2009, and the companies paid an average of about \$44,000 each year, according to state data.

This average was less than half of what some of the companies earned in profits in a day and a tiny fraction of the more than \$2 million that some of them paid annually to haul and treat the waste.

And prospects for drillers in Pennsylvania are looking brighter.

In December, the Republican governor-elect, Tom Corbett, who during his campaign took more gas industry contributions than all his competitors combined, said he would reopen state land to new drilling, reversing a decision made by his predecessor, Edward G. Rendell. The change clears the way for as many as 10,000 wells on public land, up from about 25 active wells today.

In arguing against a proposed gas-extraction tax on the industry, Mr. Corbett said regulation of the industry had been too aggressive.

"I will direct the Department of Environmental Protection to serve as a partner with Pennsylvania businesses, communities and local governments," Mr. Corbett says on his Web site. "It should return to its core mission protecting the environment based on sound science."

01268-EPA-1008

Seth Oster/DC/USEPA/US

02/27/2011 07:00 PM

To Bob Sussman

cc "Betsaida Alcantara", Adora Andy, Arvin Ganesan, Bob Perciasepe, Brendan Gilfillan, David McIntosh, Diane Thompson, Richard Windsor, Scott Fulton

bcc

Subject Re: NY Times Story -- Must Read

Correct. (b) (5) D.P.

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

-----Bob Sussman/DC/USEPA/US wrote: -----

To: Seth Oster/DC/USEPA/US@EPA

From: Bob Sussman/DC/USEPA/US

Date: 02/27/2011 06:33PM

Cc: Adora Andy/DC/USEPA/US@EPA, "Betsaida Alcantara" <alcantara.betsaida@epa.gov>, Arvin Ganesan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA

Subject: Re: NY Times Story -- Must Read

Seth -- (b) (5) D.P.

Seth Oster---02/26/2011 08:57:08 PM---All,

From: Seth Oster/DC/USEPA/US

To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA

Cc: Brendan Gilfillan/DC/USEPA/US@EPA, "Betsaida Alcantara" <alcantara.betsaida@epa.gov>, Adora Andy/DC/USEPA/US@EPA


Date: 02/26/2011 08:57 PM

Subject: NY Times Story -- Must Read

All,

Below is an extensive story regarding hydraulic fracturing, which prominently features EPA, that is now posted on the New York Times web site, which we should expect will be on page one of tomorrow's Sunday edition. The story is one we have known for some time is coming -- and have been working on -- but which we were last told would more likely run some time next week .

(b) (5) D.P.



I will send this to the relevant RAs. And we will work on an analysis of it, as well as prepare a statement for what will almost certainly be follow-up from other press outlets and the Hill (David has circulated the letter already received from Mr. Markey).

Seth

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
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(202) 564-1918
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February 26, 2011

NEW YORK TIMES

Regulation Is Lax for Water From Gas Wells

By [IAN URBINA](#)

The American landscape is dotted with hundreds of thousands of new wells and drilling rigs, as the country scrambles to tap into this century's gold rush — for [natural gas](#).

The gas has always been there, of course, trapped deep underground in countless tiny bubbles, like frozen spills of seltzer water between thin layers of shale rock. But drilling companies have only in recent years developed techniques to unlock the enormous reserves, thought to be enough to supply the country with gas for heating buildings, generating electricity and powering vehicles for up to a hundred years.

So energy companies are clamoring to drill. And they are getting rare support from their usual sparring partners. Environmentalists say using natural gas will help slow [climate change](#) because it burns more cleanly than coal and [oil](#). Lawmakers hail the gas as a source of jobs. They also see it as a way to wean the United States from its dependency on other countries for oil.

But the relatively new drilling method — known as high-volume horizontal hydraulic fracturing, or hydrofracking — carries significant environmental risks. It involves injecting huge amounts of water, mixed with sand and chemicals, at high pressures to break up rock formations and release the gas.

With hydrofracking, a well can produce over a million gallons of wastewater that is often laced with highly corrosive salts, carcinogens like benzene and radioactive elements like radium, all of which can occur naturally thousands of feet underground. Other carcinogenic materials can be added to the wastewater by the chemicals used in the hydrofracking itself.

While the existence of the toxic wastes has been reported, thousands of internal documents obtained by The New York Times from the [Environmental Protection Agency](#), state regulators and drillers show that the [dangers](#) to the environment and health are greater than previously understood.

The documents reveal that the wastewater, which is sometimes hauled to sewage plants not designed to treat it and then discharged into rivers that supply drinking water, contains radioactivity at levels higher than previously known, and far higher than the level that federal regulators say is safe for these treatment plants to handle.

Other documents and interviews show that many E.P.A. scientists are alarmed, warning that the drilling waste is a threat to drinking water in Pennsylvania. Their concern is based partly on a 2009 study, never made public, written by an E.P.A. consultant who concluded that some sewage treatment plants were incapable of removing certain drilling waste contaminants and were probably violating the law.

The Times also found never-reported studies by the [E.P.A.](#) and a [confidential study](#) by the drilling industry that all concluded that radioactivity in drilling waste cannot be fully diluted in rivers and other waterways.

But the E.P.A. has not intervened. In fact, federal and state regulators are allowing most sewage treatment plants that accept drilling waste not to test for radioactivity. And most drinking-water intake plants downstream from those sewage treatment plants in Pennsylvania, with the blessing of regulators, have not tested for radioactivity since before 2006, even though the drilling boom began in 2008.

In other words, there is no way of guaranteeing that the drinking water taken in by all these plants is safe.

That has experts worried.

"We're burning the furniture to heat the house," said John H. Quigley, who left last month as secretary of Pennsylvania's Department of Conservation and Natural Resources. "In shifting away from coal and toward natural gas, we're trying for cleaner air, but we're producing massive amounts of toxic wastewater with salts and naturally occurring radioactive materials, and it's not clear we have a plan for properly handling this waste."

The risks are particularly severe in Pennsylvania, which has seen a sharp increase in drilling, with roughly 71,000 active gas wells, up from about 36,000 in 2000. The level of radioactivity in the wastewater has sometimes been hundreds or even thousands of times the maximum allowed by the federal standard for drinking water. While people clearly do not drink drilling wastewater, the reason to use the drinking-water standard for comparison is that there is no comprehensive federal standard for what constitutes safe levels of radioactivity in drilling wastewater.

Drillers trucked at least half of this waste to public sewage treatment plants in Pennsylvania in 2008 and 2009, according to state officials. Some of it has been sent to other states, including [New York](#) and [West Virginia](#).

Yet sewage treatment plant operators say they are far less capable of removing radioactive contaminants than most other toxic substances. Indeed, most of these facilities cannot remove enough of the radioactive material to meet federal drinking-water standards before discharging the wastewater into rivers, sometimes just miles upstream from drinking-water intake plants.

In Pennsylvania, these treatment plants discharged waste into some of the state's major river basins. Greater amounts of the wastewater went to the Monongahela River, which provides drinking water to more than [800,000 people](#) in the western part of the state, including Pittsburgh, and to the Susquehanna River, which feeds into Chesapeake Bay and provides drinking water to more than six million people, including some in Harrisburg and Baltimore.

Lower amounts have been discharged into the Delaware River, which provides drinking water for more than 15 million people in Philadelphia and eastern Pennsylvania.

In [New York](#), the wastewater was sent to two plants that discharge into Southern Cayuga Lake, near Ithaca, and Owasco Outlet, near Auburn. In [West Virginia](#), a plant in Wheeling discharged gas-drilling wastewater into the Ohio River.

"Hydrofracking impacts associated with health problems as well as widespread air and water contamination have been reported in at least a dozen states," said Walter Hang, president of Toxics Targeting, a business in Ithaca, N.Y., that compiles data on gas drilling.

Problems in Other Regions

While Pennsylvania is an extreme case, the [risks](#) posed by hydrofracking extend across the country.

There were more than 493,000 active natural-gas wells in the United States in 2009, almost double the number in 1990. Around 90 percent have used hydrofracking to get more gas flowing, according to the drilling industry.

Gas has seeped into underground drinking-water supplies in at least five states, including Colorado, Ohio, Pennsylvania, Texas and West Virginia, and residents blamed natural-gas drilling.

Air pollution caused by natural-gas drilling is a growing threat, too. Wyoming, for example, failed in 2009 to meet federal standards for air quality for the first time in its history partly because of the fumes containing benzene and toluene from roughly 27,000 wells, the vast majority drilled in the past five years.

In a sparsely populated Sublette County in Wyoming, which has some of the highest concentrations of wells, vapors reacting to sunlight have contributed to levels of ozone higher than those recorded in Houston and Los Angeles.

Industry officials say any dangerous waste from the wells is handled in compliance with state and federal laws, adding that drilling companies are recycling more wastewater now. They also say that hydrofracking is well regulated by the states and that it has been used safely for decades.

But hydrofracking technology has become more powerful and more widely used in recent years, producing far more wastewater. Some of the problems with this drilling, including its environmental impact and the challenge of disposing of waste, have been documented by ProPublica, The Associated Press and other news organizations.

And recent incidents underscore the dangers. In late 2008, drilling and coal-mine waste released during a drought so overwhelmed the Monongahela that local officials advised people in the Pittsburgh area to drink [bottled water](#). E.P.A. officials described the incident in an internal memorandum as "one of the largest failures in U.S. history to supply clean drinking water to the public."

In Texas, which now has about 93,000 natural-gas wells, up from around 58,000 a dozen years ago, a hospital system in six counties with some of the heaviest drilling said in 2010 that it found a 25 percent asthma rate for young children, more than three times the state rate of about 7 percent.

"It's ruining us," said Kelly Gant, whose 14-year-old daughter and 11-year-old son have experienced severe asthma attacks, dizzy spells and headaches since a compressor station and a gas well were set up about two years ago near her house in Bartonville, Tex. The industry and state regulators have said it is not clear what role the gas industry has played in causing such problems, since the area has had high air pollution for a while.

"I'm not an activist, an alarmist, a Democrat, environmentalist or anything like that," Ms. Gant said. "I'm just a person who isn't able to manage the health of my family because of all this drilling."

And yet, for all its problems, natural gas offers some clear environmental advantages over coal, which is used more than any other fuel to generate electricity in the United States. Coal-fired power plants without updated equipment to capture pollutants are a major source of radioactive pollution. Coal mines annually produce millions of tons of toxic waste.

But the hazards [associated](#) with natural-gas production and drilling are far less understood than those associated with other fossil fuels, and the regulations have not kept pace with the natural-gas industry's expansion.

Pennsylvania, Ground Zero

Pennsylvania, which sits atop an enormous reserve called the Marcellus Shale, has been called the Saudi Arabia of natural gas.

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Furthermore, environmental researchers from the [University of Pittsburgh](#) tested wastewater late last year that had been discharged by [two treatment plants](#). They say these tests will show, when the results are publicly released in March, that salt levels were far above the legal limit.

Lax Oversight

Drilling contamination is [entering the environment](#) in Pennsylvania through spills, too. In the past three years, at least 16 wells whose records showed high levels of radioactivity in their wastewater also [reported spills](#), leaks or failures of pits where hydrofracking fluid or waste is stored, according to state records.

Gas producers are generally left to police themselves when it [comes to spills](#). In Pennsylvania, regulators do not perform unannounced inspections to check for signs of spills. Gas producers report their own spills, write their own [spill response plans](#) and lead their own cleanup efforts.

A review of response plans for drilling projects at four Pennsylvania sites where there have been accidents in the past year found that these state-approved plans often appear to be in violation of the law.

At one well site where several [spills occurred](#) within a week, including one that flowed into a creek, the well's operator filed a [revised spill plan](#) saying there was little chance that waste

would ever enter a waterway.

"There are business pressures" on companies to "cut corners," John Hanger, who stepped down as secretary of the Pennsylvania Department of Environmental Protection in January, has said. "It's cheaper to [dump](#) wastewater than to treat it."

Records back up that assertion.

From October 2008 through October 2010, regulators were more than twice as likely to issue a written warning than to levy a fine for environmental and safety violations, according to state data. During this period, 15 companies were fined for drilling-related violations in 2008 and 2009, and the companies paid an average of about \$44,000 each year, according to state data.

This average was less than half of what some of the companies earned in profits in a day and a tiny fraction of the more than \$2 million that some of them paid annually to haul and treat the waste.

And prospects for drillers in Pennsylvania are looking brighter.

In December, the Republican governor-elect, Tom Corbett, who during his campaign took more gas industry contributions than all his competitors combined, said he would reopen state land to new drilling, reversing a decision made by his predecessor, [Edward G. Rendell](#). The change clears the way for as many as 10,000 wells on [public land](#), up from about 25 active wells today.

In arguing against a proposed gas-extraction tax on the industry, Mr. Corbett said regulation of the industry had been too aggressive.

"I will direct the Department of Environmental Protection to serve as a partner with Pennsylvania businesses, communities and local governments," Mr. Corbett says on his Web site. "It should return to its core mission protecting the environment based on sound science."

01268-EPA-1009

Scott Fulton/DC/USEPA/US
03/01/2011 02:46 PM

To Bob Sussman, Richard Windsor
cc Bob Perciasepe, Gina McCarthy
bcc

Subject Re: Endangerment

(b)(5) deliberative, (b) (5) Attorney-
Bob Sussman

----- Original Message -----

From: Bob Sussman
Sent: 03/01/2011 02:40 PM EST
To: Richard Windsor
Cc: Bob Perciasepe; Scott Fulton; Gina McCarthy
Subject: Re: Endangerment

(b)(5) deliberative, (b) (5) Attorney-client privilege

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 03/01/2011 02:32 PM EST
To: Bob Sussman
Cc: Bob Perciasepe; Scott Fulton
Subject: Re: Endangerment

Just spoke to Cass. He says we will get in 15 minutes.

Bob Sussman

(b)(5) deliberative

03/01/2011 01:18:26 PM

From: Bob Sussman/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Scott Fulton/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
Date: 03/01/2011 01:18 PM
Subject: Endangerment

(b)(5) deliberative, (b) (5) Attorney-client privilege

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
(202)-564-7397
US Environmental Protection Agency

01268-EPA-1010

Scott Fulton/DC/USEPA/US
03/01/2011 03:32 PM

To Richard Windsor, Bob Sussman
cc Bob Perciasepe, Gina McCarthy
bcc

Subject Re: Endangerment

(b)(5) deliberative, (b) (5) Attorney-client privilege
Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 03/01/2011 03:11 PM EST
To: Bob Sussman
Cc: Bob Perciasepe; Scott Fulton; Gina McCarthy
Subject: Re: Endangerment

I would like a confirmation of receipt or no receipt by 330 pm. Tx.
Bob Sussman

----- Original Message -----

From: Bob Sussman
Sent: 03/01/2011 02:40 PM EST
To: Richard Windsor
Cc: Bob Perciasepe; Scott Fulton; Gina McCarthy
Subject: Re: Endangerment

(b)(5) deliberative, (b) (5) Attorney-client privilege

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 03/01/2011 02:32 PM EST
To: Bob Sussman
Cc: Bob Perciasepe; Scott Fulton
Subject: Re: Endangerment

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Bob Sussman

(b)(5) deliberative

03/01/2011 01:18:26 PM

From: Bob Sussman/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Scott Fulton/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
Date: 03/01/2011 01:18 PM
Subject: Endangerment

(b)(5) deliberative, (b) (5) Attorney-client privilege

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
(202)-564-7397
US Environmental Protection Agency

01268-EPA-1012

Adora Andy/DC/USEPA/US
03/02/2011 07:03 PM

To: Brendan Gilfillan, Richard Windsor, Bob Perciasepe, Diane Thompson, "Seth Oster", Betsaida Alcantara, David McIntosh, Alisha Johnson, Arvin Ganesan, Barbara Bennett, Stephanie Owens, Dru Ealons

cc

bcc

Subject: Re: Bloomberg: EPA Chief Jackson Urges U.S. Lawmaker Not to Slash Her Agency's Funding

Love that money line: "...more asthma attacks, more missed school and work days, more heart attacks, more cancer cases, more premature deaths."

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan

Sent: 03/02/2011 06:24 PM EST

To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster <oster.seth@epa.gov>; Adora Andy; Betsaida Alcantara; David McIntosh; Alisha Johnson; David McIntosh; Arvin Ganesan; Barbara Bennett; Stephanie Owens; Dru Ealons

Subject: Bloomberg: EPA Chief Jackson Urges U.S. Lawmaker Not to Slash Her Agency's Funding

EPA Chief Jackson Urges U.S. Lawmaker Not to Slash Her Agency's Funding

By Kim Chipman and Jim Snyder - Mar 2, 2011 5:15 PM ET

Environmental Protection Agency Administrator Lisa Jackson urged U.S. senators not to cut her agency's budget as lawmakers prepared to offer legislation taking away the EPA's power to regulate [greenhouse gases](#).

Republicans in the [House of Representatives](#) have proposed cutting EPA funding about 30 percent, or \$3 billion, almost double a budget reduction of \$1.3 billion proposed last month by President [Barack Obama](#).

"If Congress slashed EPA's funding, concentrations of harmful pollution would increase from current levels," Jackson told the Senate Environment and Public Works Committee today. "The result would be more asthma attacks, more missed school and work days, more heart attacks, more cancer cases, more premature deaths."

The budget fight is intertwined with an effort by Republicans and some Democrats to strip the EPA of its power to regulate emissions blamed for climate change. Backers of this effort say the agency's greenhouse-gas rules for industrial polluters will cost jobs and harm the economy. Jackson has said Obama would veto any attempt to stop the regulations that took effect Jan. 2.

Legislation sponsored by House Energy and Commerce Committee Chairman [Fred Upton](#), a Michigan Republican, and Senator James Inhofe of [Oklahoma](#), will be introduced as early as

tomorrow, Inhofe said during the hearing today.

“This bill puts Congress in charge of deciding our nation’s [climate-change](#) policy, not EPA bureaucrats,” said Inhofe, the ranking Republican on the Senate environment committee.

Vehicle Agreement

The bill would prohibit the EPA from regulating greenhouse gases emitted from buildings such as factories and power plants, while allowing a previous agreement the administration reached with automakers to cut vehicle tailpipe emissions.

Two former Democratic House committee chairmen, Representatives Collin Peterson of [Minnesota](#) and Nick Rahall of West Virginia, said they are likely to support the Upton-Inhofe measure.

“EPA is out of control, and we have to send them a message,” said Peterson, who headed the Agriculture Committee until Republicans won control of the House in the November elections, in an interview today.

Rahall, former chairman of the House Natural Resources panel, said a draft of the Upton-Inhofe bill is “very favorable” and that he is “exploring very seriously” supporting the measure.

“It seems like the right message and it’s in line with legislation I’ve already supported,” Rahall said. He has backed a bill to delay EPA regulation for two years, legislation being pushed by Democratic Senator Jay Rockefeller of [West Virginia](#).

Rockefeller’s bill probably has a better chance to pass Congress, given concerns in the Senate over permanently blocking EPA regulation, Rahall said in an interview.

01268-EPA-1014

Noah Dubin/DC/USEPA/US

To

03/04/2011 09:53 AM

cc

bcc

Subject Call with Sen. Wyden

Meeting

Date 03/09/2011

Time 03:00:00 PM to 03:15:00 PM

Chair Noah Dubin

Invitees

Required

Optional

FYI

Location Administrator's Office

Ct: Wayne Binkley (Wyden) (b) (6) Privacy

The Senator will place the call at Aaron Dickerson's line, 564-1783

Purpose:

To discuss the plan to close the Boardman coal plant in Oregon and related MACT issues

Staff:

David McIntosh, Arvin Ganesan (OCIR)

Gina McCarthy (OAR)

Optional:

Bob Perciasepe, Bob Sussman, Diane Thompson (OA)

01268-EPA-1016

Noah Dubin/DC/USEPA/US

To

03/08/2011 05:09 PM

cc

bcc

Subject One on One with Dennis McLerran re: Boardman Coal Plant
and Shell Air Permitting

Meeting

Date 03/09/2011

Time 02:10:00 PM to 02:20:00 PM

Chair Noah Dubin

Invitees

Required

Optional

FYI

Location By Phone

The Administrator will place the call to RA McLerran's direct line at (b) (6) Privacy

Purpose:

To prep for the Administrator's call with Sen. Wyden re: the closing of the Boardman coal plant in Oregon and related MACT issues
AND the Administrator's meeting with Marvin Odum of Shell re: Shell's 2012 exploration program off the coast of Alaska

Staff:

Dennis McLerran (R10)

01268-EPA-1017

Karl Brooks/R7/USEPA/US

To Richard Windsor

03/08/2011 05:11 PM

cc

bcc

Subject Fw: The Kansas City Star - Former Kansas environmental official hired in Connecticut

Sounds like a good move for Rod, and for Conn.

Cheers

Karl

David Bryan

----- Original Message -----

From: David Bryan

Sent: 03/08/2011 12:46 PM CST

To: Ben Washburn; Chelsey Derks; Christopher Whitley; Emily Barker; Hattie Thomas; Kris Lancaster; Martin Kessler; Rich Hood; Cecilia Tapia; David Cozad; John Smith; Josh Svaty; Karen Flournoy; Karl Brooks; Luetta Flournoy; Rebecca Weber; Rich Hood; Robertw Jackson; Ron Hammerschmidt; William Rice; Debbie Krings; Janette Lambert; Latonya Sanders; Sarah Hatch

Subject: The Kansas City Star - Former Kansas environmental official hired in Connecticut

Former Kansas environmental official hired in Connecticut

By **KAREN DILLON**
The Kansas City Star

Roderick Bremby, the Kansas health and environment secretary who was fired in November by former Gov. Mark Parkinson, has a new job.

Bremby is the new head of Connecticut's Department of Social Services. Gov. Daniel Malloy announced the appointment at about 10 a.m. today, a spokeswoman said.

Bremby will get a raise to \$170,000 from \$107,000 a year.

In 2007, Bremby made national news when he denied Sunflower Electric Power Corp.'s permit application to build a coal-fired plant in western Kansas on grounds that it was a health risk. When Parkinson became governor, however, he made a deal to allow the Hayes-based Sunflower co-op to build a plant.

Late last summer, Sunflower complained that Bremby was slowing down a review of the new permit. On Nov. 2, Bremby was fired.

Gov. Malloy's spokeswoman Colleen Flanagan said Bremby begins his new duties on April 4. He will move to Connecticut.

Read more:

<http://www.kansascity.com/2011/03/08/2707291/former-kansas-environmental-official.html#ixz1G2FCJTM1>

David W. Bryan, APR
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Office of Public Affairs
EPA Region 7
901 N. 5th Street
Kansas City, KS 66101
913.551.7433, Fax: 913.551.7066
bryan.david@epa.gov

01268-EPA-1018

Seth Oster/DC/USEPA/US
03/09/2011 08:12 PM

To Bob Sussman, Richard Windsor, Diane Thompson, Bob Perciasepe
cc
bcc

Subject Re: Tent release for WOUS week of March 21

(b)(5) deliberative

[Redacted]

Bob Sussman

----- Original Message -----

From: Bob Sussman
Sent: 03/09/2011 07:59 PM EST
To: Richard Windsor; Diane Thompson; Bob Perciasepe; Seth Oster
Subject: Fw: Tent release for WOUS week of March 21

Nancy got this at CEQ meeting. (b)(5) deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
(202)-564-7397
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 03/09/2011 07:58 PM -----

From: Nancy Stoner/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA
Date: 03/09/2011 07:19 PM
Subject: Tent release for WOUS week of March 21

(b)(5) deliberative

01268-EPA-1019

Seth Oster/DC/USEPA/US

03/10/2011 09:17 AM

To Richard Windsor, Bob Perciasepe, Diane Thompson

cc

bcc

Subject Fw: Dallas Observer: Toxic Avenger: In the War Between the Feds and Texas, EPA Chief Al Armendariz has Science on His Side. Is That Enough?

Another profile on Al. **(b)(5) deliberative**

Seth

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 03/10/2011 09:16 AM -----

From: David Gray/R6/USEPA/US
To: Adora Andy/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA
Date: 03/10/2011 09:01 AM
Subject: Dallas Observer: Toxic Avenger: In the War Between the Feds and Texas, EPA Chief Al Armendariz has Science on His Side. Is That Enough?

The Dallas Observer profile on Al is out today. Here is a copy of the full story.

David

Toxic Avenger: In the War Between the Feds and Texas, EPA Chief Al Armendariz has Science on His Side. Is That Enough?

By **Patrick Michels** Thursday, Mar 10 2011

There's a mob of environmentalists in the middle of the room before lunch, and it's not for the vegan seaweed salad.



Mark Graham

Raised in the shadow of Asarco's El Paso copper smelter, former SMU professor Al Armendariz was a long shot to run the EPA's regional office in Dallas. Now he's staring down Republican leadership in Austin in a fight over Texas' air.



Patrick Michels

At an environmental conference in February, Armendariz explains why the EPA stepped in over Governor Rick Perry's authority to regulate greenhouse gases. Texas is the only state that refused to begin regulating greenhouse gases like carbon dioxide this year; its power plants give off far more carbon dioxide than those of any other state.

It's a cool Friday in February, just minutes before this year's State of the Air conference, hosted by the clean-air advocate [Air Alliance Houston](#), in a community center in the group's hometown. Buried in the scrum of suits is [Dr. Al Armendariz](#), in a brown suit and a blue tie, schmoozing and passing business cards around, breaking his thoughtful gaze now and then with a wide, enthusiastic grin.

A little over a year ago Armendariz left his professorship at [Southern Methodist University](#) to lead the [Environmental Protection Agency's](#) regional office in Dallas. In so doing, he brought hope to hope-starved generations of Texas greens, folks who'd spent years confronting skeptical Texas legislators, watch-dogging regulators at the Texas Railroad Commission and Texas Commission on Environmental Quality, growing accustomed to the sense the state was selling its environmental policy down a hazy, toxic river. Never did they think they'd see so much authority rest with someone they trusted.

In their corner now was a man who'd scrapped over pollution controls with legislators, confirmed that natural gas

drilling was a huge contributor to smog in North Texas when nobody else could, and risen, almost miraculously, through their ranks to a place of federal authority to stand tough against Texas' most powerful global warming skeptics and industry pals.

Earlier this year, *Texas Monthly* named him one of their "25 Most Powerful Texans" and the *Houston Chronicle* called him "the most feared environmentalist in the state." Just before today's talk from the guy these environmentalists still affectionately call "Dr. Al," activist **Allison Silva**—who heads a group fighting a proposed coke-fired coal power plant in **Corpus Christi**—echoes a common sentiment about Armendariz for the crowd: "He's a rock star in my book."

Once he's up at the podium, alone with his slide show, he doesn't make for much of a rock star. His speech is measured. Each sentence starts off slowly until the whole thing is precisely formed in his head, and he can rush through the end of his thought.

Here's the man critics call a slick, power-grabbing bureaucrat, the guy trying to drive business out of the state, stammering and nervously rubbing his hands together. Here's that rock star, kicking off his **PowerPoint** with a nine-line legal disclaimer.

Here's the most feared environmentalist in Texas, telling a story about when he was just a kid in **El Paso**, surrounded by the arsenic-laced cloud of the **Asarco** copper smelter, one of the lucky ones among generations of children who, many studies later showed, were poisoned by the plant.

"You could taste the air," he recalls for the crowd. "Your throat would tingle with all the metals that were put into the air."

Armendariz has relatives who worked at the plant, and in the past, when speaking about his childhood, he's recalled how a few of them developed cancer and asthma after years of exposure, and the frustrating uncertainty about whether the smelter was to blame.

Today, though, he keeps it light for the crowd, recalling how his family moved around the country, back in the days when air quality rules were looser all around, first to Los Angeles when he was in first grade, and then to Houston for a year in the late 1970s before moving back to El Paso, where he graduated from high school.

"I tease my dad, we were doing the **Clean Air Act** tour," Armendariz says—the most he hams it up all afternoon. That "cocktail of exposure to air pollution" he describes stuck with him through his wild and wandering college years—his undergraduate degree in chemical engineering at the Massachusetts Institute of Technology, his master's and doctorate in environmental engineering, and a couple of gigs that followed, at **MIT's Center for Global Change Science and Radian Corp.** in North Carolina's **Research Triangle**.

In 2002, he returned to Texas to join the faculty at **SMU's Lyle School** of Engineering. He moved into a house in Lake Highlands, where he now lives with his wife, Cynthia, a second-grade teacher in **Irving**, and their two boys. He drives a **Ford Taurus** that can run on ethanol. "I always buy American cars," he's quick to point out.

When he moved to Dallas, Asarco's smelter in his hometown had been shuttered for three years. In 2002, though, the company began talking with TCEQ about reopening the facility, without even updating its permits. As Armendariz jokes with the crowd today, that's when he first considered applying to work at the EPA. "My plan was to try to be the regional administrator, shut down the Asarco smelter, quit and go back to SMU."

If only things had been that simple. In the year-plus since Armendariz took over EPA's Region 6—a six-state slice of the country he jokes includes "Texas and the states that border it"—the unassuming engineer has been cast as the enemy in **Governor Rick Perry's** war on Washington, as the long meddling arm of **President Obama's** job-killing federal government, as a tree-hugging arch-nemesis to business and states' rights interests.

In the last year's battle, the EPA has invalidated Texas-issued emissions permits, begun drafting a study of gas drilling operations and started regulating greenhouse gases like carbon dioxide for the first time. Along the way, they've drawn legal challenges from **Texas Attorney General Greg Abbott**—over the EPA's invalidation of Texas' Flexible Permitting Program (which let companies clump emissions from multiple sources into a single cap) and its mandate to regulate greenhouse gases—and from gas drillers targeted by the agency who say the state, through the RRC, ought to regulate them. Wrapped in a states' rights argument, Texas' approach has been lauded by **Republicans** in Congress where some members have suggested doing away with the EPA altogether. Despite the political warfare raging around him, Armendariz tries to stay out of the headlines, confident that with science on his side, he can remain above the fray. Whether this smacks of naiveté from a political novice or diplomacy from a seasoned academic, the stakes for the environmental and business climate of the state couldn't be higher.



Patrick Michels

A calm, calculating type with an engineer's curious mind, Armendariz has developed a rock-star following among Texas environmentalists.



Zuma Press

Governor Perry says the state's been doing just fine without the federal government messing with Texas' air and industry. While Armendariz's appearance in the anti-drilling documentary *Gasland* helped raise his profile, it also drew complaints from critics of his close ties to activists.

Whether Armendariz is a regulatory rock star or a job-killing giant, his emergence out of the lab and into the political fray begins in October 2005, with a rare settlement between industry and clean-air groups. The North Texas air quality advocacy group Downwinders At Risk had just agreed to drop its opposition to Holcim Cement's expansion of its plant in **Midlothian**—the old "Cement Capitol of Texas" south of Dallas—so long as the company agreed to emissions controls and to spend \$2.25 million on other pollution-cutting projects outside the plant. **Holcim** also agreed to pay for a scientist—chosen by Downwinders—to monitor its operation.

The group got about 15 applications for the job, recalls chairman **Jim Schermbeck**, but the one from SMU stood out. "You look at his résumé, and God—graduated from MIT, he's got all the credentials," Schermbeck remembers. "The problem was he had never been involved with anything like this before."

Armendariz had experience in air monitoring from industry, but not with cement kilns. Nevertheless, Schermbeck says, the Downwinders board went with Armendariz hoping he might prove to be someone they could work with in the future. "The discussion revolved around trying to grow local talent," Schermbeck says.

In the end, "It wasn't much of a jump," says **Becky Bornhorst**, another Downwinders chair. "The plant people liked him, they were very open with him; he could go out any time."

After a few months, Schermbeck says Armendariz began talking about all the pollution controls he thought were missing from the cement kiln. "I knew that if he picked up on that right away, that he was our guy," Schermbeck says. "We started leaning on him more." Armendariz joined Downwinders' support for a bill in the 2007 Texas Legislature that would pay for testing an emissions control technology called SCR at a Midlothian cement kiln. Armendariz recalls his first time negotiating his way through the capitol in Austin that spring. "It was interesting to see how difficult it is for common citizens to get meaningful relief, compared to how easy it is for special interests," Armendariz says, looking back. "I've decided that part of my job is to make sure that those people who don't have lobbyists have someone looking out for them."

Of all the possible introductions to Texas politics, there may be none less dignified than to step in front of the House **Committee on Environmental Regulation** to support new environmental regulations. Armendariz did that in mid-May, where the committee's chair **Dennis Bonnen**, an Angleton Republican, first grilled Armendariz over his name—"Armendiz," then "Armendariaz"—and then waltzed him down a tangent about how much Bonnen's car

might pollute if it had been made before 1985.

The bill made it through the Texas Senate, but died in the House at the end of the session. "He got his eyes opened a lot, and I think he got the bug then," Schermbeck recalls. "It was like there was something in him that was waiting to have the right fertilizer applied, and all of a sudden it started to grow."

Meanwhile, all around Midlothian, on the land above the **Barnett Shale** rock formation surrounding **Fort Worth**, the natural gas exploration boom was on. With thousands of new permit applications every year, the number of drilling rigs was skyrocketing, driven by new hydraulic fracturing technology that let drillers draw out pockets of gas tucked in places they couldn't reach before. Along the way, the industry sold natural gas as a domestic clean-energy cure-all, a solution to foreign entanglements over oil and one that burns twice as clean as coal.

While the horror stories about flaming water taps, chronic asthma and nosebleeds were just beginning to trickle out from families that lived near drilling sites, it was clear the industry was growing fast—faster than TCEQ could enlist additional regulators to watch it. The commission admitted it didn't even have a firm count on the number of production wells operating in North Texas.

Meanwhile, the Austin office of the **Environmental Defense Fund**, a nationwide environmental group that studies climate change, was searching for a scientist to take a hard look at emissions from those oil and gas drilling operations, and found Armendariz.

"We were trying to find an academic in the **Dallas-Fort Worth** area who could do a real analysis," recalls **Jim Marston**, EDF's regional director for Texas. "We knew he cared about air issues too; we knew he was good at crunching numbers."

Adding up emissions from lots of little sources in the gas production chain—engine exhaust from gas compressors, vents from condensate tanks where the gas is separated at the surface, leaks from valves and pipe connections, and more—Armendariz figured just how much the operations polluted, in terms of smog-forming substances like nitrous oxide and volatile organic compounds, greenhouse gases and other toxins like benzene. They published the study in February 2009.

"I actually was skeptical that there was going to be a lot of emissions there," Marston says. "It was a big, big number. We were kinda shocked."

That number—165 tons of smog-forming compounds per day (TPD) from a five-county area around Fort Worth—is impressive next to the benchmark Armendariz compares it to in the report: All the car and truck traffic in that area including Fort Worth "was 121 TPD, indicating that the oil and gas sector likely has greater emissions than motor vehicles in these counties."

The gas drilling study is what made Armendariz a star—that, and his role in the **Oscar-nominated** documentary *Gasland*. In Dallas alone, anti-drilling activists have circulated copies of the study and the film to the city council while its members consider whether to permit gas drilling on city land. (The council's put off its vote until October, to allow for a study of possible health risks.)

Gasland covers director **Josh Fox's** cross-country road trip to gas drilling hot spots, from his home in Pennsylvania, west to **Wyoming** and back—including a stop in Texas where, waiting for Fox in his cluttered lab at SMU with a blue lab coat and a few days' stubble, is Armendariz.

Fox says Armendariz became a "Wizard of Oz" figure at the end of his road movie, one of the characters "who had the information, who understood a deeper reality than we could get just from talking to people."

In the film, Armendariz points out the cluster of gas drilling sites dotted on a map of the Fort Worth area, and explains why it's so tough to regulate emissions when each dot comes with a handful of separate tanks, compressors and drill rigs that all contribute to the pollution. "Each of those little sources is exempted from the Clean Air Act," he says.

"TCEQ had no idea how many gas wells were being put in and were in the ground around the city of Fort Worth," Armendariz tells Fox, before offering a warning for places where the industry's spreading next. "We've learned our lesson: You've got to stay on top of this. You've got to look at the issues as it's happening," he says. "Or it's just a big mess."

"It was kind of astounding that no one had done this before, that no one had added it up, and that the state wasn't adding it up," Fox says, and "It wasn't like I'm in some wacko lab in San Francisco. I'm at SMU, with a PhD who used to work for the natural gas industry."

In June, TCEQ announced the results of its own in-house study testing the veracity of Armendariz's numbers. Its results were roughly similar—gas production contributed as much pollution as auto traffic in that five-county area. "I was impressed that the TCEQ, who wanted to say he was wrong, weren't able to," Marston says. "And they've got

some pretty creative scientists."

But unlike Armendariz, TCEQ didn't believe these findings warranted any regulatory changes, because all the oil and gas production pollution was spread across rural areas, not packed in around cities like car exhaust. After it came out, Armendariz's study became as good as scripture for people around Fort Worth who'd been desperate to confirm something was up with their air, who'd grown frustrated that TCEQ and the RRC—which had a way of referring complaints about gas drilling back and forth to each other—weren't doing more to help.

Deborah Rogers, who runs a goat dairy in north Fort Worth, says she'd been concerned when she learned in 2009 that **Chesapeake Energy** was putting in 12 wells on the land next to hers—one pad site up against her property line—because she'd read about pastures where gas drilling nearby had caused problems for the cattle.

After the wells were in, Rogers decided to pay for some baseline testing of the air around her house. But the day they came out to test, one of the **Chesapeake** wells started flaring—burning up gas vented out the top—and the results of the test shocked her: benzene, toluene, sulfur compounds and other chemicals were all well represented.

Rogers took the results to the TCEQ. "They told me I was the first person who had any data like that in North Texas near a gas drilling site," she recalls. But because the numbers were from just one site, on just one day, she says TCEQ told her there was nothing the commission could do. And the EPA told her its hands were tied because any enforcement action had to come from the state.

Rogers says she got a nosebleed while the well went on flaring, and on the fifth day of the flare, six of her chicks and a pair of young goats were found dead—likely from asphyxiation, her vet told her.

Armendariz, she recalls, "was the only person who had done any kind of work on air emissions in the Barnett Shale." "I think he was very brave because he was one of the early ones too. We were all kind of lone voices in the wilderness."

Rogers arranged for Armendariz to test her air and turn the results over to UNT Health Science researchers to study what the results could mean for people breathing the air. She canvassed business friends in Fort Worth to help pay for the follow-up study, which turned up benzene and sulfur compounds.

"I used to be the most apolitical person you ever met, and now I'm a raging activist about this," Rogers says, but she recognizes it's a tough situation to understand until it happens to you. "If you're going to look at this, you've got to look at it in a cold hard scientific way. I don't see how you can say that there isn't a problem anymore. There's just too much data out there."

In fall 2009, TCEQ entered a new era of brash fed-scoffing, joining the upper ranks of Perry's states' rights PR machine, with the promotion of **TCEQ Commissioner Bryan Shaw** to chairman.

Larry Soward, a former commissioner whose six-year term ended at the same time, says he's noticed the shift since then. "It really rumbled below the surface until—well, until the end of my term," Soward says. "I think what you've seen in the last two to three years is a much more visible and vocal commission...consistent with the governor's increased vocalness over the federal government intruding in the state."

As the EPA laid the groundwork for greenhouse gas regulations in every state—a move that Perry, the climate-change skeptic, has fought every step of the way—Shaw, an associate professor in Texas A&M's Biological and Agricultural Engineering department, testified, according to the minutes of his confirmation hearing, that he "does not believe the science is conclusive regarding human contributions to global warming."

A **Sunset Commission** review of the agency last year—one that environmental groups said had turned soft on the agency—called out TCEQ for lacking punitive follow-ups to enforcement orders or taking a long-term look at a polluter's historical compliance.

"It's unfortunate. The agency, for the most part, is a very scientific organization," Soward says, but the rhetoric from the top of the agency echoes down the chain of command. "I could get staff to agree with me privately on particular issues and policies, but when the majority of the commissioners took a different position, staff wasn't about to stick their heads out of the foxholes and get shot at," Soward says. "It sets the parameters in which the staff can operate."

With the EPA squared off against Texas—the only state in the country that refused to start regulating greenhouse gases—the stage was set for a showdown over Texas' air.

While ranks formed in Austin to fight the feds' efforts, the EPA was missing a local leader in Dallas, without a regional chief since January 2009 when the last administrator, Bush-appointed **Richard Greene**—a former mayor of **Arlington**—stepped down.

Armendariz says the job had already been in his sights for a year—since TCEQ commissioners voted unanimously to approve Asarco's permits to reopen its smelter in El Paso. "That was really at that point the motivating factor for

me to find out what it would take to be regional administrator," he says.

Weeks before he got the appointment, the EPA threatened to invalidate Asarco's TCEQ-approved permits, and the company backed off reopening the smelter. They started talking about paying for site cleanup instead. Yet, Armendariz still pursued the job.

Schermbeck says when Armendariz first floated the idea past him, "I said, if you do that, I'll support you, thinking he didn't stand a chance in hell."

Typically, the regional administrator job would go to a politician like Greene. Schermbeck says he expected former Dallas Mayor **Laura Miller** to be a prime candidate, but says she wasn't interested. "[Armendariz] was not a member of the Democratic Party at all—that's what people don't understand who don't know him. He is not a party hack at all," Schermbeck says. "He really had no constituency other than us."

Not long after Obama appointed **Lisa Jackson** to the EPA's top job, she came to Dallas' EPA office to talk about the looming possibility that Texas would resist regulating greenhouse gases. Jackson, an engineer, made an off-hand request for suggestions to fill the open administrator job, Schermbeck recalls, "and I pulled out Al's résumé and a packet of stories about him and said, 'This guy right here.'"

Support for Armendariz gathered steam around the state's green activists, and when Armendariz got the nod in November 2009, "It was elation," Schermbeck says.

Folks from EDF and **Public Citizen** came up from Austin to join Downwinders and other Dallas-Fort Worth air quality groups for a party at J. Gilligan's, a brick-and-wood-paneled Irish bar in Arlington. With green balloons up around the neon beer signs, they gave Armendariz a send-off into the wilds of federal policy making. That night Downwinders gave Armendariz its "Agitator of the Year" award: a full-sized washing machine agitator painted gold. "The route to this office for him was so circuitous and so unusual," Schermbeck says, "people just really don't appreciate how rare getting somebody like him is."

At an environmental conference in February, Armendariz explains why the EPA stepped in over Governor Rick Perry's authority to regulate greenhouse gases. Texas is the only state that refused to begin regulating greenhouse gases like carbon dioxide this year; its power plants give off far more carbon dioxide than those of any other state.

A little more than a year since that party, the EPA has followed through on its threats to rule Texas' flexible air permits illegal and to regulate greenhouse gases. Smaller enforcement actions and an upcoming study on hydraulic fracturing's potential impact on water supplies have been further opportunities to raise hackles in Austin. After the EPA's decision on Texas' flexible permitting program in June, Perry issued a statement calling it an "irresponsible and heavy-handed action," saying it would destroy a program that successfully cleaned the air and fostered business growth. The agency, he said, had been "blinded by its activist agenda."

"When politicians say things that are clearly erroneous and deserve a response, we will go on the record. But I don't see a tremendous amount of value in daily having a back and forth argument," Armendariz says. "I have too many important things to do and a limited period of time."

"When I started the job, I wasn't thinking at the time that we would necessarily be doing any of the greenhouse gas permitting for any of the states," Armendariz says—but last summer, he says, Texas officials made it clear they'd be putting up a fight.

A letter from Abbott and TCEQ Chairman Shaw to Armendariz and Jackson at the EPA spelled out Texas' take on greenhouse gas regulation last August, calling them "regulations that are plainly contrary to United States law," and saying the EPA's move was a threat "to usurp state enforcement authority and to federalize the permitting program of any state that fails to pledge their fealty to the Environmental Protection Agency."

Since then, Perry and his appointees at the TCEQ and RRC have made an organized sport of EPA-bashing, with all the nuances of a good drinking game.

In an e-mail reply to the *Observer*, a TCEQ spokesman says the EPA hasn't proved its decisions will do anything to improve air quality: "Environmental regulations must have some environmental benefit, and not just expand the power of the federal government," he writes. As for Armendariz himself, the TCEQ says "he has been very effective in ensuring that the majority of our differences are resolved in the courts."

On December 30, Abbott filed a legal challenge to the EPA's regulation of greenhouse gases in Texas, saying the agency was "unlawfully commandeering Texas' environmental enforcement program."

That adversarial approach to the EPA has been echoed lately in Congress, where Republican-led committees have brought in Abbott to praise his legal battle while grilling Jackson on the agency's decision—even mocking the concern over carbon dioxide, breathing heavily and suggesting that's what pollution looks like to the EPA. Texas congressmen like **Joe Barton**, **John Carter** and **Ted Poe** have come out strongly in efforts to explicitly remove carbon dioxide from the scope of the Clean Air Act.

Meanwhile, many of the environmentalists who'd been at Armendariz's send-off in Arlington say they haven't spoken much with him in his new job. Marston, at the Texas EDF office, says he recognizes the irony in it, but partly because of ethics rules, "we never meet with him."

In the past, Armendariz hadn't shied away from calling himself an "activist" in the press, but he avoids the word today. "Activist is a very undefined and loose term. I very much am an environmentalist," he says. "Really how I see myself is really day-to-day as a law enforcement official."

While Armendariz has a new role today, Schermbeck is confident Armendariz is still the same guy. "He's got an inquisitive mind. He's curious," Schermbeck says. "I don't know how many engineers you've ever known, but Al's an *engineer*. He's better dressed lately, I have to give him that. He's not wearing plaid ties with plaid shirts anymore."

"He's the most affable fellow you've ever met....That's a good personality to have when you're right in the middle of the crossfire between Washington and Austin," Schermbeck continues. "When you actually see him, it's very hard to match the rhetoric they're spewing out of Austin with this guy."

Located in the sleek downtown Fountain Place high-rise downtown, EPA's Dallas office is one of 10 regional offices in the country, with 850 people working here under Armendariz. The digs are simple, comfortable, spread out over a few floors, outfitted like a dentist's office waiting room.

In a conference room attached to his office, Armendariz describes the agency's work in Texas with a quiet confidence, a calm, friendly sort of approach backed by his rock-solid trust in science and his authority from the federal government. "I'm not surprised that EPA became part of the states' rights, federalism kind of debate, although I am surprised at the degree to which state officials have taken that argument," he says, "because I think they're on the losing side of history on this issue."

The response out of Austin has been "hyperpolitical, hyperpartisan and very disconnected from the science," he says. "We're not trying to regulate carbon dioxide because it exists. We're trying to regulate it because there's too much of it in the atmosphere."

While Perry and the TCEQ argue that Texas has made huge strides in its air quality since the state took over regulating industry in 1992, Armendariz says that's a smokescreen. It's not state standards, but tighter federal regulations for things like car exhaust that have been responsible for the improvement, he says.

Meanwhile, according to an Environmental Integrity Project report, Texas led the country in carbon dioxide emissions from power plants in 2010—with more than the next two states combined. "It really is cleaning up a mess after it's already been made," Armendariz says.

"It is bizarre, because we have large state agencies which work on a lot of issues with my staff, hand-in-hand, and we do a lot of work together," Armendariz continues, "and yet the political leadership of the state of Texas, and the people who are running these agencies will make statements about climate change and greenhouse gases which are completely ignorant of science, and completely ignorant of the facts, and show absolutely no awareness of just some of the basic principles of physics and chemistry. I sometimes wonder how those people can be managing such large, science-driven agencies.

And yet Armendariz seems to prefer negotiation to confrontation. "When I talk to the plant managers, the chemical engineers, the folks who work in industry, we don't get into debates over the science," he says. "I think they really quickly realized that I wanted to be partners in that effort, and not simply drag them into court."

Armendariz says about 125 flexible permits got thrown out last summer with the EPA's decision, 40 or so from very big companies like **ConocoPhillips**, **Eneos** and **Chevron**. He says his office could've laid down some "very heavy-handed enforcement actions" they'd fight about in court, and "at the end of a year or two, or three, of fighting and screaming and adversarial relationships, we could have forced them to get new permits."

"For the companies that come in to talk to us, I do think that they need to get over the immediate rhetoric," Armendariz says, running down the list of the usual knocks against him—that he's an "activist" chumming around with radical greens, or a showboater against industry thanks to his turn in *Gasland*. "They come in with the perspective that I'm going to be very difficult to work with, and have a very aggressive agenda that they're not going to be able to manage...but they come and start working with us, and I think they find us to be pretty reasonable and pretty straightforward."

Companies that still rely on the EPA for their permits now are careful to be upbeat when asked for their opinion of Armendariz's tenure. When **Flint Hills Resources**, a Corpus Christi refiner, found itself needing a replacement for

its Texas-issued flex permit last year, "all parties took a proactive, constructive approach," says **Jim Mahoney**, executive vice president at Flint Hills' parent company **Koch Industries**, in a permitting process that's still under way.

In a January *Dallas Business Journal* story headlined "Greenhouse-gas battle proving costly to N. Tx.," **Art Martinez**, a director at Garland Power & Light, says he's been frustrated by the interruption in the permitting process. "It has taken so long to grant a permit for a small power plant that's been running for 50 years. There's been a lot of time and money spent on this," he told the journal.

Reached by phone a month later, though, spokeswoman **Elizabeth Kimbrough** sounds less concerned. "We're just sticking with the process and working with them on it," she says. "We've just been complying and submitting what we need to, and it's up to the TCEQ and the EPA."

One company that has opted to meet the EPA in court is Range Resources, a natural gas producer with operations in the Barnett Shale that prompted a federal suit from the **Department of Justice** after declining to follow an order from EPA to clean up its wells. After a pair of **Parker County** residents complained to Range officials and the RRC about methane-contaminated water—the infamous *Gasland* -style "flaming tap" from the well—they went to the EPA, which issued a 48-hour emergency order in December 2010 for the company to provide the residents clean drinking water and clean up its leaking wells.

Instead, the company has maintained the gas comes from an entirely different rock formation—above the Barnett Shale, where they'd been drilling—and thus couldn't have come from Range. A spokesman said they'd still been working with the **Railroad Commission** to examine the leaks, and that the EPA had jumped out ahead of the science.

Armendariz says the EPA's order was based on "a very rigorous set of data" that confirmed the methane was being produced by Range. Range officials told the *Fort Worth Star-Telegram* that Armendariz was showboating, and showed his bias when he went on TV to announce the order—a claim they've said was bolstered earlier this month, when an e-mail surfaced from Armendariz to a few activists, including Wilson and Schermbeck, letting them know about the "big news" coming up about Range. "Thank you both for helping to educate me on the public's perspective of these issues. And thank you all for your continued support and friendship," Armendariz writes.

Texas Railroad Commissioner and Republican **U.S. Senate** candidate **Michael Williams** piled on to the outcry, calling the EPA's move to step in over the RRC "Washington politics of the worst kind."

Given the opportunity to weigh in on Armendariz, industry groups that lobby for the companies he regulates hold back even less than officials in Texas. In a story for *E&E News*, an environmental and energy policy publication, the Texas Association of Business' **Steve Minick** offered a scathing opinion of Armendariz last August, saying that the administrator "destroys his credibility" when he suggests that industry in the state hasn't been effectively regulated under the TCEQ. "To say that industry has had its own way for decades is just absurd and naive," Minick told the paper.



Mark Graham

Raised in the shadow of Asarco's El Paso copper smelter, former SMU professor Al Armendariz was a long shot to run the EPA's regional office in Dallas. Now he's staring down Republican leadership in Austin in a fight over Texas' air.

01268-EPA-1020

Seth Oster/DC/USEPA/US

To Richard Windsor

03/10/2011 09:25 AM

cc

bcc

Subject Re: Dallas Observer: Toxic Avenger: In the War Between the Feds and Texas, EPA Chief Al Armendariz has Science on His Side. Is That Enough?

(b)(5) deliberative

Seth Oster
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Richard Windsor Yup ----- Original Message ----- 03/10/2011 09:20:16 AM

From: Richard Windsor/DC/USEPA/US
To: Seth Oster/DC/USEPA/US@EPA
Date: 03/10/2011 09:20 AM
Subject: Re: Dallas Observer: Toxic Avenger: In the War Between the Feds and Texas, EPA Chief Al Armendariz has Science on His Side. Is That Enough?

Yup

Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 03/10/2011 09:17 AM EST
To: Richard Windsor; Bob Perciasepe; Diane Thompson
Subject: Fw: Dallas Observer: Toxic Avenger: In the War Between the Feds and Texas, EPA Chief Al Armendariz has Science on His Side. Is That Enough?
Another profile on Al. (b)(5) deliberative

Seth

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----- Forwarded by Seth Oster/DC/USEPA/US on 03/10/2011 09:16 AM -----

From: David Gray/R6/USEPA/US
To: Adora Andy/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA

Date: 03/10/2011 09:01 AM
Subject: Dallas Observer: Toxic Avenger: In the War Between the Feds and Texas, EPA Chief Al Armendariz has Science on His Side. Is That Enough?

The Dallas Observer profile on Al is out today. Here is a copy of the full story.

David

Toxic Avenger: In the War Between the Feds and Texas, EPA Chief Al Armendariz has Science on His Side. Is That Enough?

By **Patrick Michels** Thursday, Mar 10 2011

There's a mob of environmentalists in the middle of the room before lunch, and it's not for the vegan seaweed salad.



Mark Graham

Raised in the shadow of Asarco's El Paso copper smelter, former SMU professor Al Armendariz was a long shot to run the EPA's regional office in Dallas. Now he's staring down Republican leadership in Austin in a fight over Texas' air.



Patrick Michels

At an environmental conference in February, Armendariz explains why the EPA stepped in over Governor Rick Perry's authority to regulate greenhouse gases. Texas is the only state that refused to begin regulating greenhouse gases like carbon dioxide this year; its power plants give off far more carbon dioxide than those of any other state.

It's a cool Friday in February, just minutes before this year's State of the Air conference, hosted by the clean-air advocate [Air Alliance Houston](#), in a community center in the group's hometown. Buried in the scrum of suits is [Dr. Al Armendariz](#), in a brown suit and a blue tie, schmoozing and passing business cards around, breaking his thoughtful gaze now and then with a wide, enthusiastic grin.

A little over a year ago Armendariz left his professorship at [Southern Methodist University](#) to lead the [Environmental Protection Agency's](#) regional office in Dallas. In so doing, he brought hope to hope-starved generations of Texas greens, folks who'd spent years confronting skeptical Texas legislators, watch-dogging regulators at the Texas Railroad Commission and Texas Commission on Environmental Quality, growing accustomed to the sense the state was selling its environmental policy down a hazy, toxic river. Never did they think they'd see so much authority rest with someone they trusted.

In their corner now was a man who'd scrapped over pollution controls with legislators, confirmed that natural gas drilling was a huge contributor to smog in North Texas when nobody else could, and risen, almost miraculously, through their ranks to a place of federal authority to stand tough against Texas' most powerful global warming skeptics and industry pals.

Earlier this year, *Texas Monthly* named him one of their "25 Most Powerful Texans" and the *Houston Chronicle* called him "the most feared environmentalist in the state." Just before today's talk from the guy these environmentalists still affectionately call "Dr. Al," activist [Allison Silva](#)—who heads a group fighting a proposed coke-fired coal power plant in [Corpus Christi](#)—echoes a common sentiment about Armendariz for the crowd: "He's a rock star in my book."

Once he's up at the podium, alone with his slide show, he doesn't make for much of a rock star. His speech is measured. Each sentence starts off slowly until the whole thing is precisely formed in his head, and he can rush through the end of his thought.

Here's the man critics call a slick, power-grabbing bureaucrat, the guy trying to drive business out of the state, stammering and nervously rubbing his hands together. Here's that rock star, kicking off his [PowerPoint](#) with a nine-line legal disclaimer.

Here's the most feared environmentalist in Texas, telling a story about when he was just a kid in [El Paso](#), surrounded by the arsenic-laced cloud of the [Asarco](#) copper smelter, one of the lucky ones among generations of children who, many studies later showed, were poisoned by the plant.

"You could taste the air," he recalls for the crowd. "Your throat would tingle with all the metals that were put into the air."

Armendariz has relatives who worked at the plant, and in the past, when speaking about his childhood, he's recalled how a few of them developed cancer and asthma after years of exposure, and the frustrating uncertainty about whether the smelter was to blame.

Today, though, he keeps it light for the crowd, recalling how his family moved around the country, back in the days when air quality rules were looser all around, first to Los Angeles when he was in first grade, and then to Houston for a year in the late 1970s before moving back to El Paso, where he graduated from high school.

"I tease my dad, we were doing the [Clean Air Act](#) tour," Armendariz says—the most he hams it up all afternoon.

That "cocktail of exposure to air pollution" he describes stuck with him through his wild and wandering college years—his undergraduate degree in chemical engineering at the Massachusetts Institute of Technology, his master's and doctorate in environmental engineering, and a couple of gigs that followed, at [MIT's Center for Global](#)

Change Science and Radian Corp. in North Carolina's Research Triangle.

In 2002, he returned to Texas to join the faculty at SMU's Lyle School of Engineering. He moved into a house in Lake Highlands, where he now lives with his wife, Cynthia, a second-grade teacher in Irving, and their two boys. He drives a Ford Taurus that can run on ethanol. "I always buy American cars," he's quick to point out. When he moved to Dallas, Asarco's smelter in his hometown had been shuttered for three years. In 2002, though, the company began talking with TCEQ about reopening the facility, without even updating its permits. As Armendariz jokes with the crowd today, that's when he first considered applying to work at the EPA. "My plan was to try to be the regional administrator, shut down the Asarco smelter, quit and go back to SMU." If only things had been that simple. In the year-plus since Armendariz took over EPA's Region 6—a six-state slice of the country he jokes includes "Texas and the states that border it"—the unassuming engineer has been cast as the enemy in Governor Rick Perry's war on Washington, as the long meddling arm of President Obama's job-killing federal government, as a tree-hugging arch-nemesis to business and states' rights interests.

In the last year's battle, the EPA has invalidated Texas-issued emissions permits, begun drafting a study of gas drilling operations and started regulating greenhouse gases like carbon dioxide for the first time. Along the way, they've drawn legal challenges from Texas Attorney General Greg Abbott—over the EPA's invalidation of Texas' Flexible Permitting Program (which let companies clump emissions from multiple sources into a single cap) and its mandate to regulate greenhouse gases—and from gas drillers targeted by the agency who say the state, through the RRC, ought to regulate them. Wrapped in a states' rights argument, Texas' approach has been lauded by Republicans in Congress where some members have suggested doing away with the EPA altogether. Despite the political warfare raging around him, Armendariz tries to stay out of the headlines, confident that with science on his side, he can remain above the fray. Whether this smacks of naiveté from a political novice or diplomacy from a seasoned academic, the stakes for the environmental and business climate of the state couldn't be higher.



Patrick Michels

A calm, calculating type with an engineer's curious mind, Armendariz has developed a rock-star following among Texas environmentalists.



Zuma Press

Governor Perry says the state's been doing just fine without the federal government messing with Texas' air and industry. While Armendariz's appearance in the anti-drilling documentary Gasland helped raise his profile, it also drew complaints from critics of his close ties to activists.

Whether Armendariz is a regulatory rock star or a job-killing giant, his emergence out of the lab and into the political fray begins in October 2005, with a rare settlement between industry and clean-air groups. The North Texas air quality advocacy group Downwinders At Risk had just agreed to drop its opposition to Holcim Cement's expansion of its plant in Midlothian—the old "Cement Capitol of Texas" south of Dallas—so long as the company agreed to emissions controls and to spend \$2.25 million on other pollution-cutting projects outside the plant.

Holcim also agreed to pay for a scientist—chosen by Downwinders—to monitor its operation.

The group got about 15 applications for the job, recalls chairman Jim Schermbeck, but the one from SMU stood out. "You look at his résumé, and God—graduated from MIT, he's got all the credentials," Schermbeck remembers. "The problem was he had never been involved with anything like this before."

Armendariz had experience in air monitoring from industry, but not with cement kilns. Nevertheless, Schermbeck says, the Downwinders board went with Armendariz hoping he might prove to be someone they could work with in the future. "The discussion revolved around trying to grow local talent," Schermbeck says.

In the end, "It wasn't much of a jump," says Becky Bornhorst, another Downwinders chair. "The plant people liked him, they were very open with him; he could go out any time."

After a few months, Schermbeck says Armendariz began talking about all the pollution controls he thought were missing from the cement kiln. "I knew that if he picked up on that right away, that he was our guy," Schermbeck says. "We started leaning on him more." Armendariz joined Downwinders' support for a bill in the 2007 Texas Legislature that would pay for testing an emissions control technology called SCR at a Midlothian cement kiln. Armendariz recalls his first time negotiating his way through the capitol in Austin that spring. "It was interesting to see how difficult it is for common citizens to get meaningful relief, compared to how easy it is for special interests," Armendariz says, looking back. "I've decided that part of my job is to make sure that those people who don't have lobbyists have someone looking out for them."

Of all the possible introductions to Texas politics, there may be none less dignified than to step in front of the House Committee on Environmental Regulation to support new environmental regulations. Armendariz did that in mid-May, where the committee's chair Dennis Bonnen, an Angleton Republican, first grilled Armendariz over his name—"Armendiz," then "Armendariaz"—and then waltzed him down a tangent about how much Bonnen's car might pollute if it had been made before 1985.

The bill made it through the Texas Senate, but died in the House at the end of the session. "He got his eyes opened a lot, and I think he got the bug then," Schermbeck recalls. "It was like there was something in him that was waiting to have the right fertilizer applied, and all of a sudden it started to grow."

Meanwhile, all around Midlothian, on the land above the Barnett Shale rock formation surrounding Fort Worth, the natural gas exploration boom was on. With thousands of new permit applications every year, the number of drilling rigs was skyrocketing, driven by new hydraulic fracturing technology that let drillers draw out pockets of gas tucked in places they couldn't reach before. Along the way, the industry sold natural gas as a domestic clean-energy cure-all, a solution to foreign entanglements over oil and one that burns twice as clean as coal.

While the horror stories about flaming water taps, chronic asthma and nosebleeds were just beginning to trickle out from families that lived near drilling sites, it was clear the industry was growing fast—faster than TCEQ could enlist additional regulators to watch it. The commission admitted it didn't even have a firm count on the number of production wells operating in North Texas.

Meanwhile, the Austin office of the Environmental Defense Fund, a nationwide environmental group that studies climate change, was searching for a scientist to take a hard look at emissions from those oil and gas drilling operations, and found Armendariz.

"We were trying to find an academic in the Dallas-Fort Worth area who could do a real analysis," recalls Jim Marston, EDF's regional director for Texas. "We knew he cared about air issues too; we knew he was good at crunching numbers."

Adding up emissions from lots of little sources in the gas production chain—engine exhaust from gas compressors, vents from condensate tanks where the gas is separated at the surface, leaks from valves and pipe connections, and more—Armendariz figured just how much the operations polluted, in terms of smog-forming substances like nitrous oxide and volatile organic compounds, greenhouse gases and other toxins like benzene. They published the study in February 2009.

"I actually was skeptical that there was going to be a lot of emissions there," Marston says. "It was a big, big number. We were kinda shocked."

That number—165 tons of smog-forming compounds per day (TPD) from a five-county area around Fort Worth—is

impressive next to the benchmark Armendariz compares it to in the report: All the car and truck traffic in that area including Fort Worth "was 121 TPD, indicating that the oil and gas sector likely has greater emissions than motor vehicles in these counties."

The gas drilling study is what made Armendariz a star—that, and his role in the **Oscar-nominated** documentary *Gasland*. In Dallas alone, anti-drilling activists have circulated copies of the study and the film to the city council while its members consider whether to permit gas drilling on city land. (The council's put off its vote until October, to allow for a study of possible health risks.)

Gasland covers director **Josh Fox's** cross-country road trip to gas drilling hot spots, from his home in Pennsylvania, west to **Wyoming** and back—including a stop in Texas where, waiting for Fox in his cluttered lab at SMU with a blue lab coat and a few days' stubble, is Armendariz.

Fox says Armendariz became a "**Wizard of Oz**" figure at the end of his road movie, one of the characters "who had the information, who understood a deeper reality than we could get just from talking to people."

In the film, Armendariz points out the cluster of gas drilling sites dotted on a map of the Fort Worth area, and explains why it's so tough to regulate emissions when each dot comes with a handful of separate tanks, compressors and drill rigs that all contribute to the pollution. "Each of those little sources is exempted from the Clean Air Act," he says.

"TCEQ had no idea how many gas wells were being put in and were in the ground around the city of Fort Worth," Armendariz tells Fox, before offering a warning for places where the industry's spreading next. "We've learned our lesson: You've got to stay on top of this. You've got to look at the issues as it's happening," he says. "Or it's just a big mess."

"It was kind of astounding that no one had done this before, that no one had added it up, and that the state wasn't adding it up," Fox says, and "It wasn't like I'm in some wacko lab in San Francisco. I'm at SMU, with a PhD who used to work for the natural gas industry."

In June, TCEQ announced the results of its own in-house study testing the veracity of Armendariz's numbers. Its results were roughly similar—gas production contributed as much pollution as auto traffic in that five-county area. "I was impressed that the TCEQ, who wanted to say he was wrong, weren't able to," Marston says. "And they've got some pretty creative scientists."

But unlike Armendariz, TCEQ didn't believe these findings warranted any regulatory changes, because all the oil and gas production pollution was spread across rural areas, not packed in around cities like car exhaust.

After it came out, Armendariz's study became as good as scripture for people around Fort Worth who'd been desperate to confirm something was up with their air, who'd grown frustrated that TCEQ and the RRC—which had a way of referring complaints about gas drilling back and forth to each other—weren't doing more to help.

Deborah Rogers, who runs a goat dairy in north Fort Worth, says she'd been concerned when she learned in 2009 that **Chesapeake Energy** was putting in 12 wells on the land next to hers—one pad site up against her property line—because she'd read about pastures where gas drilling nearby had caused problems for the cattle.

After the wells were in, Rogers decided to pay for some baseline testing of the air around her house. But the day they came out to test, one of the **Chesapeake** wells started flaring—burning up gas vented out the top—and the results of the test shocked her: benzene, toluene, sulfur compounds and other chemicals were all well represented.

Rogers took the results to the TCEQ. "They told me I was the first person who had any data like that in North Texas near a gas drilling site," she recalls. But because the numbers were from just one site, on just one day, she says TCEQ told her there was nothing the commission could do. And the EPA told her its hands were tied because any enforcement action had to come from the state.

Rogers says she got a nosebleed while the well went on flaring, and on the fifth day of the flare, six of her chicks and a pair of young goats were found dead—likely from asphyxiation, her vet told her.

Armendariz, she recalls, "was the only person who had done any kind of work on air emissions in the Barnett Shale." "I think he was very brave because he was one of the early ones too. We were all kind of lone voices in the wilderness."

Rogers arranged for Armendariz to test her air and turn the results over to UNT Health Science researchers to study what the results could mean for people breathing the air. She canvassed business friends in Fort Worth to help pay for the follow-up study, which turned up benzene and sulfur compounds.

"I used to be the most apolitical person you ever met, and now I'm a raging activist about this," Rogers says, but she recognizes it's a tough situation to understand until it happens to you. "If you're going to look at this, you've got to look at it in a cold hard scientific way. I don't see how you can say that there isn't a problem anymore. There's

just too much data out there."

In fall 2009, TCEQ entered a new era of brash fed-scoffing, joining the upper ranks of Perry's states' rights PR machine, with the promotion of **TCEQ Commissioner Bryan Shaw** to chairman.

Larry Soward, a former commissioner whose six-year term ended at the same time, says he's noticed the shift since then. "It really rumbled below the surface until—well, until the end of my term," Soward says. "I think what you've seen in the last two to three years is a much more visible and vocal commission...consistent with the governor's increased vocalness over the federal government intruding in the state."

As the EPA laid the groundwork for greenhouse gas regulations in every state—a move that Perry, the climate-change skeptic, has fought every step of the way—Shaw, an associate professor in Texas A&M's Biological and Agricultural Engineering department, testified, according to the minutes of his confirmation hearing, that he "does not believe the science is conclusive regarding human contributions to global warming."

A **Sunset Commission** review of the agency last year—one that environmental groups said had turned soft on the agency—called out TCEQ for lacking punitive follow-ups to enforcement orders or taking a long-term look at a polluter's historical compliance.

"It's unfortunate. The agency, for the most part, is a very scientific organization," Soward says, but the rhetoric from the top of the agency echoes down the chain of command. "I could get staff to agree with me privately on particular issues and policies, but when the majority of the commissioners took a different position, staff wasn't about to stick their heads out of the foxholes and get shot at," Soward says. "It sets the parameters in which the staff can operate."

With the EPA squared off against Texas—the only state in the country that refused to start regulating greenhouse gases—the stage was set for a showdown over Texas' air.

While ranks formed in Austin to fight the feds' efforts, the EPA was missing a local leader in Dallas, without a regional chief since January 2009 when the last administrator, Bush-appointed **Richard Greene**—a former mayor of **Arlington**—stepped down.

Armendariz says the job had already been in his sights for a year—since TCEQ commissioners voted unanimously to approve Asarco's permits to reopen its smelter in El Paso. "That was really at that point the motivating factor for me to find out what it would take to be regional administrator," he says.

Weeks before he got the appointment, the EPA threatened to invalidate Asarco's TCEQ-approved permits, and the company backed off reopening the smelter. They started talking about paying for site cleanup instead. Yet, Armendariz still pursued the job.

Schermbeck says when Armendariz first floated the idea past him, "I said, if you do that, I'll support you, thinking he didn't stand a chance in hell."

Typically, the regional administrator job would go to a politician like Greene. Schermbeck says he expected former Dallas Mayor **Laura Miller** to be a prime candidate, but says she wasn't interested. "[Armendariz] was not a member of the Democratic Party at all—that's what people don't understand who don't know him. He is not a party hack at all," Schermbeck says. "He really had no constituency other than us."

Not long after Obama appointed **Lisa Jackson** to the EPA's top job, she came to Dallas' EPA office to talk about the looming possibility that Texas would resist regulating greenhouse gases. Jackson, an engineer, made an off-hand request for suggestions to fill the open administrator job, Schermbeck recalls, "and I pulled out Al's résumé and a packet of stories about him and said, 'This guy right here.'"

Support for Armendariz gathered steam around the state's green activists, and when Armendariz got the nod in November 2009, "It was elation," Schermbeck says.

Folks from EDF and **Public Citizen** came up from Austin to join Downwinders and other Dallas-Fort Worth air quality groups for a party at J. Gilligan's, a brick-and-wood-paneled Irish bar in Arlington. With green balloons up around the neon beer signs, they gave Armendariz a send-off into the wilds of federal policy making. That night Downwinders gave Armendariz its "Agitator of the Year" award: a full-sized washing machine agitator painted gold. "The route to this office for him was so circuitous and so unusual," Schermbeck says, "people just really don't appreciate how rare getting somebody like him is."

At an environmental conference in February, Armendariz explains why the EPA stepped in over Governor Rick Perry's authority to regulate greenhouse gases. Texas is the only state that refused to begin regulating greenhouse gases like carbon dioxide this year; its power plants give off far more carbon dioxide than those of any other state.

A little more than a year since that party, the EPA has followed through on its threats to rule Texas' flexible air permits illegal and to regulate greenhouse gases. Smaller enforcement actions and an upcoming study on hydraulic fracturing's potential impact on water supplies have been further opportunities to raise hackles in Austin.

After the EPA's decision on Texas' flexible permitting program in June, Perry issued a statement calling it an "irresponsible and heavy-handed action," saying it would destroy a program that successfully cleaned the air and fostered business growth. The agency, he said, had been "blinded by its activist agenda."

"When politicians say things that are clearly erroneous and deserve a response, we will go on the record. But I don't see a tremendous amount of value in daily having a back and forth argument," Armendariz says. "I have too many important things to do and a limited period of time."

"When I started the job, I wasn't thinking at the time that we would necessarily be doing any of the greenhouse gas permitting for any of the states," Armendariz says—but last summer, he says, Texas officials made it clear they'd be putting up a fight.

A letter from Abbott and TCEQ Chairman Shaw to Armendariz and Jackson at the EPA spelled out Texas' take on greenhouse gas regulation last August, calling them "regulations that are plainly contrary to United States law," and saying the EPA's move was a threat "to usurp state enforcement authority and to federalize the permitting program of any state that fails to pledge their fealty to the Environmental Protection Agency."

Since then, Perry and his appointees at the TCEQ and RRC have made an organized sport of EPA-bashing, with all the nuances of a good drinking game.

In an e-mail reply to the *Observer*, a TCEQ spokesman says the EPA hasn't proved its decisions will do anything to improve air quality: "Environmental regulations must have some environmental benefit, and not just expand the power of the federal government," he writes. As for Armendariz himself, the TCEQ says "he has been very effective in ensuring that the majority of our differences are resolved in the courts."

On December 30, Abbott filed a legal challenge to the EPA's regulation of greenhouse gases in Texas, saying the agency was "unlawfully commandeering Texas' environmental enforcement program."

That adversarial approach to the EPA has been echoed lately in Congress, where Republican-led committees have brought in Abbott to praise his legal battle while grilling Jackson on the agency's decision—even mocking the concern over carbon dioxide, breathing heavily and suggesting that's what pollution looks like to the EPA. Texas congressmen like **Joe Barton**, **John Carter** and **Ted Poe** have come out strongly in efforts to explicitly remove carbon dioxide from the scope of the Clean Air Act.

Meanwhile, many of the environmentalists who'd been at Armendariz's send-off in Arlington say they haven't spoken much with him in his new job. Marston, at the Texas EDF office, says he recognizes the irony in it, but partly because of ethics rules, "we never meet with him."

In the past, Armendariz hadn't shied away from calling himself an "activist" in the press, but he avoids the word today. "Activist is a very undefined and loose term. I very much am an environmentalist," he says. "Really how I see myself is really day-to-day as a law enforcement official."

While Armendariz has a new role today, Schermbeck is confident Armendariz is still the same guy. "He's got an inquisitive mind. He's curious," Schermbeck says. "I don't know how many engineers you've ever known, but Al's an *engineer*. He's better dressed lately, I have to give him that. He's not wearing plaid ties with plaid shirts anymore."

"He's the most affable fellow you've ever met...That's a good personality to have when you're right in the middle of the crossfire between Washington and Austin," Schermbeck continues. "When you actually see him, it's very hard to match the rhetoric they're spewing out of Austin with this guy."

Located in the sleek downtown Fountain Place high-rise downtown, EPA's Dallas office is one of 10 regional offices in the country, with 850 people working here under Armendariz. The digs are simple, comfortable, spread out over a few floors, outfitted like a dentist's office waiting room.

In a conference room attached to his office, Armendariz describes the agency's work in Texas with a quiet confidence, a calm, friendly sort of approach backed by his rock-solid trust in science and his authority from the federal government. "I'm not surprised that EPA became part of the states' rights, federalism kind of debate, although I am surprised at the degree to which state officials have taken that argument," he says, "because I think they're on the losing side of history on this issue."

The response out of Austin has been "hyperpolitical, hyperpartisan and very disconnected from the science," he says. "We're not trying to regulate carbon dioxide because it exists. We're trying to regulate it because there's too much of it in the atmosphere."

While Perry and the TCEQ argue that Texas has made huge strides in its air quality since the state took over regulating industry in 1992, Armendariz says that's a smokescreen. It's not state standards, but tighter federal regulations for things like car exhaust that have been responsible for the improvement, he says.

Meanwhile, according to an Environmental Integrity Project report, Texas led the country in carbon dioxide emissions from power plants in 2010—with more than the next two states combined. "It really is cleaning up a mess after it's already been made," Armendariz says.

"It is bizarre, because we have large state agencies which work on a lot of issues with my staff, hand-in-hand, and we do a lot of work together," Armendariz continues, "and yet the political leadership of the state of Texas, and the people who are running these agencies will make statements about climate change and greenhouse gases which are completely ignorant of science, and completely ignorant of the facts, and show absolutely no awareness of just some of the basic principles of physics and chemistry. I sometimes wonder how those people can be managing such large, science-driven agencies.

And yet Armendariz seems to prefer negotiation to confrontation. "When I talk to the plant managers, the chemical engineers, the folks who work in industry, we don't get into debates over the science," he says. "I think they really quickly realized that I wanted to be partners in that effort, and not simply drag them into court."

Armendariz says about 125 flexible permits got thrown out last summer with the EPA's decision, 40 or so from very big companies like [ConocoPhillips](#), Eneos and [Chevron](#). He says his office could've laid down some "very heavy-handed enforcement actions" they'd fight about in court, and "at the end of a year or two, or three, of fighting and screaming and adversarial relationships, we could have forced them to get new permits."

"For the companies that come in to talk to us, I do think that they need to get over the immediate rhetoric," Armendariz says, running down the list of the usual knocks against him—that he's an "activist" chumming around with radical greens, or a showboater against industry thanks to his turn in *Gasland*. "They come in with the perspective that I'm going to be very difficult to work with, and have a very aggressive agenda that they're not going to be able to manage...but they come and start working with us, and I think they find us to be pretty reasonable and pretty straightforward."

Companies that still rely on the EPA for their permits now are careful to be upbeat when asked for their opinion of Armendariz's tenure. When [Flint Hills Resources](#), a Corpus Christi refiner, found itself needing a replacement for its Texas-issued flex permit last year, "all parties took a proactive, constructive approach," says [Jim Mahoney](#), executive vice president at Flint Hills' parent company [Koch Industries](#), in a permitting process that's still under way.

In a January *Dallas Business Journal* story headlined "Greenhouse-gas battle proving costly to N. Tx.," [Art Martinez](#), a director at Garland Power & Light, says he's been frustrated by the interruption in the permitting process. "It has taken so long to grant a permit for a small power plant that's been running for 50 years. There's been a lot of time and money spent on this," he told the journal.

Reached by phone a month later, though, spokeswoman [Elizabeth Kimbrough](#) sounds less concerned. "We're just sticking with the process and working with them on it," she says. "We've just been complying and submitting what we need to, and it's up to the TCEQ and the EPA."

One company that has opted to meet the EPA in court is Range Resources, a natural gas producer with operations in the Barnett Shale that prompted a federal suit from the [Department of Justice](#) after declining to follow an order from EPA to clean up its wells. After a pair of [Parker County](#) residents complained to Range officials and the RRC about methane-contaminated water—the infamous *Gasland*-style "flaming tap" from the well—they went to the EPA, which issued a 48-hour emergency order in December 2010 for the company to provide the residents clean drinking water and clean up its leaking wells.

Instead, the company has maintained the gas comes from an entirely different rock formation—above the Barnett Shale, where they'd been drilling—and thus couldn't have come from Range. A spokesman said they'd still been working with the [Railroad Commission](#) to examine the leaks, and that the EPA had jumped out ahead of the science.

Armendariz says the EPA's order was based on "a very rigorous set of data" that confirmed the methane was being produced by Range. Range officials told the *Fort Worth Star-Telegram* that Armendariz was showboating, and showed his bias when he went on TV to announce the order—a claim they've said was bolstered earlier this month, when an e-mail surfaced from Armendariz to a few activists, including Wilson and Schermbeck, letting them know about the "big news" coming up about Range. "Thank you both for helping to educate me on the public's perspective of these issues. And thank you all for your continued support and friendship," Armendariz writes.

Texas Railroad Commissioner and Republican U.S. Senate candidate [Michael Williams](#) piled on to the outcry,

calling the EPA's move to step in over the RRC "Washington politics of the worst kind."

Given the opportunity to weigh in on Armendariz, industry groups that lobby for the companies he regulates hold back even less than officials in Texas. In a story for *E&E News*, an environmental and energy policy publication, the Texas Association of Business' **Steve Minick** offered a scathing opinion of Armendariz last August, saying that the administrator "destroys his credibility" when he suggests that industry in the state hasn't been effectively regulated under the TCEQ. "To say that industry has had its own way for decades is just absurd and naive," Minick told the paper.



Mark Graham

Raised in the shadow of Asarco's El Paso copper smelter, former SMU professor Al Armendariz was a long shot to run the EPA's regional office in Dallas. Now he's staring down Republican leadership in Austin in a fight over Texas' air.

01268-EPA-1023

**Barbara
Bennett/DC/USEPA/US**
03/11/2011 01:14 PM

To Richard Windsor
cc Bob Perciasepe, Diane Thompson, Seth Oster
bcc
Subject New CR

Just got off the phone with Sally E. She says that the new CR should be coming in tonight. She gave me a list of what's identified for EPA, total \$63M, but it may change.

\$10M for community climate change grants (earmark), \$10M for targeted airshed grants (earmark), \$25M cut to Construction, but she didn't know what that was, \$18M to Brownfields and didn't have more info than that.

(b)(5) deliberative

I'll let you know as I hear more.

Barb

Barbara J. Bennett
Chief Financial Officer
U.S. EPA
202-564-1151

01268-EPA-1024

**Barbara
Bennett/DC/USEPA/US**
03/11/2011 06:19 PM

To "Richard Windsor", "Bob Perciasepe", "Diane Thompson",
"David McIntosh", "Arvin Ganesan", "Laura Vaught"
cc
bcc

Subject Fw: 3 week CR EPA impacts

Here's a quick summary. Have to check tribal grants.. **(b)(5) deliberative**

From: Ed Walsh
Sent: 03/11/2011 04:54 PM EST
To: Barbara Bennett; David Bloom; Maryann Froehlich; Joshua Baylson
Subject: 3 week CR EPA impacts

Here are the EPA specific portions -- looks like the EPA total is \$238M

Greenhouse Gas Cap and Trade Funding (EPA) = -\$5 million. This funding was provided by the last Congress for the EPA to assist Congress in enacting the Cap and Trade legislation. This program was not funded in the President's budget request

Local Government Climate Change Grants (EPA) = -\$10 million. This program was not funded in the President's budget request. In addition, the Administration has indicated that this program lacks focus and effectiveness, and is too broad to allow fair competition for grants.

Targeted Airshed Grants (EPA) = -\$10 million. The program funds diesel retrofits and replacements for pollution reduction. Funding for similar programs is already available, and the program was not funded in the President's budget request.

Earmarks:

- \$6 million - Environmental Protection Agency (EPA) - Science and Technology
- \$26 million - EPA - Environmental Programs and Management
- \$1 million - EPA - Buildings and Facilities
- \$172 million - EPA - Tribal Assistance Grants
- \$8 million - EPA - "Hunter's Point" project

Total \$238 Million

Thanks

Ed

Ed Walsh
Appropriations Liaison
Office of the Chief Financial Officer
U.S. EPA
202-564-4594

01268-EPA-1025

**Barbara
Bennett/DC/USEPA/US**
03/11/2011 06:21 PM

To Richard Windsor, David McIntosh, Diane Thompson, Bob Perciasepe, Arvin Ganesan, Laura Vaught
cc
bcc

Subject Re: The House Rs have introduced their next short-term CR

(b)(5) deliberative

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 03/11/2011 05:55 PM EST
To: David McIntosh; Diane Thompson; Bob Perciasepe; Barbara Bennett; Arvin Ganesan; Laura Vaught
Subject: Re: The House Rs have introduced their next short-term CR

(b)(5) deliberative

David McIntosh

----- Original Message -----

From: David McIntosh
Sent: 03/11/2011 05:43 PM EST
To: Richard Windsor; Diane Thompson; Bob Perciasepe; Barbara Bennett; Arvin Ganesan; Laura Vaught; Scott Fulton; Bob Sussman; Janet Woodka; Lawrence Elworth; Seth Oster; Adora Andy; Michael Goo; Bicky Corman
Subject: The House Rs have introduced their next short-term CR
The House Republicans have introduced their next 3-week CR. It includes some specific cuts directed at EPA. Please see the article below and the actual introduced bill, which is attached.

CONTINUING RESOLUTION: New House GOP proposal includes another \$6B in cuts *(Friday, March 11, 2011)*

Sarah Abruzzese, E&E reporter

House Republicans introduced this afternoon a three-week continuing resolution (CR) to fund the government that includes an additional \$6 billion in spending cuts, including \$238 million from U.S. EPA.

The current measure to fund the government expires March 18. The new measure, [House Joint Resolution 48](#), would run through April 8 and ensure that the government does not shut down while the House and Senate continue to debate on a resolution that would fund the government for the rest of the fiscal year.

"A government shutdown is not an option, period," House Appropriations Chairman Hal Rogers (R-Ky.) said in releasing the new CR. "While short-term funding measures are not the preferable way to fund the government, we must maintain critical programs and services for the American people until Congress comes to a final, long-term agreement."

As written, the resolution would cut \$3.5 billion by reducing or terminating 25 programs. These cuts include three EPA programs: "Greenhouse Gas Cap and Trade Funding" would lose \$5 million, "Local Government Climate Change Grants" would lose \$10 million, and "Targeted Airshed Grants" would lose \$10 million. Republicans said none of these initiatives was funded in President Obama's budget proposal.

The Climate Effects Network-Science Application run by the U.S. Geological Survey would lose \$10.5 million in funding.

The National Park Service would also lose \$25 million for constructing funding rescission. And two of the park service's grant programs that also weren't funded in the president's budget request would lose funding -- \$4.6 million from Preserve America and \$14.8 million from Save America's Treasures. The U.S. Forest Service would lose \$200 million in wild-land fire suppression rescission funds that

were carried over from last year, a proposal that was included in the Democratic-controlled Senate's CR measure.

Republicans said they were reaching an additional \$2.6 billion in savings by cutting "earmark" programs from various agencies.

EPA cuts include \$6 million from science and technology, \$26 million from environmental programs and management, \$1 million from buildings and facilities, and \$172 million from tribal assistance grants.

Other cuts included:

- The Bureau of Land Management would lose \$1 million for management of land and resources, \$2 million for construction and \$3 million for land acquisition.
- The Fish and Wildlife Service would lose \$12 million from resource management, \$10 million from construction and \$22 million from land acquisition.
- The National Institute of Food and Agriculture would lose \$122 million for research and education and an additional \$11 million for extension.
- From the National Oceanic and Atmospheric Administration, \$99 million was cut for operations, research and facilities and an additional \$18 million for procurement, acquisition and construction.
- NASA would see a \$63 million cut from cross-agency support.

The CR will be considered by the House next week.

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[attachment "hjres48_xml.pdf" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-1030

Adora Andy/DC/USEPA/US

To Richard Windsor

03/15/2011 09:33 PM

cc

bcc

Subject FYI: Japan Talkers

Hey Boss,

I just sent folks some updated q/a and talkers regarding our response in Japan, but wanted to give you the topline stuff tonight in case you are on bberry.

Kock 'em dead tomorrow!

Best,

Adora

EPA Statement (March 15, 2011):

As the U.S. Nuclear Regulatory Commission has said, we do not expect to see radiation at harmful levels reaching the U.S. from damaged Japanese nuclear power plants. As part of the federal government's continuing effort to make our activities and science transparent and available to the public, the Environmental Protection Agency (EPA) will continue to keep all RadNet data available in the current online database. In addition, EPA plans to work with its federal partners to deploy additional monitoring capabilities to parts of the western U.S. and U.S. territories.

As always, EPA is utilizing this existing nationwide radiation monitoring system, RadNet, which continuously monitors the nation's air and regularly monitors drinking water, milk and precipitation for environmental radiation. The RadNet online searchable database contains historical data of environmental radiation monitoring data from all fifty states and U.S. territories.

###

NRC Press Release (March 13, 2011 – still applicable):**NRC SEES NO RADIATION AT HARMFUL LEVELS REACHING U.S. FROM DAMAGED JAPANESE NUCLEAR POWER PLANTS**

The Nuclear Regulatory Commission is coordinating with the Department of Energy and other federal agencies in providing whatever assistance the Japanese government requests as they respond to conditions at several nuclear power plant sites following the March 11 earthquake and tsunami. The NRC has sent two boiling-water reactor experts to Japan as part of a U.S. Agency for International Development team.

In response to nuclear emergencies, the NRC works with other U.S. agencies to monitor radioactive releases and predict their path. All the available information indicates weather conditions have taken the small releases from the Fukushima reactors out to sea away from the population. Given the thousands of miles between the two countries, Hawaii, Alaska, the U.S. Territories and the U.S. West Coast are not expected to experience any harmful levels of radioactivity.

During a nuclear event the NRC has requirements to protect populations around reactors. For instance, the U.S. evacuation standard at 10 miles is roughly equivalent to the 20-kilometer distance recommended in some instances in Japan. The United States also uses sheltering in place and potassium iodide, protective measures also available in Japan.

The NRC will not comment on hour-to-hour developments at the Japanese reactors. This is an ongoing

crisis for the Japanese who have primary responsibility.

###

(b) (5) D.P. -

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Adora Andy
Deputy Associate Administrator
U.S. Environmental Protection Agency
Office of External Affairs and Environmental Education
202-564-2715
andy.adora@epa.gov

01268-EPA-1034

**Brendan
Gilfillan/DC/USEPA/US**
03/16/2011 05:45 PM

To Richard Windsor, Bob Perciasepe, Diane Thompson, Seth Oster, Adora Andy, Betsaida Alcantara, Gina McCarthy, Joseph Goffman, Janet McCabe, David McIntosh, Arvin Ganesan, Stephanie Owens, Dru Ealons

cc

bcc

Subject MATS coverage

All -

Initial stories below.

(b)(5) deliberative

- Brendan

EPA proposes regulating mercury from coal plants
Associate Press
March 15, 2011

E.P.A. Proposes New Emission Standards for Power Plants
The New York Times
JOHN M. BRODER and JOHN COLLINS RUDOLF
March 16, 2011

EPA Proposes New Rules on Power-Plant Emissions
The Wall Street Journal
STEPHEN POWER

Washington Post used the AP article from above

EPA Proposes First U.S. Standard for Coal-Plant Mercury
Bloomberg
Kim Chipman
Mar 16, 2011

New US air rules may benefit nuclear energy
Reuters
March 16, 2011

EPA proposes toxic emissions rules for power plants
Greenwire
Gabriel Nelson, E&E reporter
March 16, 2011

I was not able to find anything in POLITICO about the subject

EPA proposes regulating mercury from coal plants
Associate Press
March 16, 2011

HOUSTON – The U.S. Environmental Protection Agency proposed rules on Wednesday that would for the first time regulate toxic air emissions from coal-fired power plants, including limiting mercury, lead, arsenic and acid gas pollution.

Environmental and medical groups praised the move, which came in response to a court-ordered deadline, saying the new regulations will remove toxins from the air that contribute to respiratory illnesses, birth defects and developmental problems in children.

Some industry groups slammed the measure, however, accusing the EPA of inflating the benefits and arguing it would cost billions of dollars annually to comply.

Currently, there are no limits on how much mercury or other toxic pollutants can be released from a power plant's smoke stacks – which emit some 386,000 tons of toxic air pollution annually, by far the largest industrial source of such pollution in the United States. The new rules would require power plants to install technologies that would limit the emissions.

The EPA said the regulations would reduce mercury emissions from these power plants by 91 percent. The rules would also further limit other pollutants, including particulate matter, such as dust, dirt and other fragments associated with a variety of respiratory ailments.

This standard “will save lives, prevent illnesses and promote vital economic opportunities across the country,” said EPA Administrator Lisa P. Jackson, who invited second-graders to attend the event in Washington, D.C. where she signed the proposal.

Reaching into her own history, Jackson described how her son – an asthmatic – spent his first Christmas in the hospital “literally fighting to breathe.”

“With the help of existing technologies, we will be able to take reasonable steps that will provide dramatic protections to our children and loved ones, preventing premature deaths, heart attacks and asthma attacks.”

The court order gave the EPA until November to make the rules official. Jackson said companies would then have three years to comply, and some could be given an extra year.

Such rules would have the greatest impact on Texas, which is home to more coal-fired power plants than any other state. Texas has at least 19 coal-fired plants and 10 more in various stages of permitting and construction. The Environmental Defense Fund says seven of the top 25 mercury-emitting power plants are in the Lone Star State, four of those are in the top 10.

The Texas Commission on Environmental Quality, which regulates air emissions from the state's coal-fired power plants, said it already regulates mercury from new plants, in a case-by-case strategy that requires pollution control technologies based on the type of coal being used by the facility. Some coals burn cleaner than others. These regulations do not apply to existing facilities.

Jeff Holmstead, who served as the EPA's top air official from 2000 to 2005 and now heads the Environmental Strategy Group at the Bracewell & Giuliani law firm in Washington, D.C., said the new rules are inefficient, costly and provide few benefits to the environment or public health.

“It seems to be just another way to attack coal and coal-fired power,” Holmstead said.

The EPA said it would cost nearly \$11 billion a year for industry to comply with the new rule, prompting Holmstead to define it as “by far the most expensive rule that EPA has ever done.”

The agency, joined by medical groups including the American Lung Association and the American Academy of Pediatrics, estimated that the value of health benefits associated with reduced exposure to fine particles could be from \$59 billion to \$140 billion by 2016. The EPA estimates it could save 17,000

lives a year and generate 31,000 short-term construction jobs and 9,000 long-term utility jobs.

"Dirty air makes children sick, that's the long and short of it," said Marion Burton, president of the American Academy of Pediatrics. "If you think it's expensive to install a scrubber, you should see how much it costs to treat a child born with a birth defect that was preventable."

Studies show exposure to mercury increases the risk of birth defects as well as developmental problems in small children.

Jackson said the EPA's models found installing the technologies could increase energy rates by about \$3 to \$4 a month, though it could be less depending on fuel costs. For example, she said, a New Jersey provider that already installed pollution-cutting technologies recently reduced its rates.

A report by the Electric Reliability Coordinating Council, a coalition of power companies, argued the toxic air regulation is only one of several rules slated to go into effect in or around 2015 – rules that could cost industry about \$100 billion. The council says studies have found that for every \$1 billion spent on upgrades and compliance, 16,000 jobs will be put at risk.

E.P.A. Proposes New Emission Standards for Power Plants

The New York Times

JOHN M. BRODER and JOHN COLLINS RUDOLF

March 16, 2011

WASHINGTON – The Environmental Protection Agency proposed the first national standard for emissions of mercury and other toxins from coal-burning power plants on Wednesday, a rule that could lead to the early closing of dozens of generating stations and is certain to be challenged by the utility industry and Republicans in Congress.

Lisa P. Jackson, the agency's administrator, unveiled the new rule with fanfare at agency headquarters, saying control of dozens of poisonous substances emitted by power plants was two decades overdue and would prevent thousands of deaths and tens of thousands of cases of disease a year.

She pointedly included the head of the American Lung Association and two prominent doctors in her announcement to make the point that the regulations were designed to protect public health and not to penalize the utility industry.

She estimated the total annual cost of compliance at about \$10 billion, in line with some industry estimates (although some are much higher), and the health and environmental benefits at more than \$100 billion a year. She said that households could expect to see their electric bills rise by \$3 to \$4 a month when the regulation is fully in force after 2015.

"Today's announcement is 20 years in the making and is a significant milestone in the Clean Air Act's already unprecedented record of ensuring our children are protected from the damaging effects of toxic air pollution," she said. She invited a group of second graders from a nearby elementary school to attend the rule's unveiling at her agency.

Ms. Jackson said that mercury and the other emissions covered by the rule damage the nervous systems of children and fetuses, exacerbate asthma and cause lifelong health damage for hundreds of thousands of Americans.

She said that installing and maintaining smokestack scrubbers and other control technology would create 31,000 short-term construction jobs and 9,000 permanent utility sector jobs.

Even before the formal unveiling of the rule, utilities, business groups and Congressional Republicans

cast it as the latest salvo in a regulatory war on American industry. They cited a number of recently issued E.P.A. rules, including one on industrial boilers and the first of a series of regulations covering greenhouse gases, which they argue will impose huge costs on businesses and choke off economic recovery.

"E.P.A. admits the pending proposal will cost at least \$10 billion, making it one of the most expensive rules in the history of the agency," a group of utilities said in a report this week.

"Adaptation to all the proposed rules constitutes an extraordinary threat to the power sector – particularly the half of U.S. electricity derived from coal-fired generation," the group added.

The group questioned Ms. Jackson's assertion that the technology needed to reduce emissions of mercury, lead, arsenic, chromium and other airborne toxins was readily available and reasonably inexpensive. The need to retrofit scores of plants in the same short period of time will tax resources and lead to delays, the industry group said.

The National Association of Manufacturers said the proposed rule would lead to higher electricity prices and significant job losses.

"In addition, electric system reliability could be compromised by coal retirements and new environmental construction projects caused by this proposed rule and other E.P.A. regulations," said Aric Newhouse, the group's vice president for government relations. "Stringent, unrealistic regulations such as these will curb the recent economic growth we have seen."

Public health advocates countered that these were the same complaints that had delayed the rules for more than two decades, as utilities used the courts and Congress to block strong regulations on air pollution. The rule issued Wednesday was timed to meet a deadline set in 2008 by a federal court when it threw out a weaker set of regulations issued by the Bush administration.

"If you think it's expensive to put a scrubber on a smokestack, you should see how much it costs to treat a child over a lifetime with a birth defect," said Dr. Marion Burton, president of the American Academy of Pediatrics, who stood with Ms. Jackson in announcing the rule.

Roughly half of the nation's more than 400 coal-burning plants have some form of control technology installed, and about a third of states have set their own standards for mercury emissions. But the proposed rule issued Wednesday is the first national standard and will require all plants to come up to the standard of the best of the current plants.

The new rules bring to a close a bitter legal and regulatory battle dating back to the passage of the Clean Air Act in 1970, which first directed the E.P.A. to identify and control major industrial sources of hazardous air emissions.

By 1990, however, federal regulators had still not set standards for toxic emissions from power plants, and Congress, in the face of stiff resistance from utilities and coal interests, passed legislation directing the E.P.A. to develop a plan to regulate the industry. In 1998, the agency finally complied, delivering a comprehensive report to Congress detailing the health impacts of numerous pollutants, including mercury, which by then had been linked conclusively in numerous studies to serious cognitive harm to developing fetuses.

In December 2000, in the final days of the Clinton administration, the E.P.A. finally listed power plants as a source of hazardous air pollutants under the Clean Air Act. Yet under the Bush administration, the effort to control power plant emissions would again falter.

The 2000 listing required E.P.A. to implement standards for mercury and other pollutants from the industry. But rather than comply, the agency made the controversial decision in 2005 to delist power plants as sources of hazardous pollution.

Instead the E.P.A. created a cap-and-trade program for mercury, highly favored by industry, which it claimed would achieve virtually identical emissions reductions at lower cost. A coalition of environmentalists sued, arguing that the cap-and-trade program would not limit other toxic emissions like arsenic and would allow the dirtiest power plants to pay for the right to pollute, putting nearby communities at risk.

In 2008 a federal judge ruled against the E.P.A., giving the agency three years to develop standards for mercury and other pollutants.

The long delay in implementing regulations has meant that emissions of some key pollutants has not just held steady, but has grown in recent years. The E.P.A.'s most recent data shows that from 1999 to 2005, mercury emissions from power plants increased more than 8 percent, to 53 tons from 49 tons. Arsenic emissions grew even more, rising 31 percent, to 210 tons from 160 tons.

The E.P.A. will take public comments for the next several months. It anticipates publishing a final rule at the end of the year or early next, with implementation three or four years later.

EPA Proposes New Rules on Power-Plant Emissions

The Wall Street Journal

STEPHEN POWER

WASHINGTON—The Obama administration on Wednesday proposed new regulations that could accelerate the U.S. shift toward natural gas, by requiring coal-burning and oil-fired power plants to reduce their emissions of mercury and other hazardous pollutants.

The proposed standards—which have been the subject of weeks of lobbying at the White House by rival groups of power companies—would prevent as many as 17,000 premature deaths a year, Environmental Protection Agency Administrator Lisa Jackson said in announcing the standards.

The new regulations will cost the power industry about \$11 billion a year, while increasing consumers' electric bills on the order of three or four dollars a month, Ms. Jackson said. Some power-industry officials and lobbyists say the costs will be much greater and that many utilities will respond to the new rules by shutting down aging coal-fired plants.

Ms. Jackson, who unveiled the new rules at a news conference with representatives of the American Lung Association, said the costs would be far outweighed by the public health benefits, which EPA puts at between \$59 billion and \$140 billion, largely in the form of avoided premature deaths and heart attacks.

Some industry analysts have predicted the rules could hasten a shift by many power companies away from coal, the source of half of the country's electricity supply, to cleaner-burning natural gas.

A report last September from bank Credit Suisse said the anticipated mercury rules—the ones announced Wednesday—along with a separate, previously proposed regulations targeting sulfur dioxide and nitrogen oxide, could lead to the closure of nearly 18% of the nation's coal-fired generation capacity, mainly facilities more than 40 years old that lack emissions controls.

The Electric Reliability Coordinating Council, a lobbying group critical of the newly proposed mercury rules, raised another concern in a statement Wednesday: that utilities seeking to comply with these and other rules aimed at curbing coal-plant pollution would lead to a rush of demand for new construction and smoke-stack clean-up technology that could result in higher costs or delays for some utilities.

The rules would benefit companies that have invested heavily in nuclear and renewable energy. Several utilities in that camp have been pressing the Obama administration to enact the new standards.

EPA officials said that while the rule would likely drive some shift toward natural gas, the standards would preserve the diversity of the U.S. energy supply.

Under the proposed rule, power plants would have three years to meet standards for mercury and other hazardous air pollutants. Owners would have to choose between buying new pollution equipment, switching to cleaner fuels or retiring the plant. The EPA is expected to take public comment on the rules for several months and make a final decision on them in November.

New US air rules may benefit nuclear energy

Reuters

March 16, 2011

Environmental regulators will propose pollution rules on Wednesday that could ensure continued reliance on nuclear power by forcing aging coal plants into early retirement.

The Environmental Protection Agency said it will unveil standards on mercury, which can damage nervous systems in babies, and other airborne toxins from power plants at 1100 EDT (1500 GMT).

Japan's battle to stop earthquake-damaged nuclear reactors from melting down has pushed some countries to be more cautious on atomic energy. Germany, which has taken the strongest stance after the disaster, plans to shut seven of its older nuclear plants, or a quarter of its atomic energy, for a three-month safety review.

The United States has said it remains committed to the technology. U.S. Energy Secretary Steven Chu said on Wednesday that federal regulators will look to boost the safety of the nation's nuclear plants after the Japan crisis.

Coal-fired plants generate nearly 50 percent of U.S. electricity while nuclear and natural gas generate about 20 percent each.

The EPA crackdown could help shut some 15 to 20 percent of aging U.S. coal-fired plants.

That could increase reliance on natural-gas-fired power plants, which can be built quickly and pollute less than traditional coal-fired power plants.

It could also ensure that the country continues to derive large amounts of power from nuclear plants, despite the Japanese crisis, because they emit virtually no gases.

EPA proposes toxic emissions rules for power plants

Greenwire

Gabriel Nelson, E&E reporter

March 16, 2011

After two decades of delays and false starts, U.S. EPA unveiled a plan today to require coal- and oil-fired power plants to reduce emissions of mercury and 83 other toxics by 2016.

The proposed rules would limit the amount of toxic pollution that can be released into the air for every unit of electricity that is generated. In total, the plan would reduce mercury and acid gas emissions from the U.S. power sector by 91 percent while cutting soot-forming sulfur dioxide (SO₂) pollution by 53 percent, the agency said today.

Those reductions will protect vulnerable Americans from asthma, developmental disorders and other health problems, as Congress requested when it updated the Clean Air Act 20 years ago, EPA Administrator Lisa Jackson said today at the agency's Washington, D.C., headquarters, flanked by the leaders of the American Lung Association and the American Academy of Pediatrics.

The rules will prevent 17,000 premature deaths and 11,000 heart attacks per year, as well as 120,000 cases of asthma, while adding only \$3 or \$4 to the average homeowner's monthly electric bill, Jackson

said.

"We are confident in these expectations because this has been the history of the Clean Air Act for 40 years now," Jackson said. "The Clean Air Act is literally a lifesaver."

The proposal, which was due by today under a court deadline, is one of several new EPA requirements that is expected to drive the next generation of investments in the power sector. Though it was hailed by health groups and many Democrats, it will do nothing to appease the agency's critics, who have described the push to clean up air pollution as part of a "war on coal."

The rules would replace the George W. Bush administration's Clean Air Mercury Rule, a cap-and-trade program that would have forced power plants to cut their mercury emissions by 70 percent. In 2008, a federal court ordered EPA to go back to the drawing board, saying the agency hadn't shown that there would not be health consequences from the decision not to control other metals, such as cadmium and chromium, as well as cancer-causing chemicals such as dioxins and furans.

Today's proposal, which will be followed by a final rule in November, would force some utilities to spend hundreds of millions of dollars to upgrade older power plants that have not already been required to install controls.

All the controls will cost about \$10.9 billion per year, according to EPA's analysis of the new rules, compared to benefits of \$59 billion to \$140 billion. Once the rules are final, companies will have three years to comply with the new rules, though they can get a one-year extension if it proves impossible to get the controls added in time.

Many power plants might need activated carbon injection (ACI) units to control their mercury emissions, as well as flue gas desulfurization (FGD) units, or "scrubbers," to limit their emissions of acid gases. Others might need baghouses, fabric filtering units that keep toxic metals out of the air by trapping the fine particles that are released when fuel is burned.

Scrubbers have been installed at many plants because of separate limits on SO₂, including a cap-and-trade program that was created two decades ago to fight acid rain.

Power plants with about 40 percent of the nation's coal-fired capacity -- a total of 129 gigawatts, enough to power about 65 million American homes -- do not have scrubbers, according to an analysis by the consulting firm M. J. Bradley & Associates LLC.

Because it is not an emissions trading program, the program will not allow hotspots of toxic pollution, said Marian Burton, president of the American Academy of Pediatrics.

"Dirty air makes children sick. That's the long and short of it," Burton said. "If you think it's an expensive process to put a scrubber on a smokestack, you should see how much it costs over a lifetime to treat a child with a preventable birth defect."

Some Republicans in Congress have raised concerns that the rules could hike electricity prices by raising the cost of burning coal. Some power companies and analysts have also suggested that the toxics rules and other new requirements could cause many power plants to be retired, leading to power shortages.

EPA has vowed to avoid that situation.

It is expected to cause about 10 gigawatts of coal-fired generation to be retired, but many of those plants likely would be shut down anyway, an agency official said today. Most of the lost electricity would be provided by natural gas-fired power plants, the official said.

The controls needed to cut down on toxic pollution are proven, and environmental technology companies are ready to install it, said Mike Durham, CEO of Littleton, Colo.-based ADA-ES Inc. His company has installed mercury controls on about 100 coal-fired boilers that were upgraded in response to state

regulations and is now ramping up its production of activated carbon to deal with the expected spike in demand from power plants.

"I don't believe it will be a challenge," Durham said in an interview. "We've had years to prepare for this."

01268-EPA-1035

**Brendan
Gilfillan/DC/USEPA/US**
03/16/2011 06:16 PM

To Richard Windsor
cc
bcc

Subject Re: MATS coverage

(b)(5) deliberative
Richard Windsor Much better. (b)(5) deliberative 03/16/2011 06:15:43 PM

From: Richard Windsor/DC/USEPA/US
To: Brendan Gilfillan/DC/USEPA/US@EPA
Date: 03/16/2011 06:15 PM
Subject: Re: MATS coverage

Much better. (b)(5) deliberative

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan
Sent: 03/16/2011 06:14 PM EDT
To: Brendan Gilfillan
Cc: Adora Andy; Arvin Ganesan; Betsaida Alcantara; Bob Perciasepe; David McIntosh; Diane Thompson; Dru Ealons; Gina McCarthy; Janet McCabe; Joseph Goffman; Seth Oster <oster.seth@epa.gov>; Richard Windsor; Stephanie Owens
Subject: Re: MATS coverage

Updated Reuters story:

EPA says rules to provide 9,000 long-term jobs (Adds comment from FERC Chairman Wellinghoff)

By Timothy Gardner

WASHINGTON, March 16 (Reuters) - U.S. environmental regulators proposed rules on Wednesday that would force aging coal-fired power plants to choose between installing anti-pollution technology or shutting, which could ensure reliance on nuclear power and natural gas.

The Environmental Protection Agency said the proposed rules, once fully implemented, will prevent 91 percent of mercury in coal from being released into the air. Power plants would have four years to meet the standards.

The EPA will take public comment for 60 days on the rules, which would require many coal-fired power plants to install scrubbers and other technologies to reduce emissions of arsenic, chromium, nickel and acid gases in addition to mercury, which can damage nervous systems in babies.

"Generally anything that makes coal plants more expensive is a benefit to alternative forms of generation whether they be natural gas, nuclear, or hydropower," said Paul Patterson, an analyst at Glenrock and Associates LLC in New York.

What the final rules will look like after public comment is uncertain, he added.

Jon Wellinghoff, the chairman of the Federal Energy Regulatory Commission, told Reuters the EPA rule could help shift power companies to cleaner sources of energy such as natural gas and wind power and also increase efficiency.

The FERC issued an order Tuesday aimed at allowing companies that reduce energy use to get better compensation, which could increase efficiency on the grid and reduce pollution, he said.

Coal-fired plants generate nearly 50 percent of U.S. electricity while nuclear and natural gas generate about 20 percent each.

Issuance of the rules, 20 years in the making, came in response to a court deadline.

"With the help of existing technologies we will be able to take reasonable steps that will provide dramatic protections to our children and loved ones, preventing premature deaths, heart attacks and asthma attacks," said Lisa Jackson, the EPA administrator.

She said the rules could prevent as many as 17,000 premature deaths and 11,000 heart attacks each year.

US COMMITTED TO NUCLEAR

Japan's battle to stop earthquake-damaged nuclear reactors from melting down has pushed some countries to be cautious on atomic energy. Germany, which has taken the strongest stance after the disaster, plans to shut seven of its older nuclear plants, or a quarter of its atomic energy, for a three-month safety review.

The United States has said it remains committed to nuclear but will conduct checks. U.S. Energy Secretary Steven Chu said on Wednesday that federal regulators will look to boost the safety of the nation's nuclear plants after the Japan crisis.

Analysts at Bernstein Research and other institutions have said the EPA crackdown could help force some 15 to 20 percent of U.S. coal-fired plants into early retirement by 2015 as the costs of installing the technology would be a burden on aging plants.

That could increase reliance on natural-gas-fired power plants, which can be built quickly and pollute less than traditional coal-fired power plants.

It could also ensure that the country continues to derive about 20 percent of its power from nuclear plants, despite the Japanese crisis, because they emit virtually no gases.

Republicans in Congress have tried to slow the EPA from acting on toxic pollutants and on greenhouse gases, saying that the rules would hurt the economy.

Jackson said the rules will provide 31,000 short-term construction jobs and 9,000 long-term utility jobs.

Brendan Gilfillan [All - Initial stories below. We're activel...](#) 03/16/2011 05:45:37 PM

From: Brendan Gilfillan/DC/USEPA/US
 To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Seth Oster <oster.seth@epa.gov>, Adora Andy/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA
 Date: 03/16/2011 05:45 PM
 Subject: MATS coverage

All -

Initial stories below. We're actively pushing back on NY Times lede, some elements of WSJ and the entire premise of Reuters' story.

- Brendan

EPA proposes regulating mercury from coal plants
 Associate Press
 March 15, 2011

E.P.A. Proposes New Emission Standards for Power Plants
 The New York Times
 JOHN M. BRODER and JOHN COLLINS RUDOLF
 March 16, 2011

EPA Proposes New Rules on Power-Plant Emissions
 The Wall Street Journal
 STEPHEN POWER

Washington Post used the AP article from above

EPA Proposes First U.S. Standard for Coal-Plant Mercury
 Bloomberg
 Kim Chipman
 Mar 16, 2011

New US air rules may benefit nuclear energy
 Reuters
 March 16, 2011

EPA proposes toxic emissions rules for power plants
 Greenwire
 Gabriel Nelson, E&E reporter
 March 16, 2011

I was not able to find anything in POLITICO about the subject

EPA proposes regulating mercury from coal plants

Associate Press

March 16, 2011

HOUSTON – The U.S. Environmental Protection Agency proposed rules on Wednesday that would for the first time regulate toxic air emissions from coal-fired power plants, including limiting mercury, lead, arsenic and acid gas pollution.

Environmental and medical groups praised the move, which came in response to a court-ordered deadline, saying the new regulations will remove toxins from the air that contribute to respiratory illnesses, birth defects and developmental problems in children.

Some industry groups slammed the measure, however, accusing the EPA of inflating the benefits and arguing it would cost billions of dollars annually to comply.

Currently, there are no limits on how much mercury or other toxic pollutants can be released from a power plant's smoke stacks – which emit some 386,000 tons of toxic air pollution annually, by far the largest industrial source of such pollution in the United States. The new rules would require power plants to install technologies that would limit the emissions.

The EPA said the regulations would reduce mercury emissions from these power plants by 91 percent. The rules would also further limit other pollutants, including particulate matter, such as dust, dirt and other fragments associated with a variety of respiratory ailments.

This standard “will save lives, prevent illnesses and promote vital economic opportunities across the country,” said EPA Administrator Lisa P. Jackson, who invited second-graders to attend the event in Washington, D.C. where she signed the proposal.

Reaching into her own history, Jackson described how her son – an asthmatic – spent his first Christmas in the hospital “literally fighting to breathe.”

“With the help of existing technologies, we will be able to take reasonable steps that will provide dramatic protections to our children and loved ones, preventing premature deaths, heart attacks and asthma attacks.”

The court order gave the EPA until November to make the rules official. Jackson said companies would then have three years to comply, and some could be given an extra year.

Such rules would have the greatest impact on Texas, which is home to more coal-fired power plants than any other state. Texas has at least 19 coal-fired plants and 10 more in various stages of permitting and construction. The Environmental Defense Fund says seven of the top 25 mercury-emitting power plants are in the Lone Star State, four of those are in the top 10.

The Texas Commission on Environmental Quality, which regulates air emissions from the state's coal-fired power plants, said it already regulates mercury from new plants, in a case-by-case strategy that requires pollution control technologies based on the type of coal being used by the facility. Some coals burn cleaner than others. These regulations do not apply to existing facilities.

Jeff Holmstead, who served as the EPA's top air official from 2000 to 2005 and now heads the Environmental Strategy Group at the Bracewell & Giuliani law firm in Washington, D.C., said the new rules are inefficient, costly and provide few benefits to the environment or public health.

“It seems to be just another way to attack coal and coal-fired power,” Holmstead said.

The EPA said it would cost nearly \$11 billion a year for industry to comply with the new rule, prompting Holmstead to define it as "by far the most expensive rule that EPA has ever done."

The agency, joined by medical groups including the American Lung Association and the American Academy of Pediatrics, estimated that the value of health benefits associated with reduced exposure to fine particles could be from \$59 billion to \$140 billion by 2016. The EPA estimates it could save 17,000 lives a year and generate 31,000 short-term construction jobs and 9,000 long-term utility jobs.

"Dirty air makes children sick, that's the long and short of it," said Marion Burton, president of the American Academy of Pediatrics. "If you think it's expensive to install a scrubber, you should see how much it costs to treat a child born with a birth defect that was preventable."

Studies show exposure to mercury increases the risk of birth defects as well as developmental problems in small children.

Jackson said the EPA's models found installing the technologies could increase energy rates by about \$3 to \$4 a month, though it could be less depending on fuel costs. For example, she said, a New Jersey provider that already installed pollution-cutting technologies recently reduced its rates.

A report by the Electric Reliability Coordinating Council, a coalition of power companies, argued the toxic air regulation is only one of several rules slated to go into effect in or around 2015 – rules that could cost industry about \$100 billion. The council says studies have found that for every \$1 billion spent on upgrades and compliance, 16,000 jobs will be put at risk.

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By 1990, however, federal regulators had still not set standards for toxic emissions from power plants, and Congress, in the face of stiff resistance from utilities and coal interests, passed legislation directing the E.P.A. to develop a plan to regulate the industry. In 1998, the agency finally complied, delivering a comprehensive report to Congress detailing the health impacts of numerous pollutants, including mercury, which by then had been linked conclusively in numerous studies to serious cognitive harm to developing fetuses.

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The Wall Street Journal
STEPHEN POWER

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EPA officials said that while the rule would likely drive some shift toward natural gas, the standards would preserve the diversity of the U.S. energy supply.

Under the proposed rule, power plants would have three years to meet standards for mercury and other hazardous air pollutants. Owners would have to choose between buying new pollution equipment, switching to cleaner fuels or retiring the plant. The EPA is expected to take public comment on the rules for several months and make a final decision on them in November.

New US air rules may benefit nuclear energy

Reuters

March 16, 2011

Environmental regulators will propose pollution rules on Wednesday that could ensure continued reliance on nuclear power by forcing aging coal plants into early retirement.

The Environmental Protection Agency said it will unveil standards on mercury, which can damage nervous systems in babies, and other airborne toxins from power plants at 1100 EDT (1500 GMT).

Japan's battle to stop earthquake-damaged nuclear reactors from melting down has pushed some countries to be more cautious on atomic energy. Germany, which has taken the strongest stance after the disaster, plans to shut seven of its older nuclear plants, or a quarter of its atomic energy, for a three-month safety review.

The United States has said it remains committed to the technology. U.S. Energy Secretary Steven Chu said on Wednesday that federal regulators will look to boost the safety of the nation's nuclear plants after the Japan crisis.

Coal-fired plants generate nearly 50 percent of U.S. electricity while nuclear and natural gas generate about 20 percent each.

The EPA crackdown could help shut some 15 to 20 percent of aging U.S. coal-fired plants.

That could increase reliance on natural-gas-fired power plants, which can be built quickly and pollute less than traditional coal-fired power plants.

It could also ensure that the country continues to derive large amounts of power from nuclear plants, despite the Japanese crisis, because they emit virtually no gases.

EPA proposes toxic emissions rules for power plants

Greenwire

Gabriel Nelson, E&E reporter

March 16, 2011

After two decades of delays and false starts, U.S. EPA unveiled a plan today to require coal- and oil-fired power plants to reduce emissions of mercury and 83 other toxics by 2016.

The proposed rules would limit the amount of toxic pollution that can be released into the air for every unit of electricity that is generated. In total, the plan would reduce mercury and acid gas emissions from the U.S. power sector by 91 percent while cutting soot-forming sulfur dioxide (SO₂) pollution by 53 percent, the agency said today.

Those reductions will protect vulnerable Americans from asthma, developmental disorders and other

health problems, as Congress requested when it updated the Clean Air Act 20 years ago, EPA Administrator Lisa Jackson said today at the agency's Washington, D.C., headquarters, flanked by the leaders of the American Lung Association and the American Academy of Pediatrics.

The rules will prevent 17,000 premature deaths and 11,000 heart attacks per year, as well as 120,000 cases of asthma, while adding only \$3 or \$4 to the average homeowner's monthly electric bill, Jackson said.

"We are confident in these expectations because this has been the history of the Clean Air Act for 40 years now," Jackson said. "The Clean Air Act is literally a lifesaver."

The proposal, which was due by today under a court deadline, is one of several new EPA requirements that is expected to drive the next generation of investments in the power sector. Though it was hailed by health groups and many Democrats, it will do nothing to appease the agency's critics, who have described the push to clean up air pollution as part of a "war on coal."

The rules would replace the George W. Bush administration's Clean Air Mercury Rule, a cap-and-trade program that would have forced power plants to cut their mercury emissions by 70 percent. In 2008, a federal court ordered EPA to go back to the drawing board, saying the agency hadn't shown that there would not be health consequences from the decision not to control other metals, such as cadmium and chromium, as well as cancer-causing chemicals such as dioxins and furans.

Today's proposal, which will be followed by a final rule in November, would force some utilities to spend hundreds of millions of dollars to upgrade older power plants that have not already been required to install controls.

All the controls will cost about \$10.9 billion per year, according to EPA's analysis of the new rules, compared to benefits of \$59 billion to \$140 billion. Once the rules are final, companies will have three years to comply with the new rules, though they can get a one-year extension if it proves impossible to get the controls added in time.

Many power plants might need activated carbon injection (ACI) units to control their mercury emissions, as well as flue gas desulfurization (FGD) units, or "scrubbers," to limit their emissions of acid gases. Others might need baghouses, fabric filtering units that keep toxic metals out of the air by trapping the fine particles that are released when fuel is burned.

Scrubbers have been installed at many plants because of separate limits on SO₂, including a cap-and-trade program that was created two decades ago to fight acid rain.

Power plants with about 40 percent of the nation's coal-fired capacity -- a total of 129 gigawatts, enough to power about 65 million American homes -- do not have scrubbers, according to an analysis by the consulting firm M. J. Bradley & Associates LLC.

Because it is not an emissions trading program, the program will not allow hotspots of toxic pollution, said Marian Burton, president of the American Academy of Pediatrics.

"Dirty air makes children sick. That's the long and short of it," Burton said. "If you think it's an expensive process to put a scrubber on a smokestack, you should see how much it costs over a lifetime to treat a child with a preventable birth defect."

Some Republicans in Congress have raised concerns that the rules could hike electricity prices by raising the cost of burning coal. Some power companies and analysts have also suggested that the toxics rules and other new requirements could cause many power plants to be retired, leading to power shortages.

EPA has vowed to avoid that situation.

It is expected to cause about 10 gigawatts of coal-fired generation to be retired, but many of those plants

likely would be shut down anyway, an agency official said today. Most of the lost electricity would be provided by natural gas-fired power plants, the official said.

The controls needed to cut down on toxic pollution are proven, and environmental technology companies are ready to install it, said Mike Durham, CEO of Littleton, Colo.-based ADA-ES Inc. His company has installed mercury controls on about 100 coal-fired boilers that were upgraded in response to state regulations and is now ramping up its production of activated carbon to deal with the expected spike in demand from power plants.

"I don't believe it will be a challenge," Durham said in an interview. "We've had years to prepare for this."

01268-EPA-1037

Sarah Pallone/DC/USEPA/US
03/16/2011 06:34 PM

To Judith Enck
cc Richard Windsor
bcc
Subject Re: Fw: time sensitive

(b)(5) deliberative Thanks.
Judith Enck

----- Original Message -----

From: Judith Enck
Sent: 03/16/2011 06:33 PM EDT
To: Sarah Pallone
Cc: Richard Windsor
Subject: Re: Fw: time sensitive

will have a quote from the NY AG shortly. we are planning a great amplification event at a Newark child care center for Thursday morning. (just got a call from Dan Esty, the new Connecticut env commissioner. he was confirmed today. **(b)** **(b)** 860 424 3571 or daniel.esty@ct.gov someone in hq may want to congratulate him on his appt today).

cheers,
Judith Enck
Regional Administrator
U.S. Environmental Protection Agency
290 Broadway
New York, N.Y. 10007-1866
(212) 637-5000

Sarah Pallone Thanks Judith! ----- Original Message ----- 03/16/2011 06:21:51 PM

From: Sarah Pallone/DC/USEPA/US
To: "Judith Enck" <Enck.Judith@epamail.epa.gov>, "Richard Windsor" <Windsor.Richard@epamail.epa.gov>
Date: 03/16/2011 06:21 PM
Subject: Fw: time sensitive

Thanks Judith!

----- Original Message -----

From: "Michael Bopp" [mfbopp@gw.dec.state.ny.us]
Sent: 03/16/2011 06:13 PM AST
To: Sarah Pallone; Judith Enck
Cc: <Thomas.Congdon@exec.ny.gov>; "Jared Snyder" <jjsnyder@gw.dec.state.ny.us>; "Joe Martens" <jmartens@gw.dec.state.ny.us>; "James Tierney" <jmtierne@gw.dec.state.ny.us>
Subject: Re: time sensitive

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Environmental Conservation stated:

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New York is requiring coal-fired power plants to install air pollution controls to reduce mercury air emissions 90% by 2015. In conjunction with New England, New York developed a Clean Water Act pollution budget, accepted by EPA, that quantifies mercury's serious adverse impacts on waters throughout the Northeast. New York and New England also filed a formal Clean Water Act petition calling on EPA to reduce atmospheric mercury emissions nationally.

thanks, Michael

Michael Bopp
Acting Director of Communications
(518) 402-8000

>>> 03/16/11 1:54 PM >>>

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01268-EPA-1038

Richard Windsor/DC/USEPA/US
03/16/2011 06:34 PM

To Judith Enck
cc
bcc

Subject Re: Fw: time sensitive

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From: Judith Enck
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To: Sarah Pallone
Cc: Richard Windsor
Subject: Re: Fw: time sensitive

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Regional Administrator
U.S. Environmental Protection Agency
290 Broadway
New York, N.Y. 10007-1866
(212) 637-5000

From: Sarah Pallone/DC/USEPA/US
To: "Judith Enck" <Enck.Judith@epamail.epa.gov>, "Richard Windsor" <Windsor.Richard@epamail.epa.gov>
Date: 03/16/2011 06:21 PM
Subject: Fw: time sensitive

Thanks Judith!

----- Original Message -----

From: "Michael Bopp" [mfboop@gw.dec.state.ny.us]
Sent: 03/16/2011 06:13 PM AST
To: Sarah Pallone; Judith Enck
Cc: <Thomas.Congdon@exec.ny.gov>; "Jared Snyder" <jjsnyder@gw.dec.state.ny.us>; "Joe Martens" <jmartens@gw.dec.state.ny.us>; "James Tierney" <jmtierne@gw.dec.state.ny.us>
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(518) 402-8000

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The proposed rule makes important strides towards requiring upwind sources to install the cost-effective pollution controls necessary to protect public health in Delaware and save millions of dollars of healthcare expenditures. We applaud EPA for their efforts.?

01268-EPA-1039

Judith Enck/R2/USEPA/US

03/16/2011 06:36 PM

To Richard Windsor

cc

bcc

Subject Re: Fw: time sensitive

why am I not surprised that you are ten steps ahead of the rest of us. this clean air reg is just phenomenal
congrats!

Judith Enck

Regional Administrator

U.S. Environmental Protection Agency

290 Broadway

New York, N.Y. 10007-1866

(212) 637-5000

Richard Windsor

Great. FYI - I sent a letter to Dan on hi...

03/16/2011 06:34:47 PM

From: Richard Windsor/DC/USEPA/US
To: Judith Enck/R2/USEPA/US@EPA
Date: 03/16/2011 06:34 PM
Subject: Re: Fw: time sensitive

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U.S. Environmental Protection Agency

290 Broadway

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Date: 03/16/2011 06:21 PM

Subject: Fw: time sensitive

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Cc: <Thomas.Congdon@exec.ny.gov>; "Jared Snyder" <jjsnyder@gw.dec.state.ny.us>; "Joe Martens" <jmartens@gw.dec.state.ny.us>; "James Tierney" <jmtierne@gw.dec.state.ny.us>
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01268-EPA-1040

Seth Oster/DC/USEPA/US

To Richard Windsor

03/16/2011 10:56 PM

cc

bcc

Subject Re: Thank You!

Nice note -- thanks.

Forward to Brendan -- or send something to him too -- he worked with me in this one, not Adora.

Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 03/16/2011 10:48 PM EDT

To: "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>; "Bob Sussman" <Sussman.bob@epa.gov>; "Michael Goo" <goo.michael@epa.gov>; "David McIntosh" <mcintosh.david@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; "Bicky Corman" <bicky.corman@epa.gov>; Adora Andy; "Stephanie Owens" <Owens.Stephanie@epa.gov>; Dru Ealons; Janet Woodka; "Arvin Ganesan" <ganesan.arvin@epa.gov>; Laura Vaught; "Scott Fulton" <Fulton.Scott@epa.gov>; Lisa Garcia

Subject: Thank You!

All,

I just wanted to thank you all for your efforts in getting the rule proposal out today. I was struck that we are the group that got this proposal out. And that it was Bob P who first made the finding that required that we set the MACT standards.

Special thanks to Gina and her staff. Well done.

Lisa

Thank you so much

01268-EPA-1043

**Bob
Perciasepe/DC/USEPA/US**
03/24/2011 06:40 PM

To Richard Windsor, Diane Thompson, Seth Oster, Adora Andy,
Brendan Gilfillan
cc
bcc

Subject Ruckelshaus and Whitman - in Post

I have been told this will be in WashPost tomorrow by Rich Innes

Undoing 40 years of green gains
by William D. Ruckelshaus and Christine Todd Whitman
How soon we forget.

In 1970, speaking from badly polluted Los Angeles, Bob Hope cracked, "I don't trust air I can't see." Most Americans could see too much of their air. So they demanded that Congress and the president do something about it.

Today the agency President Richard Nixon created in response to the public outcry over visible air pollution and flammable rivers is under siege. The Senate is poised to vote on a bill that would, for the first time, "disapprove" of a scientifically based finding, in this case that greenhouse gases endanger public health and welfare. This finding was extensively reviewed by officials in the administrations of presidents George W. Bush and Barack Obama. It was finalized by the Environmental Protection Agency in response to a 2007 Supreme Court decision that greenhouse gases fit within the Clean Air Act definition of air pollutants.

As former administrators of the EPA, we have observed firsthand rapid changes in scientific knowledge concerning the dangers posed by particular pollutants, including lead additives in gasoline, benzene and the impact of contaminants on our drinking-water supply. In each of these cases, the authority of our major environmental statutes was essential to protect public health and the most vulnerable members of our society from these hazards, even in the face of remaining scientific debate.

Earlier this year, the House of Representatives approved a bill that would cut the EPA's budget by nearly a third and in certain areas impede its ability to pursue meaningful protections of our air and water.

The EPA was created out of recognition that pollution - largely an unwanted side effect of an increasingly industrialized society - needed to be controlled or America's public health and environment would continue to deteriorate. The public called on our national government to step in and halt what the states could not or would not do.

As the EPA was being established, Congress passed the Clean Air Act in a burst of nonpartisan agreement: 73 to 0 in the Senate and 374 to 1 in the House.

During the 1970s, many other laws were passed to deal with air and water pollution, drinking-water contamination, radiation, solid waste, pesticides and toxic substances. Sixteen major pieces of legislation were enacted to address aspects of industrial, municipal or human activity that were threatening public health or the environment. Most were passed by a Democrat-controlled Congress and signed into law by a Republican president, and the votes were seldom close.

The EPA was charged with administering these laws, but often it was handed highly technical standards to be achieved with inadequate resources in unrealistic time frames. In other words, mission impossible. The agency did the best it could with the scientific knowledge and human resources at its disposal. Inevitably, some mistakes were made. Enormous progress was also made.

The air across our country is appreciably cleaner and healthier as a result of EPA regulation of trucks, buses, automobiles and large industrial sources of air pollution. There are three times the number of cars on the roads today than in 1970, yet they put out a small fraction of the pollution. The results are cleaner air and healthier Americans.

Likewise, American waterways have shown marked improvement. Lakes and rivers across the nation have shifted from being public health threats to being sources of drinking water as well as places for fishing and other forms of recreation. Lake Erie was declared dead in 1970 but today supports a multimillion-dollar fishery.

Amid the virulent attacks on the EPA driven by concern about overregulation, it is easy to forget how far we have come in the past 40 years. We should take heart from all this progress and not, as some in Congress have suggested, seek to tear down the agency that the president and Congress created to protect America's health and environment.

It has taken four decades to put in place the infrastructure to ensure that pollution is controlled through limitations on corporate, municipal and individual conduct. Those of us who have served in the agency are sure of one thing: Dismantling that infrastructure today would ensure that a new one would have to be created tomorrow at great expense and at great sacrifice to America's public health and environment. The American public will not long stand for an end to regulations that have protected their health and quality of life.

Our country needs today what it needed in 1970: a strong, self-confident, scientifically driven, transparent, fair and responsible EPA. Congress should help America achieve that. It should do so not with lowered sights but lowered voices that will result

in an EPA fully capable of helping fashion a prosperous, healthy America whose environment continues to improve.

William D. Ruckelshaus was administrator of the Environmental Protection Agency from 1970 to 1973 and 1983 to 1985. Christine Todd Whitman, a former Republican governor of New Jersey, was EPA administrator from 2001 to 2003.

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711
(c) +1 [REDACTED] (b) (6)

01268-EPA-1044

Adora Andy/DC/USEPA/US
03/24/2011 06:41 PM

To Bob Perciasepe, Richard Windsor, Diane Thompson, Seth Oster, Brendan Gilfillan
cc
bcc

Subject Re: Ruckelshaus and Whitman - in Post

We will tweet and facebook this one

From: Bob Perciasepe
Sent: 03/24/2011 06:40 PM EDT
To: Richard Windsor; Diane Thompson; Seth Oster; Adora Andy; Brendan Gilfillan
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Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711

(c) +1 (b) (6)

01268-EPA-1050

Seth Oster/DC/USEPA/US

To Richard Windsor

03/30/2011 12:40 PM

cc

bcc

Subject Fw: Environmental Community Letter to WH on
Anti-Environmental Riders

Working this with reporters, along with the Baugh quote.

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 03/30/2011 12:40 PM -----

From: Richard Windsor/DC/USEPA/US
To: "Seth Oster" <oster.seth@epa.gov>
Date: 03/30/2011 12:37 PM
Subject: Fw: Environmental Community Letter to WH on Anti-Environmental Riders

David McIntosh

----- Original Message -----

From: David McIntosh

Sent: 03/30/2011 12:35 PM EDT

To: Richard Windsor

Subject: Environmental Community Letter to WH on Anti-Environmental Riders

March 29, 2011

Dear President Obama,

On behalf of our millions of citizen members and activists, we write to urge you to do everything in your power to keep anti-environmental riders out of funding bills and veto any funding measure that includes anti-environmental riders, which attack our nation's fundamental environmental and public health protections. Blocking the U.S. Environmental Protection Agency and other agencies from protecting our health and our environment not only goes against general public sentiment, but also leads to more pollution in our air and water and puts the lives of thousands of Americans at risk.

The House Continuing Resolution (H.R. 1), which was voted on one month ago, included vast cuts and obstructions to critical environmental programs—such as curtailing EPA's action to cut carbon pollution, soot, mercury and other dangerous air pollutants through the Clean Air Act; threatening drinking water supplies for millions of Americans by blocking EPA's ability to restore Clean Water Act protections for these waterways; and attacking critical land programs and Endangered Species Act protections for fish and wildlife. Just as we opposed these blatant attacks on our health and environment, we will continue to work to block any future anti-environmental riders in upcoming funding bills.

We also urge you to ensure that adequate funds are provided to EPA, the Department of Interior and other agencies with important environmental missions. We recognize the serious budget constraints. However, proposed drastic funding cuts for our crucial environmental programs that protect the health and well-being of Americans and our ecosystems are reductions in investments, and will increase health

costs and reduce quality of life in the future.

Preventing these attacks on our environment and our health is a top priority for our organizations. We urge you to do everything in your power to keep anti-environmental riders out of funding bills and veto any funding measure that includes anti-environmental riders. We look forward to continuing to work with you on these crucial matters.

Respectfully yours,

**Environment America * Earthjustice * Natural Resources Defense Council * Sierra Club
Alaska Wilderness League * The Wilderness Society * League of Conservation Voters
Defenders of Wildlife * Clean Water Action * The Trust for Public Land * American Rivers * Earthworks
Greenpeace USA * Union of Concerned Scientists * Friends of the Earth
Southern Alliance for Clean Energy * Conservation Law Foundation * Environmental Defense Fund
Physicians for Social Responsibility * Ocean Conservancy * National Audubon Society * Oceana
Center for International Environmental Law * Southern Environmental Law Center * Green for All
Izaak Walton League of America * Center for Biological Diversity * Endangered Species Coalition**

01268-EPA-1051

Seth Oster/DC/USEPA/US

To Richard Windsor

03/30/2011 01:44 PM

cc

bcc

Subject Re: ABC story on coal ash last night

You're right. Story left out a number of things. We're following up.

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

Richard Windsor

[Hey Seth. The story left out that HOU...](#)

03/30/2011 01:31:30 PM

From: Richard Windsor/DC/USEPA/US
To: "Seth Oster" <oster.seth@epa.gov>
Date: 03/30/2011 01:31 PM
Subject: ABC story on coal ash last night

Hey Seth. The story left out that HOUR 1 included rider language from the Rs that would prevent EPA from finalizing its rules.

Posted on Tue, Apr. 5, 2011

In Philadelphia, federal EPA chief says health equals jobs By Sandy Bauers

Inquirer Staff Writer

When Lisa P. Jackson took the stage at a national brownfields conference in Philadelphia on Monday, she said she wished all her detractors could be there to hear how restoring polluted industrial sites makes good business sense.

An hour later, when she participated in a panel at Children's Hospital of Philadelphia about new rules limiting emissions of mercury and other poisons from U.S. power plants, she spoke of how it would not only prevent thousands of premature deaths and illnesses a year, but would also support thousands of jobs in the construction and utility industries. "These are very good jobs," she said. "They're labor-intensive jobs. And you know what you can't do with them? You can't ship them overseas, because our power plants are here."

Health and jobs. Health and jobs. It's almost a mantra for Jackson, the U.S. Environmental Protection Agency's administrator.

Now two years into the job, Jackson is a beleaguered cabinet member who draws detractors - and supporters - wherever she goes.

In Congress, she has been grilled, challenged, countered, and debated as new Republican legislators contend that she and the agency are overreaching their purview.

"You will hear people use words like *cutting* and *defunding*, and making bold claims about so-called EPA power grabs," she said. Indeed, "you may have heard that earlier this year, someone in Congress offered me my very own parking space, because I've come in to testify so often."

Perhaps the most volatile issue is whether the EPA should regulate greenhouse gases - carbon dioxide and other heat-trapping gases that most scientists say are causing climate change.

U.S. Sen. Pat Toomey (R., Pa.) is a co-sponsor of an energy bill that would prevent the EPA from imposing an energy tax on greenhouse gases. He says the bill would help lower energy prices.

"We cannot allow the EPA to hold Pennsylvania's economy hostage," he said in a statement.

The U.S. Chamber of Commerce's Bill Kovacs said it was "clear that the Clean Air Act was never intended to [give the agency authority to] regulate greenhouse gases."

"It's a decision for Congress to make," said Kovacs, senior vice president of environment, technology, and regulatory affairs for the chamber. "Not a bureaucratic regulatory agency."

He also contended that historically, the EPA proposed only three to five major "rules" - or sets of regulations - a year. This year, he said, Jackson's EPA is anticipated to propose more than two dozen, with nearly half of them already issued.

That's "partly because she inherited a mess from her predecessors," countered Frank O'Donnell, president of the national advocacy group Clean Air Watch in Washington. "A large percentage of the air rules are redos of rules the Bush administration botched in its quest to be industry-friendly."

The agency "has just fallen into the right-wing mantra of government being too big," he said. "The EPA is suffering as a result of the health-care legislation and the fire that it lit in the tea party and elsewhere. In a lot of parts of the country, you don't hear the EPA used without the prior epithet *job-killing*."

David Masur, director of PennEnvironment, which hosted the mercury panel at Children's Hospital, said he thought that at the root of the debate were special interests holding sway with newly elected officials.

"Why we see this now is the political lay of the land has changed, and big polluters are cashing in," he said. Congressional conservatives are "standing up for the powerful polluters instead of the kids with asthma and old people who can't go outside on hot summer days."

Jackson, 49, a chemical engineer with a master's degree from Princeton University, was the secretary of the New Jersey Department of Environmental Protection before joining the Obama administration.

She also spent 16 years with the EPA previously, overseeing the cleanup of hazardous waste sites under the Superfund program.

In a way, she's not surprised at the current conflict.

"We're doing our job," she said. "I think EPA is getting attention because we are using science to follow the law. And that's long overdue."

She said that whether the rules are about mercury or ozone or clean water, "those are the

issues that EPA should be speaking on. It means that we're relevant. It means that every once in a while, the American people have to remember that we have insisted as a nation on strong environmental protection and we don't want to go backwards."

She praised the agency's work not just on new regulations, but on the Chesapeake Bay, the BP oil spill, and its current radiation monitoring of the nation's rainwater, drinking water and milk "to assure Americans that the horrible tragedy in Japan is not affecting them and their families."

In the coming-on-strong department, Jackson also announced Monday that possibly within months, the agency would propose standards to deal with oil and natural-gas drilling, particularly their air emissions.

In rural Wyoming, where drilling is widespread, she said, officials were surprised to learn that levels of smog rivaled those in Los Angeles.

She said states "have a huge role to play in that planning process. No state can afford to look the other way."

In Pennsylvania, nearly 3,000 wells have been drilled, and Gov. Corbett is an industry ally, opposing a severance tax. A top official of the Department of Environmental Protection recently ordered that all violations and enforcement actions be approved by the DEP secretary.

Jackson, whose regional administrator, Shawn Garvin, recently sent a strongly worded letter to the Pennsylvania DEP urging greater scrutiny of the industry, said, "I would encourage the State of Pennsylvania to be looking at aggressively overseeing" the industry.

The EPA is expected to bring out another major rule this summer addressing the downwind transport of pollutants from power plants. It is sure to raise more criticism and debate.

But in Philadelphia at the brownfields and mercury events on Monday, Jackson was among her fans.

U.S. Rep. Chaka Fattah (D., Pa.), who introduced Jackson at the Children's Hospital panel, said that "some members of Congress have made it their mission to interject themselves, to be a roadblock in the work of the administration, but she is doing a great job. I know in my talks with the president there is no cabinet administrator that he has appointed that he is prouder of."

During a question-and-answer period, audience members thanked Jackson for the work she and her agency were doing.

"You've put your finger in the dike," said a Pennsylvania woman who said she was asthmatic. "I know you've gotten a lot of backlash you don't deserve."

Earlier, at the brownfields conference, Jackson received a standing ovation.

And that was just for coming on stage, before she had said a word.

01268-EPA-1057

Arvin Ganesan/DC/USEPA/US

04/10/2011 04:18 PM

To Richard Windsor, Bob Perciasepe, Bob Sussman, Seth Oster, Paul Anastas, David McIntosh, Laura Vaught, Gina McCarthy

cc

bcc

Subject Study: Gas from [fracking] worse than coal on climate

This was just published on thehill.com and this is also a topic that could come up at Bob's hearing on Tuesday. (b)(5) deliberative

Study: Gas from 'fracking' worse than coal on climate

By Ben Geman - 04/10/11 02:40 PM ET

Cornell University professors will soon publish research that concludes natural gas produced with a drilling method called "hydraulic fracturing" contributes to global warming as much as coal, or even more.

The conclusion is explosive because natural gas enjoys broad political support – including White House backing – due to its domestic abundance and lower carbon dioxide emissions when burned than other fossil fuels.

Cornell Prof. Robert Howarth, however, argues that development of gas from shale rock formations produced through hydraulic fracturing – dubbed "fracking" – brings far more methane emissions than conventional gas production.

Enough, he argues, to negate the carbon advantage that gas has over coal and oil when they're burned for energy, because methane is such a potent greenhouse gas.

"The [greenhouse gas] footprint for shale gas is greater than that for conventional gas or oil when viewed on any time horizon, but particularly so over 20 years. Compared to coal, the footprint of shale gas is at least 20% greater and perhaps more than twice as great on the 20-year horizon and is comparable when compared over 100 years," states the upcoming study from Howarth, who is a professor of ecology and environmental biology, and other Cornell researchers.

The Hill obtained a [pre-publication version of the study](#), which is slated to run in the journal *Climatic Change* .

It is drawing immediate pushback from industry-aligned experts, who question key assumptions.

The environmental effects of producing gas from shale rock formations – in states including

Pennsylvania, Texas and Arkansas – is drawing careful scrutiny as development booms.

The Energy Information Administration – which is the Energy Department’s statistical arm – estimates that shale gas will account for 45 percent of total U.S. gas supply in 2035, up from 14 percent in 2009.

The study concludes that shale gas developed through fracking carries a higher greenhouse gas footprint because the “fugitive” methane emissions at the fracking sites are greater than releases from conventional gas wells.

Fugitive methane from other steps in the development process – transport, storage and so forth – are comparable to conventionally produced gas, the study states.

In essence, the Cornell study argues that methane emissions from these shale gas projects mean that shale gas ultimately brings climate consequences comparable to coal over a century, and worse than coal over two decades.

That’s because the potent methane emissions in the production process more than compensate for the fact that burning natural gas for power brings far fewer carbon dioxide emissions than burning coal. The study also notes that, depending on the estimates used, conventionally produced gas may add more to climate change than coal over the 20-year horizon.

But experts from the energy consulting firm [M.J. Bradley & Associates](#) are questioning the study.

“It needs to be understood as a study that has several key assumptions that are highly uncertain or based on limited data points,” said Christopher Van Atten, a senior vice president with the firm.

M.J. Bradley’s client base includes gas industry clients.

Among Van Atten’s criticisms, the study is overstating methane’s potency as a greenhouse gas, he argues. Van Atten, in an email, notes that the paper assigns a higher global warming potential to methane than the United Nation’s Intergovernmental Panel on Climate Change. He also questions the report’s emphasis on the climatic effects of methane over a 20-year horizon.

“They focus some of their results on a 20 year period which is not particularly relevant in terms of climate change. Methane only lasts in the atmosphere for about a decade, co2 remains in the atmosphere for about a century. By focusing on the shorter timeframe, they show a greater impact from the shorter lived chemical,” he said.

But the study notes that “the 20-year horizon is critical, given the need to reduce global warming in coming decades.”

Fracking involves high-pressure injections of water, chemicals and sand into rock formations, which opens cracks that enable trapped gas to flow. Use of fracking in shale formations is enabling expanded production, but bringing concerns about water contamination along with it.

Natural gas enjoys political support from the Obama administration and many lawmakers. Obama praised natural gas – while highlighting federal efforts to ensure fracking is done

safely – during a high-profile energy speech late last month.

"Recent innovations have given us the opportunity to tap large reserves -- perhaps a century's worth of reserves, a hundred years worth of reserves -- in the shale under our feet," Obama said at Georgetown University.

Obama has touted the potential of natural gas for use in vehicles, in addition to its role in power generation (natural gas currently produces around a fifth of U.S. electricity).

His proposed "clean energy standard," which would require utilities to greatly expand the supply of power from low-carbon sources, includes partial credit for natural gas.

More broadly, many gas supporters see domestic reserves as a "bridge" fuel while alternative energy sources are brought into wider use.

Howarth's study questions this idea.

"The large GHG footprint of shale gas undercuts the logic of its use as a bridging fuel over coming decades, if the goal is to reduce global warming," the study states.

But Van Atten also notes that gas has other advantages over coal as an energy source, due to its lower emissions of conventional pollutants including nitrogen oxides and sulfur dioxide.

The study cautions that the research is not meant to justify continued use of oil and coal, but rather to show that using shale gas as a substitute might not provide the desired checks on global warming.

Howarth and Cornell engineering Prof. Anthony Ingraffea, who also worked on the study, acknowledged uncertainties in the nexus between shale gas and global warming in a presentation last month.

"We do not intend for you to accept what we reported on today as the definitive scientific study with regard to this question. It is clearly not. We have pointed out as many times as we could that we are basing this study on in some cases questionable data," Ingraffea said at a mid-March seminar, which is [available for viewing](#) on Howarth's website.

"What we are hoping to do by this study is to stimulate the science that should have been done before, in my opinion, corporate business plans superceded national energy strategy," he added.

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01268-EPA-1058

Brendan
Gilfillan/DC/USEPA/US
04/13/2011 03:55 PM

To Bob Perciasepe
cc Adora Andy, Arvin Ganesan, Diane Thompson, Lawrence
Elworth, "Seth Oster", Richard Windsor
bcc

Subject Re: HAGSTROM REPORT | 04.12.11

Along those lines - another piece out of yesterday's meeting:

Jackson takes on EPA myths

[DANIEL LOOKER, Agriculture.com](#) 04/13/2011 @ 3:20pm Business Editor

EPA Administrator Lisa Jackson says that some of the things you know about her agency are simply myths.

Jackson has been attending hearings on Capitol Hill so often lately that members of Congress have jokingly offered her a permanent parking space, one of her aides told Agriculture.com

Earlier this week, the sometimes embattled officer of President Obama's Cabinet met for a few minutes with members of North American Agricultural Journalists to bust a few myths. Among them:

1. **The Cow Tax.** This rumor was circulating before the debate on climate change legislation in Congress and may have been just one nail in the coffin of cap and trade legislation that passed the House but is considered unlikely before 2012. Methane from cattle are a small contributor to greenhouse gases but "there's no cow tax and there's never been a plan to tax cows," Jackson said.
2. **Dust.** Under the Clean Air Act, the EPA must review its standards for particulate matter, Jackson said. But that doesn't mean the agency will necessarily change from the current standards. Agency staff understand that it's impractical to plant or harvest without any dust. Jackson said that fine particulates can have an affect on human health, but "wait before you get too worried about spending money and changing systems in rural America," she said.
3. **Spray drift.** EPA has no plans to require no spray drift, she said. "We do not have a no spray-drift policy and we will not have one," she said.
4. **Milk as a pollutant.** The EPA won't treat spills of milk the same way it treats oil spills. Jackson said the agency has met with representatives of the dairy industry and this week it announced that milk is exempt from its oil spill protection rules. (Senator Chuck Grassley, a frequent critic of EPA, said Tuesday that "The agency seems oblivious to the tremendous impact its rules and regulations have on the general public and agriculture in particular. I appreciate EPA finally getting the job done and doing the right thing in this instance.")
5. **Ethanol.** The renewable fuel standard does consider ethanol to have a low enough carbon footprint to qualify for mandates to use the fuel. Jackson said it did not in its first draft of the rules for the updated standard required by the 2007 energy law, but after it got better information, corn-based ethanol did meet the level of greenhouse gas emissions required

by the law, a 20% cut compared to gasoline.

Jackson said that her agency has already had five meetings to listen to farmers' concerns about dust rules and she's been visiting farms. Her next trip to hear from farmers will be shortly, to Iowa, she said.

Bob Perciasepe Myth busting Bob Perciasepe 04/12/2011 07:53:26 PM

From: Bob Perciasepe/DC/USEPA/US
To: Brendan Gilfillan/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Lawrence Elworth/DC/USEPA/US@EPA, "Seth Oster" <oster.seth@epa.gov>, Adora Andy/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA
Date: 04/12/2011 07:53 PM
Subject: Re: HAGSTROM REPORT | 04.12.11

Myth busting

Bob Perciasepe
Deputy Administrator
(o)202 564 4711
(c) (b) (6)

Brendan Gilfillan

----- Original Message -----

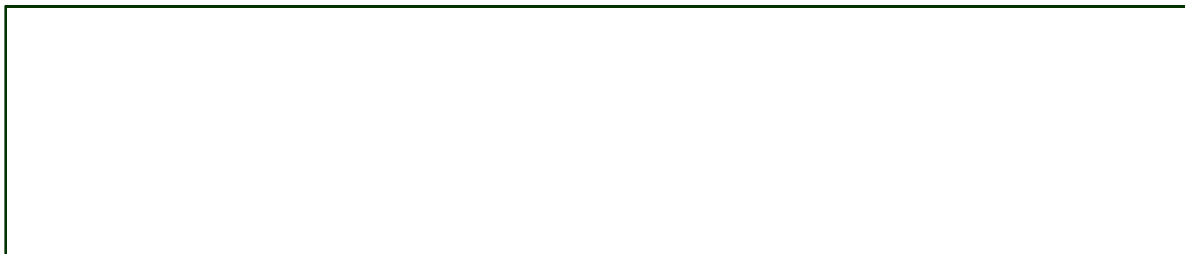
From: Brendan Gilfillan
Sent: 04/12/2011 07:24 PM EDT
To: Richard Windsor; Bob Perciasepe; Diane Thompson; Lawrence Elworth; Seth Oster <oster.seth@epa.gov>; Adora Andy; Arvin Ganesan
Subject: Fw: HAGSTROM REPORT | 04.12.11

All -

Please see the below report - the Hagstrom report is a very influential ag newsletter. Make sure you read all the way to the bottom!

- Brendan

From: The Hagstrom Report [mailto:info@hagstromreport.com]
Sent: Tuesday, April 12, 2011 5:36 PM
To: DeJong, Justin
Subject: HAGSTROM REPORT | 04.12.11



The Hagstrom Report

Agriculture News As It Happens



www.hagstromreport.com

Tuesday, April 12, 2011 | Volume 1, Number 66

- [Vilsack: Nation needs to talk agriculture restructuring](#)
- [Peterson: Ag cuts for fiscal year 2011 total \\$1.502 billion](#)
- [IDFA votes to oppose Milk Producers policy plan](#)
- [EPA's Jackson: Milk exempt from spill regulation](#)



Agriculture Secretary Tom Vilsack speaks to the North American Agricultural Journalists this morning. (Charles de Bourbon photo)

Vilsack: Nation needs to talk agriculture restructuring

By JERRY HAGSTROM

Reacting to concerns about grain supplies and to further cuts in farm programs in the continuing resolution to fund the government through September 30, Agriculture Secretary Tom Vilsack said today that the nation needs to talk about whether American agriculture needs to be restructured to increase production and what will happen to the roles the government has been playing as budgets are cut.

"We aren't having the right set of conversations in Washington, D.C.," Vilsack told the North American Agricultural Journalists. "We are in a conversation about food prices and crop supplies and questions about support for biofuels." Instead of a question about whether biofuels are being "imposed" on the agricultural system, he said, the question should be, "Can the agriculture production system be designed to meet the needs of food and biofuels?"

Vilsack then cited studies by Michigan State and Penn State universities indicating that double-cropping could produce raw materials for biofuels production in addition to food.

Biofuels, he noted, are part of the Obama administration's strategy to reduce population loss and economic problems in rural America.

"Unfortunately, we are trapped in a debate that could lead to short-changing capacity," he added.

Second, Vilsack said, there needs to be a conversation about what role the government will play as the budget is cut. Although the secretary said he could not discuss the cuts for the remainder of 2011 in detail because he had not seen them, he did say he believed there will be a large cut in conservation.

"Will we forego the benefits of conservation? You still have water conservation issues, soil quality issues," Vilsack asked, adding that he did not have answers to these questions but wanted to start the conversation.

Vilsack also said that even though Congress cut USDA programs, members are still asking for favors. Money has accumulated in the account for fighting forest fires because there have not been major fires in the last two years, Vilsack said, and USDA had begun using some of that money to fight the pine bark beetle, which destroys trees and creates dead timber that is susceptible to fire.

Congress cut the fire suppression account to create savings in the continuing resolution, Vilsack said, but the same day he received a bipartisan letter from 10

House members asking him to spend the money to stop the pine bark beetle.

Vilsack released a copy of the letter in which the members, led by Rep. Kristi Noem, R-S.D., wrote:

"It is our understanding that there are unobligated funds from [fiscal year] 2010, which could be used for western beetle mitigation. We have been supportive of efforts to redirect some of the unobligated [fiscal year] 2010 USFS funds toward bark beetle mitigation activities in the Rocky Mountain Region. While we are fully aware of the fiscal situation of the nation and scarce funding resources, we maintain that redirecting some of the unused funds to respond to this national emergency is an opportunity to use existing resources where they are greatly needed."

Vilsack indicated he did not think the discussion of what the private sector should pick up should extend to the nutrition programs such as food stamps and the school lunch program.

He said he would meet later today with USDA undersecretaries to discuss the details how the agency will handle the cuts.

- [Biofuels Done Right: Land Efficient Animal Feeds Enable Large Environmental and Energy Benefits](#)
- [Food and Fuel: Land Efficient Animal Feeds Enable Large Energy & Environmental Benefits](#)



Peterson: Ag cuts for fiscal year 2011 total \$1.502 billion

As members of Congress and lobbyists today tried to figure out exactly what agriculture programs cuts have been made in the continuing resolution to fund the government through the fiscal year that ends on September 30, House Agriculture Committee ranking member Collin Peterson, D-Minn., presented the North American Agricultural Journalists with a list of cuts he considers especially significant because they affect mandatory programs supposedly under the control of the authorizing committees rather than the appropriators:

Limitation on the Wetlands Reserve Program	\$119 million
Limit on Conservation Security Program	39 million
Limit on Environmental Quality Incentives Program	350 million
Dam rehabilitation	165 million
Limitation on fruit and vegetable snack program	117 million
Limitation on Biomass Crop Assistance Program	134 million
Rescission of food stamp education program	15 million
Rescission of rural electric credit cushion	207 million
Rescission of export credit guarantees	331 million
Elimination of crop insurance good performance rebate	25 million
TOTAL	\$1.502 billion

Ferd Hoefner of the National Sustainable Agriculture Coalition called the conservation cut "massive," saying that "since farmers signing up for the Conservation Stewardship Program in 2011 will not receive their first payments until fiscal year 2012, this proposed cutback would actually force the government to break the terms of the five-year contracts already signed with farmers in 2009 and 2010 and attempt to get payments back. Reneging on contracts already in effect truly represents government at its very worst. We will encourage farmers to appeal."

The Wetlands Reserve Program cut would reduce the program by 48,000 acres while the EQIP cut would mean "less conservation on the land even as production pressures mount, plus an even bigger backlog and waiting list of farmers trying to enroll but unable to participate due to funding cutbacks."

The continuing resolution also includes a \$500 million cut in the special nutrition program for women, infants and children, but Agriculture Secretary Tom Vilsack said today that that cut should not have an immediate impact because it is from a reserve account. Vilsack cautioned, however, that there could be WIC funding problems if there should be any miscalculation in expectations of demand for WIC. During the recession, birth rates have been down, which has decreased demand for WIC.

House and Senate appropriations committees also released charts and statements on the continuing resolution and the expected impact on agriculture:

- [House Appropriations Summary - Final Fiscal Year 2011 Continuing Resolution](#)
- [House Appropriations - FY 2011 Continuing Resolution Reductions - Agriculture](#)
- [Senate Appropriations - Highlights of FY 2011 Continuing Resolution](#)
- [Senate Appropriations – FY 2011 Continuing Resolution: Agriculture, Rural Development, FDA Summary](#)

IDFA votes to oppose Milk Producers policy plan

In a setback for proposals to rewrite the dairy program this year, the International Dairy Foods Association announced today that its three constituent organizations had voted to support their own dairy policy reform recommendations and to oppose the National Milk Producers Federation's dairy policy package.

The directors of the Milk Industry Foundation, the National Cheese Institute and the International Ice Cream Association made the decisions at a weekend meeting in Carlsbad, Calif., IDFA said in a news release.

IDFA, which represents the dairy processors, had agreed with National Milk, the largest organization of dairy farmers and co-ops, on some issues but had disagreed on National Milk's provision to include a supply management program.

While most of agriculture has been prospering, the dairy industry has suffered from the recession in the United States, a decline in exports and increased costs of feed. Dairy leaders had considered bringing a reform package to Capitol Hill this year ahead of the 2012 farm bill. But House Agriculture Committee Chairman Frank Lucas, R-Okla., has said he will consider it only if the farmers and processors are united.

National Milk's "Foundation for the Future" proposal is considered the most viable alternative policy, but some other dairy and farm groups, including the National Farmers Union, do not support it.

"IDFA's plan offers an alternative path forward that would not limit milk supply through a new mandatory government program, and will give dairy farmers the tools they need to manage volatility," said Connie Tipton, IDFA president and CEO. "Our members believe that it is time to decrease regulations in a highly regulated industry and the National Milk policy package does just the opposite."

IDFA's recommendations include:

- Replacing the Dairy Product Price Support Program and Dairy Export Incentive Program with better risk management tools for producers.
- Strengthening dairy risk management tools including forward contracting, the Livestock Gross Margin-Dairy program, catastrophic margin insurance for all dairy farmers, and tax deferred farm savings accounts.
- Simplifying the Federal Milk Marketing Orders program.

EPA's Jackson: Milk exempt from spill regulation

The Environmental Protection Agency will exempt milk from a regulation that requires industries that store petroleum products in large quantities to prevent

supplies, EPA Administrator Lisa Jackson said today.

Jackson told the North American Agricultural Journalists she expects the White House to publish and release the rule late today.

Jackson has noted that Congress wrote the oil-spill bill broadly enough to capture animal fats including milk, but that EPA had decided to exempt milk and that the Office of Management had budget had signed off on the milk exemption. Republicans have repeatedly charged that EPA was planning to regulate spilled milk.

Jackson told the agricultural journalists that she hopes the release of the rule stops "the myth that EPA wants to regulate milk."

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01268-EPA-1060

Bicky Corman/DC/USEPA/US

04/15/2011 10:44 AM

To Richard Windsor, Bob Perciasepe, Bob Sussman, Seth Oster, Michael Goo, David McIntosh, Arvin Ganesan, Diane Thompson

cc

bcc

Subject News on methane emissions from O&G

At the O&G task force meeting today, I heard EPA is going to be posting its GHG inventory, showing that the O&G sector is now the largest methane emitter. This information does not necessarily corroborate the forthcoming Howarth report (which concludes that the GHG footprint of shale gas is worse than coal), insofar as the GHG inventory is not a lifecycle analysis. However,

(b)(5) deliberative, (b) (5) Attorney-client privilege

01268-EPA-1061

Bicky Corman/DC/USEPA/US

04/15/2011 11:07 AM

To Richard Windsor, Diane Thompson, Seth Oster, David
McIntosh, Arvin Ganesan, Michael Goo, Scott Fulton
cc

bcc

Subject O&G sector #1 methane emitter --

so says EPA's GHG inventory, to be posted today. This information does not necessarily corroborate the forthcoming Howarth/Cornell report (which says that the GHG footprint of shale gas fracturing is worse than coal), (b)(5) deliberative, (b) (5) Attorney-client privilege

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01268-EPA-1062

Scott Fulton/DC/USEPA/US
04/15/2011 01:04 PM

To: Richard Windsor, David McIntosh, Seth Oster, "Scott Fulton"
cc
bcc

Subject: Re: Whitfield TVA statement - fyi

(b)(5) deliberative, (b) (5) Attorney-client privilege

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 04/15/2011 12:34 PM EDT
To: David McIntosh; Seth Oster; "Scott Fulton" <Fulton.Scott@epa.gov>
Subject: Re: Whitfield TVA statement - fyi

The chairman should review the facts here. His statement is chock full of errors. The original lawsuits were brought by the states - NC I believe. The states sued because TVA's pollution blows into the homes of millions of their residents. (b)(5) deliberative, (b) (5) Attorney-client privilege

10 million is a penalty for violations of the Clean Air Act. TVA is not above the law. The \$350M investment in energy efficiency are based on the federal govt's long-standing practice of encouraging beneficial projects in the communities that suffer the ill effects of pollution.

I guess instead of winning the future by investing in the transition to cleaner energy, clearer air and healthier citizens, some would prefer to retreat to the past. If they are successful in tying EPA's and the states' hand in enforcing the Clean Air Act, the main people who will suffer will be the Americans who live downwind from these antiquated plants and their pollution-belching smokestacks.

David McIntosh

----- Original Message -----

From: David McIntosh
Sent: 04/15/2011 10:34 AM EDT
To: Richard Windsor; Seth Oster
Subject: Fw: Whitfield TVA statement - fyi

----- Forwarded by David McIntosh/DC/USEPA/US on 04/15/2011 10:34 AM -----

From: Laura Vaught/DC/USEPA/US
To: Lorie Schmidt/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA
Date: 04/15/2011 08:31 AM
Subject: Whitfield TVA statement - fyi

Whitfield Slams TVA Settlement with EPA Over Clean Air Act Litigation

April 14, 2011 4:35 PM

WASHINGTON, D.C. - U.S. Rep. Ed Whitfield, (KY-01), Chairman of the House Subcommittee on Energy and Environment, today issued the following statement regarding today's announcement by the Tennessee Valley Authority (TVA) that it has settled legal challenges to its Clean Air Act (CAA) compliance plan.

Protection Agency (EPA) and various advocacy groups:

“As Chairman of the House Subcommittee on Energy and Power, one issue that I have watched closely is the act who seek to dictate national energy policy by targeting energy producers with lawsuits brought in concert with E prime example of what is wrong with national environmental policy in the United States – it is being determined payoffs with absolutely no input from elected representatives in the Congress. We intend for this to stop.

“In this settlement, I note that TVA has agreed to pay nearly \$10 million in legal fees to EPA and \$350 million t and greenhouse gas reductions not required by federal law, at a time when TVA has debt ceiling constraints and seek a debt ceiling increase. I find this outrageous.

“I am immensely concerned that this judgment will result in higher costs for electricity ratepayers and will affect their living in Kentucky’s coal industry. I am visited regularly by businesses and individuals expressing concern TVA must do better and I will insist on that.”

###

01268-EPA-1067

Bicky Corman/DC/USEPA/US
04/23/2011 10:55 AM

To David McIntosh, Richard Windsor, Diane Thompson, Bob Perciasepe, Scott Fulton, Bob Sussman, Michael Goo, Seth Oster, Adora Andy, Janet Woodka, Lawrence Elworth, Barbara Bennett, Arvin Ganesan, Laura Vaught

cc

bcc

Subject Re: big R attack on gas prices

(b)(5) deliberative, (b) (5) Attorney-client privilege
[Redacted]

From: David McIntosh
Sent: 04/23/2011 07:05 AM EDT
To: Richard Windsor; Diane Thompson; Bob Perciasepe; Scott Fulton; Bob Sussman; Michael Goo; Bicky Corman; Seth Oster; Adora Andy; Janet Woodka; Lawrence Elworth; Barbara Bennett; Arvin Ganesan; Laura Vaught
Subject: big R attack on gas prices

FYI, please see below. Gina has 2 Energy and Commerce Hearings in early May. One on May 5 about the RFS ((b)(5) deliberative), and one on May 13 about the Republicans' OCS permitting bill ((b)(5) deliberative)

-----Forwarded by David McIntosh/DC/USEPA/US on 04/23/2011 06:59AM -----

To: Gina McCarthy/DC/USEPA/US@EPA
From: David McIntosh/DC/USEPA/US
Date: 04/23/2011 06:58AM
Cc: Joseph Goffman/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Lorie Schmidt/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA
Subject: Hi Gina -- this is what your 2 hearings will be about

GOP to make hay in May over gas

By: **Darren Goode**
April 22, 2011 04:47 PM EDT

Republicans are getting ready to **capitalize on record prices** at the pump with a May focus on oil and gasoline.

The government shutdown battle put the issue on the back burner even though prices at

the pump have been rising steadily since February. Now, with [President Barack Obama](#) already on the defensive, the GOP is ready to pounce.

House Republicans are planning bill introductions, hearings, markups and floor votes on legislation aimed at expanding domestic oil production in response to high [gasoline prices](#).

The plain truth that there is realistically nothing Congress can do in the short- or mid-term to affect gas prices that won't get in the way of both parties trying to score political points by complaining the other is not addressing the problem.

"The White House and the rest of the Democrats who run Washington are terrified about the political impact of gas prices, because many of their policies — like the national energy tax — are explicitly designed to raise energy prices," said Michael Steel, spokesman for House Speaker [John Boehner](#).

Obama on Thursday pointed to high gasoline prices for his [sagging poll numbers](#). "My poll numbers go up and down depending on the latest crisis, and right now gas prices are weighing heavily on people," he said at a [Los Angeles fundraiser](#).

The latest Gallup tracking poll gives the president a 43 percent approval rating and a 49 percent disapproval rating. A divided Congress fares far worse — a 17 percent approval rating that is identical to right after last November's midterm election.

The average price for a gallon of unleaded is \$3.85, up 98 cents from a year ago and more than 30 cents higher than it was in early April 2008 before prices averaged a record of \$4.11 a gallon in July that year.

Prices are already higher in some areas of the country. AAA reports that California, Illinois and New York have average prices of more than \$4, and White House pool reporters have noted Obama's motorcade passed Los Angeles gas stations with prices of \$4.35 per gallon.

In 2008, \$4 gasoline led to House Republicans resorting to floor theatrics to draw attention to their calls for new oil exploration, followed by the famed "drill, baby, drill" chants at the Republican National Convention that September. Now, the GOP controls the floor agenda and plans to use it when they get back from the two-week spring recess.

"I can promise that we are going to be very active," said a House majority aide.

In March, House Republicans unveiled their "American Energy Initiative," a broad pledge to "stop government policies that are driving up gas prices; expand American energy production to lower costs and create more jobs; and promote an 'all of the above' strategy to increase all forms of American energy."

As part of that strategy, House Natural Resources Committee Republicans last week

passed three bills aimed at expanding and expediting offshore oil and gas drilling. A spokesman for Chairman Doc Hastings (R-Wash.) said he expects at least one of those bills to be on the floor the first week back from recess.

That first bill is likely to be one that gives the Interior Department 30 days to make a decision on offshore drilling permits in the Gulf of Mexico, allowing for two 15-day extensions of permits that were not already approved before the Obama administration's drilling moratorium installed after the BP oil spill last year.

The bill gives Republicans — and some Democrats — a structured debate in which to hit back at the Obama administration's official five-month deepwater drilling ban last year and what critics labeled a de facto ban for months afterward.

Rep. Lou Barletta, a Republican freshman from eastern Pennsylvania, said he's heard about the issue constantly during the congressional recess, while no action is taken in Washington.

"We talk about the CR and debt limits and budgets, and I go home and think we didn't do anything about gas prices again," Barletta told POLITICO. "It's frustrating to me as a member of Congress not to be able to come home and say, 'Don't worry, we don't have a plan.' I'm just as frustrated as they are in the fact that we aren't addressing that.

"If every member went home and got beat up over gas prices as a group in Washington, we might have more serious talks about what to do," he added.

Other bills from the Natural Resources panel would lead to new offshore drilling in the Arctic Ocean and off the Atlantic and Pacific coasts. And expect to hear more about the EPA's climate change regulations that affect petroleum refiners.

All of the GOP-led measures are likely dead on arrival in the filibuster-heavy and Democratic-controlled Senate.

Democrats will counter with "use it or lose it" legislation that aims to force companies to produce on, or have a valid reason for not producing on, their existing leases or risk losing other drilling opportunities — a strategy derided by the GOP and oil industry as unrealistic and unhelpful in addressing high prices. Drew Hammill, spokesman for House Minority Leader Nancy Pelosi, also noted possible measures to tap the Strategic Petroleum Reserve and go after gasoline price gouging and excessive market speculation.

Pelosi's office advised Democrats to use this current spring break to gain a foothold in the gas price debate, including the standard press conference and photo op at gas stations.

"Feature Democratic price gouging legislation and other bills that Republicans have blocked, and the Republican budget that provides billions in subsidies for Big Oil while cutting investments in clean energy," states the April 20 memo.

Democrats were also advised to release a report on local gas prices by choosing 10 local stations and noting how much prices there went up in a week versus the national average.

On Thursday, the administration launched a new commission to investigate "fraud or manipulation in the oil markets that might affect gas prices — and that includes the role of traders and speculators," Obama said at a stop in Reno, Nev.

Along those lines, 27 House Democrats — including some led by Rep. Tim Bishop of New York who are considered vulnerable again this cycle — have offered a bill enabling the FTC and state attorneys general to "institute civil and criminal penalties for fuel price gouging during periods proclaimed by the president as an international crisis affecting oil markets, and could also apply to speculation in the oil futures market." A similar measure passed the House last year.

And expect to hear Democrats defend the administration on offshore drilling. Interior has stepped up its issuing of new offshore permits after companies in mid-February developed new well-capping tools in the wake of new department safety and environmental standards rolled out in September.

Marin Cogan contributed to this report.

CORRECTION: An earlier version of this story mischaracterized Rep. Lou Barletta's comments about congressional action on gas prices.

01268-EPA-1069

**Brendan
Gilfillan/DC/USEPA/US**
04/26/2011 06:38 PM

To Richard Windsor, "Seth Oster"
cc
bcc

Subject Re: Google Alert - lisa jackson epa

Ha can't give him credit for the headline - cause every time we call to gripe about a headline, they blame the editors.

From: Richard Windsor
Sent: 04/26/2011 06:35 PM EDT
To: "Seth Oster" <oster.seth@epa.gov>; Brendan Gilfillan
Subject: Fw: Google Alert - lisa jackson epa

Cute from Ben German.

From: Google Alerts [googlealerts-noreply@google.com]
Sent: 04/26/2011 10:20 PM GMT
To: Richard Windsor
Subject: Google Alert - lisa jackson epa

News

2 new results for **lisa jackson epa**

[Hydraulic-Fracturing Rules Target Diesel Fuel](#)

Wall Street Journal

By RYAN TRACY WASHINGTON—The Environmental Protection Agency plans to publish guidelines on permits for companies that use diesel fuel in the hydraulic-fracturing process, **EPA** administrator **Lisa Jackson** said Tuesday. Ms. Jackson said **EPA** is talking ...

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[Wanted by **EPA**: Scientists for controversial climate mission](#)

The Hill (blog)

EPA's view is that biomass energy is green energy — if done right. Administrator **Lisa Jackson**, when announcing the permitting delay in January, said, “Renewable, homegrown power sources are essential to our energy future, and an important step to ...

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01268-EPA-1071

Richard
Windsor/DC/USEPA/US
04/28/2011 11:26 AM

To Michael Moats, Seth Oster, Vicki Ekstrom, David McIntosh,
Michael Goo, Gina McCarthy, Adora Andy, Brendan Gilfillan
cc
bcc

Subject Fw: Portland Power Sect. 126 hearing press

(b)(5) deliberative

====

DEP Chief: 'We will not back down' on halting power plant pollution April 28, 2011

New Jersey Herald

State and local officials speak at hearing

to clean up pollution from Portland, Pa., power plant

By Bruce A. Scruton

bscruton@njherald.com

LIBERTY – New Jersey’s top environmental officials said Wednesday that New Jersey will not back down from its resolve to force a Pennsylvania power plant to clean up its act.

The Portland, Pa., power plant, which lacks a pollution control device, is sending harmful levels of sulfur dioxide across state borders into Morris, Warren and Sussex counties.

A federal Environmental Protection Agency hearing on the air pollution spread across northwestern New Jersey from the power plant began at noon Wednesday with testimony from New Jersey’s top environmental officer Bob Martin.

Martin, commissioner of the state Department of Environmental Protection, told the five-member hearing panel, “We will not back down from our resolve to force the Portland power plant to take action to reduce its harmful emissions.”

Sulfur dioxide is a precursor to acid rain, said Judith Enck, the administrator for EPA’s Region 2, who sat on the five-member panel conducting the hearing Wednesday.

She said EPA’s action will be the first time the agency has proposed to limit pollution from a single source under the interstate air pollution laws.

“We believe the wisest course will be to require reduced emissions from the power plant,” she said.

New Jersey filed formal complaint against the plant, located on the banks of the Delaware River across from the Warren County town of Knowlton, in early 2010, then amended the complaint last fall.

In March, the federal EPA announced it agreed with New Jersey and plans to take action. Wednesday’s hearing was the start of that process. EPA officials said the hearing, with six hours of testimony, drew 110 attendees with 51 of them speaking. Martin said the Portland power plant, owned by GenOn, ranks in the top five in the nation in the highest sulfur dioxide emission rate per megawatt of electricity generated. Knowlton Mayor Frank Van Horn, a town native and mayor for the past 20 years, said

town residents can hear the nighttime rumble from the plant when it conducts what he called "route burn-off" a process by which the plant cleans its stacks by high temperature firing of the burners.

He said the result is a brownish cloud and fallout of ash that coats vehicles.

"It has been a continual problem," he said of the plant, which has been operating for a half-century. He said the amount of pollution put into the air is the equivalent of 1,500 20-ton trucks of pollution each year,

"We don't want this plant to shut down," Van Horn said. "We want this plant to be cleaned up."

Peter Summers, director of the Warren County Health Department, said his department figures show 9.4 percent of the adult population of Warren County has been diagnosed with asthma. This compares, he said, with a New Jersey and national average of 7.7 percent.

Van Horn said that while he has heard the cost to put in the pollution controls could be as much as \$300 million, he also noted that "for 35 to 40 years, this plant has been producing cheap electricity that has gone into the grid and brought in the same cost as other plants." While the area of heaviest pollution, according to both state and federal studies, is in Warren County as well as Pennsylvania's Monroe and Northampton counties, the above-standard pollution levels extend into parts of southern Sussex County and even show up in Hopatcong and western Morris County.

Martin said a monitoring station in Chester in Morris County, 22 miles from the plant, registers the highest SO₂ levels of any monitoring station in New Jersey.

"The plant also emits more mercury than all New Jersey coal-fired power plants combined," he said.

The extent of the pollution from the plant has gained attention from local officials. Sussex County Administrator John Eskilson said this week that the county Health Department Administrator Herb Yardley is preparing a letter and supporting documents that will be submitted during the public comment period, which continues through May 27.

In an EPA study done as a result of New Jersey's complaint, the agency said "extensive analysis shows a clear connection between the emissions from the Portland plant alone and the elevated level of SO₂ in New Jersey."

The agency said its study shows an 81 percent reduction of SO₂ emissions from the plant would bring the area across the river below the federal pollution standards. That goal should be reached within three years of the final order, expected this fall.

However, Martin said it would be the state's desire to see a reduction of at least 90 percent in the SO₂ levels and said the technology exists to reach 95 to 98 percent reductions.

New Jersey is not asking this power plant to do anything that our own state's coal-fired plants have not already done," he said.

"It is unacceptable to have a single power plant on our border emitting more sulfur dioxide and mercury than all of New Jersey's coal-, oil- and gas-fired power plants combined," he said.

Carolyn Fefferman, a senior advisor to U.S. Sen. Robert Menendez, D-NJ, read a letter into the record from the senator to EPA commissioner Lisa Jackson "in strong support of the proposed rule" to force the plant to limit its pollution.

"Imagine having to tell your children they cannot go outside to play because the wind isn't quite right," he wrote "or because the air they will be breathing will damage their lungs," she read from the letter.

Also of concern to some who spoke at the hearing was how the plant disposes of the ash produced by the boilers. That ash is dumped into an old quarry in Bangor, Pa. There were fears expressed that mercury and other pollutants in the ash will make their way into the groundwater and even surface streams which then supply the Delaware River.

Jeff Tittel, director of the New Jersey Sierra Club called the plant "the dirtiest threat to the public health and safety" of New Jersey residents. "This facility is something that should have been put out of business decades ago," he said.

GenOn, the current owner of the plant, was created in 2010 by a merger of companies, including the former plant owner Reliant Energy. Steve Davies, who appeared at the hearing representing GenOn, said the company owns nine coal-fired plants in Pennsylvania, along with nine gas-fired plants which, combined, provide about 15 percent of Pennsylvania's power needs. The plant's power is also sold to New Jersey. He said GenOn pays about \$50 million in property taxes in Pennsylvania each year. Davies said that as rules are made, "GenOn will make operating and capital expenditures" and said that any action on the Portland plant "should consider the magnitude of overall SO₂ regulations." He said the EPA should allow GenOn time for compliance and asked "for the opportunity to meet rules" provided those rules are "based on sound science."

Responding to a question from Enck, Davies said three of the company's Pennsylvania coal-fired plants, but not the Portland facility, are equipped with scrubbers and SO₂ equipment. He later amended his statement and told the panel that two additional plants have systems that act as scrubbers, bring the state total to five plants with pollution control devices.

Davies said GenOn has taken advantage of cap-and-trade programs, which allow companies to buy pollution credits from companies that exceed pollution standards and apply them to facilities that do not meet the standards.

"We have been able to comply with all permits and rules," he said.

In response to Donna Mastro, an EPA attorney on the panel, he said the Portland plant began as a base-local facility, meaning it was usually on-line, but now is an intermediate load plant, being used to provide electricity when demand is higher.

Daniel Engle, an Oxford resident, spoke Wednesday afternoon as a representative of unionized ironworkers. He said closing the Portland Plant, with its resulting loss of jobs and economic loss to the local economy would not be right.

Instead, he pointed to projects at two New Jersey plants where pollution control devices have been installed which dramatically reduce - up to 95 percent - the amount of emissions.

Requiring modernization would keep the plant running, he said, with a short-term increase in jobs as the upgrades are done and continuing to provide jobs for the long term.

The extent of the pollution from the plant is demonstrated in a graphic that shows "a red amoeba" spreading from Pennsylvania into New Jersey. Bill O'Sullivan, director of the New Jersey Division of Air Quality, explained that the chart is from a computer model

that shows where there would be violations of federal SO₂ over the course of an hour at least once in a year. The model was done after a study of more than 8,700 hours of data from 2003.

More recently, he said, a new monitor was installed about a mile from the plant at Columbia Lake, in September. Between then and February, the monitor recorded 14 instances of pollution violations of at least an hour duration.

Wind speed and direction at the time of the violations, pointed directly back to the Portland plant. He said his staff then looked at long-term readings from the monitor in Chester and again found the same directional finger pointing at Portland.

"The fact is, when the wind blows in your direction, you are in the path of the pollution," he said.

Among the last speakers of the evening were sisters Lynn and Amy Vonder Haar, ages 11 and 13, respectively, of Liberty.

The girls are homeschooled and one of Lynn's classes is a term on energy.

"Last semester, she was studying U.S. Government so the two issues dovetailed very naturally," said their father, William.

Lynn told the panel that the air coming from the plant "should be cleaned up," while Amy insisted scrubbers "should be put on those stacks."

"If they do that," she added, "we will all have less trouble with acid rain."

In his remarks to the panel, William Vander Haar, said, "I'm kinda shocked that in this day of modern technology, well, I can't understand how any plant could run without scrubbers."

Then he added, "for them (GenOn) to make profits at the expense of human impact and environmental health, something like this is a wrong thing to do."

01268-EPA-1082

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

05/06/2011 07:19 AM

cc

bcc

Subject Fw: Google Alert - lisa jackson, epa

On the first article below, (b)(5) deliberative

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

-----Forwarded by Arvin Ganesan/DC/USEPA/US on 05/06/2011 07:18AM

To: Arvin Ganesan/DC/USEPA/US@EPA
From: Google Alerts <googlealerts-noreply@google.com>
Date: 05/06/2011 06:14AM
Subject: Google Alert - lisa jackson, epa

News

2 new results for **lisa jackson, epa**

[Sen. Boxer makes stink to EPA over Mecca odor](#)

The Desert Sun

“Parents should not fear for their children's safety simply because they are breathing the air,” her letter to EPA Administrator **Lisa Jackson** stated. Mecca residents at two town hall meetings last week expressed such concerns.

...

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[Congress holds EPA hearing](#)

Bluefield Daily Telegraph

Lisa Jackson, administrator of the EPA, Dr. David Sunding, University of California-Berkeley, Reed Hopped, Pacific Legal Foundation, Michael Carey, president of the Ohio Coal Association and Steve Roberts, president of the West Virginia Chamber of ...

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01268-EPA-1083

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

05/06/2011 08:22 AM

cc

bcc

Subject Re: Google Alert - lisa jackson epa

Interesting.

(b)(5) deliberative

Sent from my Blackberry Wireless Device

From: Richard Windsor
Sent: 05/06/2011 08:15 AM EDT
To: "Arvin Ganesan" <ganesan.arvin@epa.gov>
Subject: Fw: Google Alert - lisa jackson epa

See last piece... ?

From: Google Alerts [googlealerts-noreply@google.com]
Sent: 05/06/2011 12:10 PM GMT
To: Richard Windsor
Subject: Google Alert - lisa jackson epa

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Twitter / Jennifer A. Dlouhy: Lisa Jackson: EPA will soo ...

Lisa Jackson: EPA will soon issue guidance for companies injecting diesel in # fracking process. "This is not exempt" from EPA oversight.

twitter.com/jendlouhyhc/status/62869622642323456

EPA Administrator Lisa Jackson, Governor Bill Richardson, L.A. ...

WASHINGTON , May 2, 2011 /NEWS.GNOM.ES/ — Earth Day Network announced today that it has an all-star cast as confirmed speakers at its May 3rd Climate ...

democrat.gnom.es/.../epa-administrator-lisa-jackson-governor-...

Randy Ellis to Meet with EPA director Lisa Jackson | RoaneViews

EPA Director Lisa Jackson with a VIP from Roane County. ... I don't have the answers, but there has to be some way to reign in EPA, TVA and other agencies ...

www.roaneviews.com/node/6307

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01268-EPA-1088

Adora Andy/DC/USEPA/US

05/10/2011 12:04 PM

To Richard Windsor

cc "Brendan Gilfillan", "David McIntosh", "Seth Oster"

bcc

Subject Re: Fw: Fw: Google Alert - lisa jackson epa

Administrator -

(b)(5) deliberative

From what we can tell three outlets, Bloomberg, UPI and Platts, have written stories about this. Argus media should be writing a story as well. In the case of the UPI story you're referencing, no one at UPI reached out to us for comment.

Please note that the Bloomberg story below - which will get much more circulation and attention - provides a little more balance and reflects more of our statement:

Republicans Seek More Information on Impact of EPA Rules on Power Industry

By Kim Chipman - May 9, 2011 6:44 PM ET

U.S. House Republican leaders are seeking information from the Obama administration about possible harm to the electricity-generating industry from Environmental Protection Agency rules.

House Energy and Commerce Committee Chairman [Fred Upton](#), a Michigan Republican, and two subcommittee chairman asked the EPA about how it analyzes the effect of new rules on the power industry, according to letters released today by the committee. Requests also were made to the Energy Department and Federal Energy Regulatory Commission, which oversees power distribution.

President [Barack Obama](#)'s EPA is under fire from Republicans such as Upton who say agency regulations will hurt the economy and destroy jobs. New and pending rules under scrutiny include limits on [greenhouse gases](#) blamed for [climate change](#) and a proposal to cut mercury and air toxins from coal-fired plants.

“The committee is concerned that the Obama EPA has been regulating too much too fast, without fully analyzing the feasibility and economic impacts of its new rules,” the House panel said in a statement.

The panel wrote to EPA Administrator Lisa Jackson asking whether the agency studied how regulations will affect energy, manufacturing and trade-exposed industries such as cement, paper and steel.

The lawmakers asked whether the EPA consulted with the Energy Department, the [Federal Energy Regulatory Commission](#), the [Council on Environmental Quality](#) or the Office of Management and Budget about the impact of rules on electricity reliability.

The rules are “sensible steps to protect public health,” according to an EPA statement today. The agency is working with companies to ensure that Clean Air Act rules are “reasonable, commonsense and achievable,” according to the statement.

Upton, joined by Representatives Ed Whitfield of Kentucky and Cliff Stearns of [Florida](#), asked Energy Secretary Steven Chu and FERC Chairman Jon Wellinghoff about consultations between their agencies and EPA on regulations affecting power companies.

Richard Windsor (b)(5) deliberative 05/10/2011 10:14:52 AM

From: Richard Windsor/DC/USEPA/US
 To: "Seth Oster" <oster.seth@epa.gov>, "Adora Andy" <Andy.Adora@epamail.epa.gov>, "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>
 Cc: "David McIntosh" <mcintosh.david@epa.gov>
 Date: 05/10/2011 10:14 AM
 Subject: Fw: Fw: Google Alert - lisa jackson epa

(b)(5) deliberative

David McIntosh

----- Original Message -----

From: David McIntosh
Sent: 05/10/2011 10:13 AM EDT
To: Richard Windsor
Cc: Laura Vaught
Subject: Re: Fw: Google Alert - lisa jackson epa

(b)(5) deliberative

Richard Windsor ----- Original Message ----- From: Goo... 05/10/2011 10:10:21 AM

From: Richard Windsor/DC/USEPA/US
 To: "David McIntosh" <mcintosh.david@epa.gov>, "Laura Vaught" <Vaught.Laura@epamail.epa.gov>
 Date: 05/10/2011 10:10 AM
 Subject: Fw: Google Alert - lisa jackson epa

From: Google Alerts [googlealerts-noreply@google.com]
Sent: 05/10/2011 02:07 PM GMT
To: Richard Windsor
Subject: Google Alert - lisa jackson epa

News

1 new result for **lisa jackson epa**

[House Republicans draw bead on **EPA**](#)

UPI.com

Fred Upton, R-Mich., chairman of the House Energy and Commerce Committee, joined other Republican leaders in asking the **EPA** in a letter how it perceives the new rules would affect the power industry. The panel asked **EPA** Administrator **Lisa Jackson** if ...

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01268-EPA-1089

Adora Andy/DC/USEPA/US

To Adora Andy

05/10/2011 12:07 PM

cc Richard Windsor, "Brendan Gilfillan", "David McIntosh", "Seth Oster"

bcc

Subject Re: Fw: Fw: Google Alert - lisa jackson epa

Hit "send" too soon...

Adding: [redacted] (b)(5) deliberative

Adora Andy

Administrator - (b)(5) deliberative

05/10/2011 12:04:58 PM

From: Adora Andy/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>, "Seth Oster" <oster.seth@epa.gov>
Date: 05/10/2011 12:04 PM
Subject: Re: Fw: Fw: Google Alert - lisa jackson epa

Administrator -

[redacted] (b)(5) deliberative

[redacted]

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President [Barack Obama](#)'s EPA is under fire from Republicans such as Upton who say agency regulations will hurt the economy and destroy jobs. New and pending rules under scrutiny include limits on [greenhouse gases](#) blamed for [climate change](#) and a proposal to cut mercury and air toxins from coal-fired plants.

"The committee is concerned that the Obama EPA has been regulating too much too fast, without fully analyzing the feasibility and economic impacts of its new rules," the House panel said in a statement.

The panel wrote to EPA Administrator Lisa Jackson asking whether the agency studied how regulations will affect energy, manufacturing and trade-exposed industries such as cement, paper and steel.

The lawmakers asked whether the EPA consulted with the Energy Department, the [Federal Energy Regulatory Commission](#), the [Council on Environmental Quality](#) or the Office of Management and Budget about the impact of rules on electricity reliability.

The rules are "sensible steps to protect public health," according to an EPA statement today. The agency is working with companies to ensure that Clean Air Act rules are "reasonable, commonsense and achievable," according to the statement.

Upton, joined by Representatives Ed Whitfield of Kentucky and Cliff Stearns of [Florida](#), asked Energy Secretary Steven Chu and FERC Chairman Jon Wellinghoff about consultations between their agencies and EPA on regulations affecting power companies.

Richard Windsor

(b)(5) deliberative

05/10/2011 10:14:52 AM

From: Richard Windsor/DC/USEPA/US
To: "Seth Oster" <oster.seth@epa.gov>, "Adora Andy" <Andy.Adora@epamail.epa.gov>, "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>
Cc: "David McIntosh" <mcintosh.david@epa.gov>
Date: 05/10/2011 10:14 AM
Subject: Fw: Google Alert - lisa jackson epa

(b)(5) deliberative

David McIntosh

----- Original Message -----

From: David McIntosh
Sent: 05/10/2011 10:13 AM EDT
To: Richard Windsor
Cc: Laura Vaught

Subject: Re: Fw: Google Alert - lisa jackson epa

(b)(5) deliberative

Richard Windsor

----- Original Message ----- From: Goo...

05/10/2011 10:10:21 AM

From: Richard Windsor/DC/USEPA/US
To: "David McIntosh" <mcintosh.david@epa.gov>, "Laura Vaught" <Vaught.Laura@epamail.epa.gov>
Date: 05/10/2011 10:10 AM
Subject: Fw: Google Alert - lisa jackson epa

From: Google Alerts [googlealerts-noreply@google.com]

Sent: 05/10/2011 02:07 PM GMT

To: Richard Windsor

Subject: Google Alert - lisa jackson epa

News

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[House Republicans draw bead on EPA](#)

UPI.com

Fred Upton, R-Mich., chairman of the House Energy and Commerce Committee, joined other Republican leaders in asking the **EPA** in a letter how it perceives the new rules would affect the power industry. The panel asked **EPA** Administrator **Lisa Jackson** if ...

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01268-EPA-1090

Adora Andy/DC/USEPA/US
05/10/2011 12:25 PM

To Richard Windsor
cc Brendan Gilfillan, "David McIntosh", "Seth Oster"
bcc

Subject Re: Fw: Fw: Google Alert - lisa jackson epa

Absolutely. (b)(5) deliberative

Richard Windsor (b)(5) deliberative 05/10/2011 12:12:03 PM

From: Richard Windsor/DC/USEPA/US
To: Adora Andy/DC/USEPA/US@EPA
Cc: Brendan Gilfillan/DC/USEPA/US@EPA, "David McIntosh" <mcintosh.david@epa.gov>, "Seth Oster" <oster.seth@epa.gov>
Date: 05/10/2011 12:12 PM
Subject: Re: Fw: Fw: Google Alert - lisa jackson epa

(b)(5) deliberative

Adora Andy

----- Original Message -----

From: Adora Andy
Sent: 05/10/2011 12:07 PM EDT
To: Adora Andy
Cc: Richard Windsor; Brendan Gilfillan; "David McIntosh" <mcintosh.david@epa.gov>; "Seth Oster" <oster.seth@epa.gov>
Subject: Re: Fw: Fw: Google Alert - lisa jackson epa

Hit "send" too soon...

Adding: (b)(5) deliberative

Adora Andy Administrator - (b)(5) deliberative 05/10/2011 12:04:58 PM

From: Adora Andy/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>, "Seth Oster" <oster.seth@epa.gov>
Date: 05/10/2011 12:04 PM
Subject: Re: Fw: Fw: Google Alert - lisa jackson epa

Administrator -

(b)(5) deliberative

(b)(5) deliberative

indicated 1. we're protecting public health and 2. we're doing so reasonably and responsibly. The difference is between a story that says "House GOP says EPA is turning the lights out; EPA fired back, says House GOP is gutting the Clean Air Act" and a story that says "House GOP says EPA is turning the lights out, EPA says it's taking reasonable, sensible steps to protect public health." In this case we thought the second approach was better.

From what we can tell three outlets, Bloomberg, UPI and Platts, have written stories about this. Argus media should be writing a story as well. In the case of the UPI story you're referencing, no one at UPI reached out to us for comment.

Please note that the Bloomberg story below - which will get much more circulation and attention - provides a little more balance and reflects more of our statement:

Republicans Seek More Information on Impact of EPA Rules on Power Industry

By Kim Chipman - May 9, 2011 6:44 PM ET

U.S. House Republican leaders are seeking information from the Obama administration about possible harm to the electricity-generating industry from Environmental Protection Agency rules.

House Energy and Commerce Committee Chairman [Fred Upton](#), a Michigan Republican, and two subcommittee chairman asked the EPA about how it analyzes the effect of new rules on the power industry, according to letters released today by the committee. Requests also were made to the Energy Department and Federal Energy Regulatory Commission, which oversees power distribution.

President [Barack Obama](#)'s EPA is under fire from Republicans such as Upton who say agency regulations will hurt the economy and destroy jobs. New and pending rules under scrutiny include limits on [greenhouse gases](#) blamed for [climate change](#) and a proposal to cut mercury and air toxins from coal-fired plants.

"The committee is concerned that the Obama EPA has been regulating too much too fast, without fully analyzing the feasibility and economic impacts of its new rules," the House panel said in a statement.

The panel wrote to EPA Administrator Lisa Jackson asking whether the agency studied how regulations will affect energy, manufacturing and trade-exposed industries such as cement, paper and steel.

The lawmakers asked whether the EPA consulted with the Energy Department, the [Federal Energy Regulatory Commission](#), the [Council on Environmental Quality](#) or the Office of Management and Budget about the impact of rules on electricity reliability.

The rules are "sensible steps to protect public health," according to an EPA statement today. The agency is working with companies to ensure that Clean Air Act rules are "reasonable,

commonsense and achievable," according to the statement.

Upton, joined by Representatives Ed Whitfield of Kentucky and Cliff Stearns of [Florida](#), asked Energy Secretary Steven Chu and FERC Chairman Jon Wellinghoff about consultations between their agencies and EPA on regulations affecting power companies.

Richard Windsor (b)(5) deliberative 05/10/2011 10:14:52 AM

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 To: "Seth Oster" <oster.seth@epa.gov>, "Adora Andy" <Andy.Adora@epamail.epa.gov>, "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>
 Cc: "David McIntosh" <mcintosh.david@epa.gov>
 Date: 05/10/2011 10:14 AM
 Subject: Fw: Google Alert - lisa jackson epa

(b)(5) deliberative

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To: Richard Windsor
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Richard Windsor ----- Original Message ----- From: Goo... 05/10/2011 10:10:21 AM

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 To: "David McIntosh" <mcintosh.david@epa.gov>, "Laura Vaught" <Vaught.Laura@epamail.epa.gov>
 Date: 05/10/2011 10:10 AM
 Subject: Fw: Google Alert - lisa jackson epa

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Sent: 05/10/2011 02:07 PM GMT
To: Richard Windsor
Subject: Google Alert - lisa jackson epa

News

1 new result for **lisa jackson epa**

[House Republicans draw bead on EPA](#)

UPI.com

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01268-EPA-1092

Adora Andy/DC/USEPA/US

To Richard Windsor

05/10/2011 06:15 PM

cc Betsaida Alcantara, Brendan Gilfillan, David McIntosh

bcc

Subject Re: all the more reason for us to be hard-hitting

Indeed. On it!

Richard Windsor

(b)(5) deliberative

05/10/2011 06:12:40 PM

From: Richard Windsor/DC/USEPA/US
 To: Adora Andy/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA
 Date: 05/10/2011 06:12 PM
 Subject: Re: all the more reason for us to be hard-hitting

(b)(5) deliberative

Adora Andy

----- Original Message -----

From: Adora Andy
Sent: 05/10/2011 06:07 PM EDT
To: Richard Windsor; David McIntosh; Brendan Gilfillan; Betsaida Alcantara
Subject: Re: all the more reason for us to be hard-hitting

We didn't get any calls on this letter... However, it's a great thing that all of these independent groups are out there beating this back for us. Strong.

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 05/10/2011 05:54 PM EDT
To: David McIntosh; Adora Andy; Brendan Gilfillan; Betsaida Alcantara
Subject: Re: all the more reason for us to be hard-hitting

Oh yes!

David McIntosh

----- Original Message -----

From: David McIntosh
Sent: 05/10/2011 05:37 PM EDT
To: Richard Windsor; Adora Andy; Brendan Gilfillan; Betsaida Alcantara
Subject: all the more reason for us to be hard-hitting

AIR POLLUTION: Health groups 'shocked' by Barton's mercury claim *(Tuesday, May 10, 2011)*

Gabriel Nelson, E&E reporter

Several public health groups are going after former House Energy and Commerce Chairman Joe Barton (R-Texas) for claiming that pollution from coal-fired power plants does not hurt anybody.

During a recent hearing on U.S. EPA's toxic pollution standards for the power sector, Barton said mercury and other chemicals released into the air by coal plants do not present a "medical negative."

Doctors from groups such as the American Academy of Pediatrics, American Lung Association and American Public Health Association were "shocked" by the claim because there is clear evidence that the emissions kill people and cause health problems, they say in a [letter](#) sent to Barton today. They included a list of studies to back up their point. "We strongly urge you and your staff to read through the volumes of work that have been published over the decades on this topic," the letter says. "Once you do, we trust that you will agree that the EPA is on strong footing when it assesses and states the health benefits of measures to reduce air pollution."

Mercury, a trace ingredient in coal that can cause developmental problems in children, is released into the air when the fuel is burned. When it falls into oceans, lakes and streams, it undergoes a chemical transformation that allows the toxic metal to accumulate in fish and other types of wildlife.

Scientists say that eating mercury-tainted fish presents a risk to pregnant women and children, though they have continued to argue about how much of the problem is caused by U.S. coal plants.

While conceding he is "not a medical doctor," Barton said he is skeptical about the federal rules because the average power plant releases just a few pounds of mercury per year.

"You're not going to get enough mercury exposure, or [sulfur dioxide] exposure, or even particulate matter exposure. I think the EPA numbers are pulled out of the thin air," Barton said at an Energy and Commerce hearing. "If their benefits are not real and the costs are real, we're absolutely wrong to force these standards," he added.

The emissions standards that EPA proposed earlier this year would require coal plants without pollution controls to release about 91 percent less mercury. They would also require controls for acid gases and fine particles, which would reduce the amount of sulfur dioxide (SO₂) and soot that power plants release into the air.

Utilities see problems

Meeting the proposed mercury limits would require coal plants to add pollution controls or find coal with a lower mercury content. It can cost hundreds of millions of dollars to add the controls needed to trap mercury, but the same filtering equipment captures fine particles, which EPA says are responsible for tens of thousands of early deaths each year.

The toxic pollution rules are being resisted by coal-dependent power companies, which say the requirements are too stringent and would take effect too quickly. Among them is American Electric Power Co. Inc., which is circulating draft legislation on Capitol Hill that would delay and scale back the toxics rules, along with other new EPA regulations ([Greenwire](#) , April 29).

New and proposed EPA rules would raise electricity rates by about 25 percent, the heads of Atlanta-based Southern Co. and Detroit-based DTE Energy Co. predicted last month during the Energy and Commerce Committee hearing. Juggling the various shutdowns and upgrades will make the rules more expensive and could hurt the reliability of the electric grid, they said.

The mercury rules in particular contain "egregious errors" that justify taking the proposal back to the drawing board, says the Utility Air Regulatory Group, a coalition of power companies represented by attorneys at Hunton & Williams LLP.

In a [letter](#) sent to EPA late last week, the group claims that at least half of the 40 coal-fired boilers that the agency pegged as the best performers have actual mercury emissions that are 1,000 times higher than the agency estimated. That means the emissions standards in the proposed rule are "obviously wrong," the letter says.

Environmental groups say power companies are trying to stall rules that were due under the Clean Air Act more than a decade ago. EPA predicts that the toxic pollution rules would cost \$10.9 billion per year and would yield annual health benefits of \$59 billion to \$140 billion, mainly by preventing about 17,000 premature deaths each year.

"How many lives does AEP believe it is worth risking?" wrote Frances Beinecke, president of the Natural Resources Defense Council, in a blog post today.

[Click here](#) to read the health groups' letter.

[Click here](#) to read the utilities' letter.

01268-EPA-1095

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

cc



05/11/2011 01:21 PM

bcc

Subject Today's MTM hearing

Two items I wanted to flag for you from Nancy's hearing on MTM and Spruce today.

(b)(5) deliberative

I'd recommend that you also call her to thank her. Do you have her cell, or shall I set it up?

Thanks.

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

01268-EPA-1096

Arvin Ganesan/DC/USEPA/US To Richard Windsor
 05/11/2011 02:00 PM cc
 bcc
 Subject Re: Today's MTM hearing

Thanks.

[REDACTED] (b)(5) deliberative

Congresswoman Richardson's cell is [REDACTED] (b) (6) and her email address is [REDACTED] (b) (5) Deliberative

When you have a second, you should strike while the iron is hot and just leave a VM or send an email.

When/if that fails, I'll set it up through the regular scheduling process.

 ARVIN R. GANESAN
 Deputy Associate Administrator
 Office of the Administrator
 United States Environmental Protection Agency
 Ganesan.Arvin@epa.gov
 (p) 202.564.5200
 (f) 202.501.1519

Richard Windsor	Hey. I don't have Ms. Richardson's cel...	05/11/2011 01:41:27 PM
-----------------	---	------------------------

From: Richard Windsor/DC/USEPA/US
 To: Arvin Ganesan/DC/USEPA/US@EPA
 Date: 05/11/2011 01:41 PM
 Subject: Re: Today's MTM hearing

Hey. I don't have Ms. Richardson's cell but would like to call her. Can you set that up?

I'll call Nancy.

[REDACTED] (b)(5) deliberative Proud of her.

And while I'm at it, I'm proud of you! Thanks for your hard and successful work on this.

Lisa

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 05/11/2011 01:21 PM EDT
To: Richard Windsor
Subject: Today's MTM hearing

Two items I wanted to flag for you from Nancy's hearing on MTM and Spruce today.

[REDACTED] (b)(5) deliberative

(b)(5) deliberative



She also asked Nancy to ask you to form a stakeholder committee specifically on mining.

I'd recommend that you also call her to thank her. Do you have her cell, or shall I set it up?

Thanks.

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

01268-EPA-1097

Arvin Ganesan/DC/USEPA/US To Richard Windsor
05/11/2011 02:02 PM cc
bcc
Subject Re: Today's MTM hearing

Cool. Thx

Sent from my Blackberry Wireless Device
Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 05/11/2011 02:01 PM EDT
To: Arvin Ganesan
Subject: Re: Today's MTM hearing

Will do. In about an hour.
Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 05/11/2011 02:00 PM EDT
To: Richard Windsor
Subject: Re: Today's MTM hearing

Thanks.

[Redacted] (b)(5) deliberative

Congresswoman Richardson's cell is [Redacted] (b) (6) and her email address is [Redacted] (b) (5) Deliberative

When you have a second, you should strike while the iron is hot and just leave a VM or send an email.

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ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
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(f) 202.501.1519

Richard Windsor Hey, I don't have Ms. Richardson's cel... 05/11/2011 01:41:27 PM

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To: Arvin Ganesan/DC/USEPA/US@EPA
Date: 05/11/2011 01:41 PM
Subject: Re: Today's MTM hearing

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Lisa

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Sent: 05/11/2011 01:21 PM EDT
To: Richard Windsor
Subject: Today's MTM hearing

Two items I wanted to flag for you from Nancy's hearing on MTM and Spruce today.

[REDACTED] (b)(5) deliberative

[REDACTED]

[REDACTED]

I'd recommend that you also call her to thank her. Do you have her cell, or shall I set it up?

Thanks.

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

01268-EPA-1098

Arvin Ganesan/DC/USEPA/US

05/11/2011 02:10 PM

To Betsaida Alcantara, Richard Windsor

cc Adora Andy, Bob Perciasepe, Bob Sussman, Brendan Gilfillan, Daniel Kanninen, David McIntosh, Diane Thompson, Nancy Stoner

bcc

Subject Re: Charleston Gazette: EPA, Democrats respond to coal industry attacks

Great. Administrator, ill add Bishop to your call list over the coming days.

Sent from my Blackberry Wireless Device
Betsaida Alcantara

----- Original Message -----

From: Betsaida Alcantara

Sent: 05/11/2011 02:07 PM EDT

To: Richard Windsor

Cc: Adora Andy; Arvin Ganesan; Bob Perciasepe; Bob Sussman; Brendan Gilfillan; Daniel Kanninen; David McIntosh; Diane Thompson; Nancy Stoner

Subject: Charleston Gazette: EPA, Democrats respond to coal industry attacks

EPA, Democrats respond to coal industry attacks

May 11, 2011 by Ken Ward Jr.

The House Committee on Transportation and Infrastructure's interrogation of EPA acting water chief Nancy Stoner seems to be winding down, as the GOP and the coal industry continue their efforts to discredit the Obama administration's efforts to reduce the impacts of coal mining on Appalachian communities.

Testimony from the first panel of witnesses was about what you would expect, given last week's initial day of this two-part hearing, dubbed, "EPA Mining Policies: Assault on Appalachian Jobs."

Today's hearing went a little different from last week's in some respects, though.

First of all, someone from EPA was actually given the chance to speak and explain the agency's policies. Of course, the GOP committee leadership, contrary to long-standing protocols for congressional hearings, made EPA acting water chief Nancy Stoner follow the panel of industry witnesses. Traditionally, officials from administrative agencies usually appear first at such hearings.

Stoner made a strong statement about what EPA's trying to do:

Appalachian families should not have to choose between healthy watersheds and a healthy economy – they deserve both.

And, she explained EPA's view of its role in dealing with Clean Water Act 404 permits:

EPA does not view this authority as an opportunity to second guess the Corps' decision-making, but rather as an important responsibility to conduct an independent review of projects that have the potential to significantly impact public health.

Stoner explained to committee members that EPA's actions are backed up by more than 100 peer-reviewed studies, and she specifically cited the new West Virginia University paper that further

documents concerns about mountaintop removal's impacts on human health of residents who live near these mines.

This time around, we also got to see a couple of Democratic committee members actually challenge some of what the industry witnesses and their Republican hosts were saying.

For example, the subcommittee's ranking Democrat, Rep. Timothy Bishop of New York, pointed out that EPA has not rejected any of the 140 pending coal-related 404 permit applications the Obama administration inherited when it took office two years ago. And, Bishop noted that over the past 39 years, EPA has used its veto authority only 13 times, while processing more than two million 404 permits:

Two million permits set against 13 permits [vetoed] It's a little bit difficult to argue that there is a level of uncertainty that is debilitating.

And, Rep. Laura Richardson, D-Calif., questioned Carey's proposal from the Ohio Coal Association for a "regulatory time out", saying:

You're not going to see no regulation.

Richardson tried to ask Carey what sort of middle ground proposals his organization would have for dealing with EPA, but Carey said he wasn't interested in such compromises.

And Carey had another bit of testimony that was very interesting. In his public statement to the committee, he mentioned increased safety enforcement by the U.S. Mine Safety and Health Administration as part of the Obama administration's "war on coal."

In his written testimony, Carey tried to insist that his group was "... not complaining about enforcement actions that protect miners' safety ..." But, among a list of proposals his group is opposing, he included MSHA's plan to "End Black Lung," a disease that has killed 10,000 coal miners in the last decade.

Richard Windsor [The GOP should be called out for thei...](#) 05/11/2011 01:49:30 PM

From: Richard Windsor/DC/USEPA/US
 To: Betsaida Alcantara/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Nancy Stoner/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Daniel Kanninen/DC/USEPA/US@EPA
 Date: 05/11/2011 01:49 PM
 Subject: Re: Politico: GOP slams EPA's 'war on coal'

The GOP should be called out for their Kangaroo Court. (b)(5) deliberative
 He is clearly an unethical bully. (b)(5) deliberative
 Nancy deserves a medal for putting up with losers like that.

Betsaida Alcantara

----- Original Message -----

From: Betsaida Alcantara
Sent: 05/11/2011 01:45 PM EDT
To: Richard Windsor; Bob Perciasepe; Bob Sussman; Nancy Stoner; Brendan Gilfillan; Adora Andy; Diane Thompson; Arvin Ganesan; David McIntosh; Daniel Kanninen; Bob Sussman
Subject: Politico: GOP slams EPA's 'war on coal'

GOP slams EPA's 'war on coal'

By Darren Samuelsohn
POLITICO Pro

5/11/11 1:32 PM EDT

House Republicans slammed the EPA Wednesday for waging a "war on coal" that has left industry struggling to meet a shifting landscape of environmental regulations.

About a dozen GOP members of a Transportation and Infrastructure panel unloaded on the Obama administration for tightening standards last spring on mining companies that need Clean Water Act permits and also for banning mine operators from filling stream valleys with rock waste — a critical step in mountaintop removal mining.

EPA acting water chief Nancy Stoner defended her agency's work, explaining that it is taking industry concerns into account even as it follows legal requirements to protect public health and the environment. "We've stood our ground based on peer-reviewed science," she said.

But Republicans weren't buying her arguments, complaining that the EPA has skirted advice from the Army Corps of Engineers and state officials, including in mining heavyweight West Virginia.

"Actions speak louder than words," said West Virginia Republican Rep. Shelley Moore Capito.

"You are running roughshod as an agency," added Rep. Don Young (R-Alaska).

Before Stoner could testify, GOP lawmakers made her sit through 90 minutes of complaints from an opening panel of mining industry advocates.

Mike Carey, head of the Ohio Coal Association and a frequent critic of Democratic environmental policies, singled out EPA Administrator Lisa Jackson, who he said has been waging a "war on coal" dating back to her time atop the New Jersey Department of Environmental Protection.

There, Carey complained that Jackson had blocked construction of new coal plants. "She may not be calling for a moratorium today, but her regulatory policies are certainly creating them," he said.

Several green activists who filled the hearing room burst out at one point in protest of the GOP-led hearing, prompting Chairman Bob Gibbs (R-Ohio) and committee staff to threaten their removal from the room. Three people then put tape over their mouths in protest.

Environmentalists got some help from the Democratic end of the dais. California Rep. Laura Richardson said Carey's comments targeting Jackson were "a little over the top, in my opinion."

"We don't attack our administrator," she said. "I don't believe we allow people giving testimony

[to do that] either."

Subcommittee ranking member Tim Bishop (D-N.Y.) also defended the Obama administration, citing the EPA's clearance rate on Clean Water Act mining permits held over from the George W. Bush administration.

01268-EPA-1099

Arvin Ganesan/DC/USEPA/US To Richard Windsor
05/11/2011 02:36 PM cc
bcc
Subject Re: Today's MTM hearing

Here's her correct email.

(b) (6)

Sent from my Blackberry Wireless Device
Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 05/11/2011 02:01 PM EDT
To: Arvin Ganesan
Subject: Re: Today's MTM hearing

Will do. In about an hour.
Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 05/11/2011 02:00 PM EDT
To: Richard Windsor
Subject: Re: Today's MTM hearing

Thanks.

(b)(5) deliberative

Congresswoman Richardson's cell is (b) (6) and her email address is (b) (6)

When you have a second, you should strike while the iron is hot and just leave a VM or send an email.

When/if that fails, I'll set it up through the regular scheduling process.

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From: Richard Windsor/DC/USEPA/US
To: Arvin Ganesan/DC/USEPA/US@EPA
Date: 05/11/2011 01:41 PM
Subject: Re: Today's MTM hearing

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[REDACTED] (b)(5) deliberative
Proud of her.

And while I'm at it, I'm proud of you! Thanks for your hard and successful work on this.

Lisa

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 05/11/2011 01:21 PM EDT
To: Richard Windsor
Subject: Today's MTM hearing

Two items I wanted to flag for you from Nancy's hearing on MTM and Spruce today.

[REDACTED] (b)(5) deliberative

[REDACTED]

[REDACTED]

I'd recommend that you also call her to thank her. Do you have her cell, or shall I set it up?

Thanks.

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

01268-EPA-1100

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

05/11/2011 03:48 PM

cc

bcc

Subject Re: Today's MTM hearing

Will do.

Sent from my Blackberry Wireless Device
Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 05/11/2011 03:47 PM EDT

To: Arvin Ganesan

Subject: Re: Today's MTM hearing

Left vmail ob her cell. Best to set up a call. Tx!

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan

Sent: 05/11/2011 02:36 PM EDT

To: Richard Windsor

Subject: Re: Today's MTM hearing

Here's her correct email.

(b) (5) Deliberative

Sent from my Blackberry Wireless Device
Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 05/11/2011 02:01 PM EDT

To: Arvin Ganesan

Subject: Re: Today's MTM hearing

Will do. In about an hour.

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan

Sent: 05/11/2011 02:00 PM EDT

To: Richard Windsor

Subject: Re: Today's MTM hearing

Thanks.

(b)(5) deliberative

Congresswoman Richardson's cell is (b) (6) and her email address is

(b) (5) Deliberative

When you have a second, you should strike while the iron is hot and just leave a VM or send an email.

When/if that fails, I'll set it up through the regular scheduling process.

 ARVIN R. GANESAN
 Deputy Associate Administrator
 Office of the Administrator
 United States Environmental Protection Agency
 Ganesan.Arvin@epa.gov
 (p) 202.564.5200
 (f) 202.501.1519

Richard Windsor	Hey. I don't have Ms. Richardson's cel...	05/11/2011 01:41:27 PM
-----------------	---	------------------------

From: Richard Windsor/DC/USEPA/US
 To: Arvin Ganesan/DC/USEPA/US@EPA
 Date: 05/11/2011 01:41 PM
 Subject: Re: Today's MTM hearing

Hey. I don't have Ms. Richardson's cell but would like to call her. Can you set that up?

I'll call Nancy.

(b)(5) deliberative
 t? Proud of her.

And while I'm at it, I'm proud of you! Thanks for your hard and successful work on this.

Lisa

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 05/11/2011 01:21 PM EDT
To: Richard Windsor
Subject: Today's MTM hearing

Two items I wanted to flag for you from Nancy's hearing on MTM and Spruce today.

(b)(5) deliberative
 [Redacted]

[Redacted]

[Redacted]

I'd recommend that you also call her to thank her. Do you have her cell, or shall I set it up?

Thanks.

ARVIN R. GANESAN
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(f) 202.501.1519

01268-EPA-1101

Arvin Ganesan/DC/USEPA/US To Richard Windsor
 05/12/2011 02:45 PM cc David McIntosh, Laura Vaught
 bcc
 Subject Re: issa opinion piece

It ran in politico today.

 ARVIN R. GANESAN
 Deputy Associate Administrator
 Office of the Administrator
 United States Environmental Protection Agency
 Ganesan.Arvin@epa.gov
 (p) 202.564.5200
 (f) 202.501.1519

Richard Windsor tx. where did this piece run? From: D... 05/12/2011 02:39:05 PM

From: Richard Windsor/DC/USEPA/US
 To: David McIntosh/DC/USEPA/US@EPA
 Cc: Arvin Ganesan/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA
 Date: 05/12/2011 02:39 PM
 Subject: Re: issa opinion piece

tx. where did this piece run?

David McIntosh Thanks Arvin. Administrator, please se... 05/12/2011 12:02:43 PM

From: David McIntosh/DC/USEPA/US
 To: Arvin Ganesan/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA
 Cc: Laura Vaught/DC/USEPA/US@EPA
 Date: 05/12/2011 12:02 PM
 Subject: Re: issa opinion piece

Thanks Arvin. Administrator, please see below. (b)(5) deliberative

Arvin Ganesan ----- 05/12/2011 11:56:03 AM

From: Arvin Ganesan/DC/USEPA/US
 To: David McIntosh/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA
 Date: 05/12/2011 11:56 AM
 Subject: issa opinion piece

D.C. can slow rising gas prices

By: Rep. Darrell Issa
 May 12, 2011 06:45 AM EDT

As gas prices across the United States approach four dollars a gallon, Congress has a responsibility to ensure that political agendas and the administration's bureaucratic delays do not block efforts to lower energy costs and use our nation's abundant natural

resources. Increasing oil and gas production – both offshore and on –is essential to our energy future.

We need to rely far more on hydraulic fracturing, a proven, safe technology.. We must also eliminate the excessive regulatory barriers to offshore drilling. With this, Washington can pave the way to an independent energy future.

While the opponents of domestic energy exploration disseminate questionable analysis that relies on scare tactics to prolong our dependence on foreign sources, Congress must make sure that the American people know the facts.

The U.S. has greater energy resources than any other nation on earth. This includes 163 billion barrels of recoverable oil – enough to meet current usage levels and replace all imports for 50 years. We also have more coal deposits than any other nation, and enough natural gas to meet demand for 90 years.

Yet these resources are being kept out of reach because of an intense regulatory bias and radical environmental activists — both in the administration and elsewhere.

In the last year, the Gulf coast economy was severely hurt by the Deepwater Horizon oil spill. Residents have told Oversight Committee investigators that the administration's efforts to delay or stop offshore oil production have undermined their efforts to rebuild local economies as well as blocking the way to energy independence.

To date, 12 oil rigs have left the Gulf for other countries — including Egypt and Brazil. Gulf energy production will decrease this year. Yet the administration has slowed the permit approval process dramatically. Since President Barack Obama ended his moratorium on offshore drilling in October, only a handful of new permits have been granted.

Similarly, hydraulic fracturing for onshore oil and natural gas deposits is under attack. Despite its safe use for 60 years in more than 1 million wells in the U.S. and the promise of reducing our oil imports by more than half over the next 10 years, the Environmental Protection Agency and the Department of Energy are caving to radical environmentalists who demand new, onerous regulations against the industry.

The Energy Department has gone so far as to convene a panel charged with designing the “best practices” for industry safety. Naturally, the panel does not include a single practitioner of hydraulic fracturing — but does include the president of the Environmental Defense Fund.

The Oversight and Government Reform Committee has examined these and other energy independence issues through hearings, on-scene investigations in gulf communities, and document examination. The problems are clear; the solutions known.

The United States cannot afford to leave our domestic petroleum resources untapped.

And we cannot rely upon foreign suppliers in a politically unstable world. The longer we wait, the more difficult our predicament will become.

Economic hardships from rising energy prices are being felt across the country. Just last month, Federal Reserve Chairman Ben Bernanke announced that our fragile economic recovery could be held back by higher fuel prices. Consumer spending will almost certainly decline, and the American public will forego investment opportunities.

As April unemployment figures crept back up to 9 percent, the economic hazard from rising energy costs is very real.

Congress, however, has an opportunity to change this and free up opportunities to explore and produce our own national resources; to create private sector jobs, and to address the costly bias against domestic energy production.

The choice is not and has never been between technologies that lower energy usage and those that increase production. The United States needs both.

By renewing our commitment to safe domestic oil and gas exploration and deploying new energy technologies that tap our nation's vast natural resources we can obtain that long elusive goal of energy independence.

Darrell Issa (R-Calif.) is the chairman of the House Committee on Oversight and Government and Reform.

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01268-EPA-1102

Seth Oster/DC/USEPA/US

05/16/2011 06:09 PM

To Richard Windsor

cc

bcc

Subject Boiler MACT Stay -- Update

Took a bit of a hit on this today -- FYI. Stories are short in length, but a number of them -- and taking hits from enviros. We're pulling together the clips now.

Seth

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

01268-EPA-1103

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

05/17/2011 02:56 PM

cc

bcc

Subject Senator Durbin call

Hi Administrator, below is the information that you'll need for your 5 pm call with Durbin. He has been an outspoken supporter of EPA's determination to require disinfection and he wants to be more helpful. I

[REDACTED] (b)(5) deliberative

[REDACTED] (b)(5) deliberative
See below.

[REDACTED] (b)(5) deliberative

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

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01268-EPA-1105

Susan Hedman/R5/USEPA/US

To Richard Windsor

05/18/2011 12:53 PM

cc "Sarah Pallone", Janet Woodka

bcc

Subject Talking Points for conversation with Chicago Mayor

Chicago Area River System / Talking Points

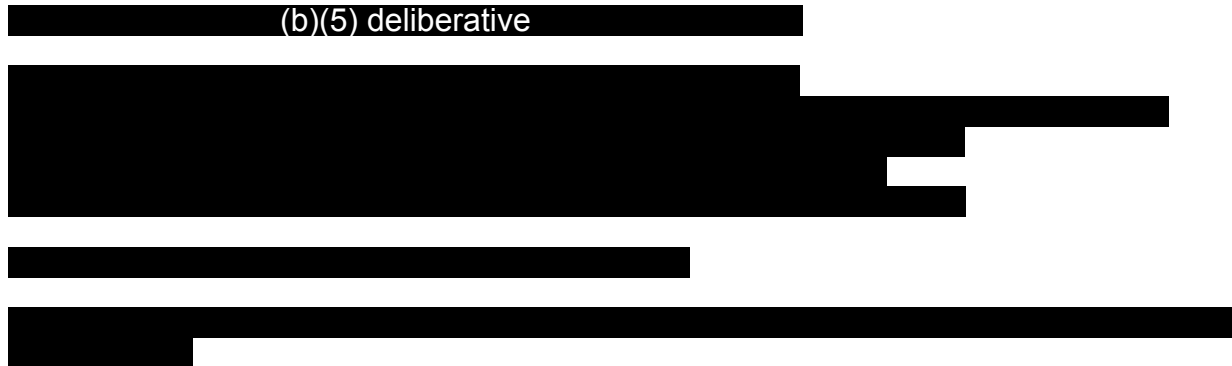
(b)(5) deliberative



Background

- EPA has determined that Illinois needs new or revised water quality standards for the Chicago Area Waterway System. Over the last 25 years, water quality in the river system has improved so much that it has become a recreational asset for Chicago and its suburbs and the number of people using it for recreation continues to increase. Upgrading these standards is the next important step toward achieving the Clean Water Act's goal of making the river system safer for recreational activities that bring the public into contact with the water.
- The State of Illinois is long overdue on updating its water quality standards to provide the Clean Water Act protections that must accompany this transformation.
- Since 2007 EPA has been consistent in recommending that Illinois upgrade its water quality standards for the Chicago River system and the Lower Des Plaines River so that they are eventually safe for recreation in and on the water. EPA's evaluation of new information indicates that it is technically and economically possible to attain this standard of cleanliness.
- Because of this determination EPA expects Illinois to revise its designated uses and water quality criteria to protect recreation in and on the water for those sections. EPA will propose its own regulations for those sections if Illinois fails to do so.

(b)(5) deliberative



(b)(5) deliberative



01268-EPA-1108

**Brendan
Gilfillan/DC/USEPA/US**
05/18/2011 04:54 PM

To Richard Windsor, Bob Perciasepe, Gina McCarthy, Seth
Oster, David McIntosh, Stephanie Owens

cc

bcc

Subject Enviros on boilers and mercury and air toxics standards

Administrator/all -

Politico's working on a story about environmental groups who are worried that our boiler MACT delay is part of a pattern (ie, coal ash, ozone) and that MATS is next.

(b)(5) deliberative

01268-EPA-1114

Adora Andy/DC/USEPA/US

05/20/2011 02:59 PM

To "Richard Windsor", "Bob Perciasepe", "Diane Thompson",
"Bob Sussman", "David McIntosh", "Arvin Ganesan",
"Stephanie Owens", Sarah Pallone, "Dru Ealons"cc "Betsaida Alcantara", "Brendan Gilfillan", "Michael Moats",
"Seth Oster", "Alisha Johnson", "Vicki Ekstrom", "Andra
Belknap"

bcc

Subject FYI: Energybiz Magazine

This was forwarded to me by a friend with Florida Power. Pls note/read the part by Lewis Hay of NextEra Energy. Ok back to the vaycay...

Solving Multiple Dilemmas: CEOs Weigh In
(EnergyBiz Magazine, Martin Rosenberg, May 18, 2011)
MICHAEL MORRIS
American Electric Power

Solving multiple dilemmas - that's what my colleagues and I do each and every day. The challenge begins, obviously, at the generation end of the equation and goes into the transmission piece and then ultimately down to distribution and delivery to our customers.

What we have concluded is that if our friends in Washington and some of our friends in various states would get out of the way, we could get this job done. Miraculously, the lights would stay on, power cost would be reasonable and everybody would move in their own directions.

We need to have renewables. You can't have renewables without transmission.

I had the honor of being in China to talk to the folks at China Grid. It took them 18 months to go from planning to synchronizing a 1,100-kilovolt, 1,100-kilometer line. But our 100-mile, 765-kilovolt line took 18 years to build - 16.5 years to get the authority, a half year to bid it out to make sure it was cost effective and then a year to build it. I obviously don't support the Chinese form of government, but we have problems with the process that we go through here.

At the distribution end of the business, we all are moving toward a smart grid with us getting more information to our customers. Yet at the state level, it's very difficult to get a state regulator to address the issue of the capital that's needed and the impact it has on rates.

So the answers are in front of us if the politicians and regulators would ease up some. We could all get this done and we'd continue to have the most effective and efficient electric system in the world.

THOMAS FARRELL
Dominion Power

We are the fastest-growing service territory in a 13-state region, and we have been for the last five years. We have a 25 percent generation deficit over the next 10 years. We have all the major fuel groups in our generation pie chart: nuclear, coal, gas, some oil. We have renewables, hydro and the largest pump storage facility in the world in the Virginia Mountains.

We're also looking at new nuclear. We're a couple of years behind Southern Company in how we're going to go about this. We're going to get our combined construction and operating license and then decide where to go from there.

We have the largest natural gas storage facilities in the United States, about a trillion cubic feet. It's all along our pipeline system, which actually is the spine of the Marcellus Shale region. There's a series of things that have to be done. We have more than \$1 billion in construction projects in the works right now

in our gas system, but none of that has to do with Marcellus Shale. We expect to spend more than \$10 billion over the next five years on growth projects across our regulated utilities. Almost \$2 billion of that will be spent trying to develop a Marcellus Shale region infrastructure.

LEWIS HAY
NextEra Energy

The press likes to make a big deal out of the differences among the CEOs in the companies in our industry. We're all after the same objective. We all want to have reliable, low-cost power for our customers, and that's what's really going to drive continued growth and prosperity in the United States.

We all want to ultimately get cleaner, we want to keep our costs down, we want to be reliable. The challenge is trying to figure out the right path to getting there, particularly when we don't have an energy policy in our country. The rules of the game seem to keep changing. There's a lot of promising technology, but much of it hasn't really been proven at scale.

One of the things I just wanted to touch upon is the rhetoric that says if the U.S. Environmental Protection Agency continues down the path it is on, it's going to be devastating for our economy, and electricity prices will skyrocket. And any attempt to modernize our nation's fleet is really going to cost customers dearly in terms of higher costs.

Now I want to be clear - I have my own concerns about the EPA. But we do have an administrator who listens these days.

There's clearly a cost to modernizing our generation fleet, but I frankly don't believe that replacing 50- to 60-yearold fossil plants with much more efficient, cleaner, modern generating assets is going to be the train wreck that some people describe it to be.

THOMAS FANNING
Southern Company

As a relatively new chief executive officer, I thought it might be interesting to talk about our priorities going forward. There are five.

The first is to keep in mind that customers are in the middle of everything we do. There's a lot of debate going on right now about a lot of issues. What we always have to do is translate that back to what happens to our customers as a result of these issues.

The second priority is leading the renaissance of nuclear power in America with our Vogtle 3 and 4 projects. I am delighted to say they are on time and on budget.

The third is to work to put in place the appropriate national energy policy. We need all the arrows in the quiver. We need nuclear, we need 21st-century coal, we need gas, we need renewables and we need energy efficiency. The fourth priority is smart energy. How can we employ technology in our traditional generating fleet and incorporate new sources of generation, including renewables? We intend to deploy about 4.6 million smart meters by the end of 2012, and we're already up around 3.2 million. How will our customers think differently about our product and use it differently?

Our fifth priority is developing our work force. What may carry us forward may be a different set of skills. We must continue to develop the human resources that make us great today.

01268-EPA-1120

Seth Oster/DC/USEPA/US

05/24/2011 07:22 AM

To David McIntosh, Richard Windsor

cc Adora Andy, Brendan Gilfillan

bcc

Subject Re: PLEASE READ: Issa rpt is out - here are the EPA-related excerpts

David -- I'll be in the office at about 8 am and will head up from there to the Hill to join you this morning. (b)(5)

See you shortly.

From: David McIntosh

Sent: 05/24/2011 07:04 AM EDT

To: Richard Windsor

Cc: Seth Oster; Adora Andy; Brendan Gilfillan

Subject: PLEASE READ: Issa rpt is out - here are the EPA-related excerpts

http://oversight.house.gov/images/stories/Testimony/REPORT_-_Rising_Energy_Costs_An_Intentional_Result_of_Government_Action.pdf

EPA has collaborated with environmental groups to target independent energy producers for environmental concerns not related to their operations. *In an email message reviewed by the Committee, environmental advocates and EPA's Texas-based regional director exchanged celebratory accolades for efforts that create barriers to energy production. One exchange concluded: "Yee haw! Hats off to the new Sheriff and his deputies!"*

The Obama Administration has advanced an agenda that discourages development of domestic carbon-based energy resources. Administration actions include the threat of new

federal regulation of hydraulic fracturing, withdrawal of federal lands, both on and offshore,

from energy production, increasingly burdensome requirements for oil shale research and development leases, and a de facto moratorium on drilling permits. This strategy has added to

permitting delays, created additional layers of review, and prolonged study periods. In addition,

other laws such as the Endangered Species Act and the Clean Air Act have been used to further

suppress domestic oil and gas production, leading to higher gasoline prices and growing

dependence on foreign oil.

Before EPA issued the Endangerment Finding for Greenhouse Gasses under the Clean A

ir Act (CAA), the White House and the agency had been warned by economists, legislators,

and their own advisors that the GHG regulations would impose a high cost on the economy via

higher energy prices and increased uncertainty. Former Energy and Commerce Chairman Dingell

famously stated in April 2008 that regulating GHGs under the CAA would result in a "glorious

mess"

Failing to pass cap-and-trade, the Administration turned to regulation to do what it

couldn't via Congress. Namely, EPA issued the controversial endangerment finding for CO2 and

other greenhouse gases (GHGs). This finding put in motion the onerous mechanisms of the

Clean Air Act which imposes enormous costs on consumers of carbon-based fuel.

Before EPA issued the Endangerment Finding for Greenhouse Gasses under the Clean

Air Act (CAA), the White House and the agency had been warned by economists, legislators,

and their own advisors that the GHG regulations would impose a high cost on the economy via

higher energy prices and increased uncertainty. Former Energy and Commerce Chairman Dingell

famously stated in April 2008 that regulating GHGs under the CAA would result in a "glorious

mess"

that would wreak havoc on the economy. In March 2009, then-Ranking Member Issa

warned EPA that, . . . the immediate result of issuing an endangerment finding is that thousands

of American small businesses, already struggling in one of the toughest economic [climates] our

generation has ever seen, will be thrown into a sea of legal uncertainty, further depressing their

ability to stay viable.

Bottom line: the Administration knew that the implementation of EPA's

GHG regulations would have a large economic impact. During consideration of cap-and-trade

legislation, a top White House economic official warned that, "if you don't pass this [cap-and-

trade] legislation then...the EPA is going to have to regulate in this area. And it is not going to

be able to regulate in a market-based way, so it's going to have to regulate in a command-and-

control way, which will probably generate even more uncertainty."

Despite the success of fracking, federal agencies appear to be in a race to see which one can regulate it first. The Department of Interior announced last November that it will consider r

egulating fracking on federal lands.

The EPA, which concluded seven years ago that fracking

"poses little or no threat" to drinking water supplies, is revisiting the issue. Having found no

evidence that fracking chemicals reach drinking water, EPA now wants to study the entire

lifecycle of the water used. In addition, DOE has convened a study group to review the fracking

process. In a written statement, DOE Secretary Steven Chu stated, "I am looking forward to

hearing from this diverse, respected group of experts on best practices for safe and responsible

natural gas production." Although the study groups members are certainly highly respected, a

survey of their biographies indicates none has recent industry experience with the advancements

in the technology.

As Chairman Fred Upton of the Energy and Commerce Committee pointed out,

the

duplicative efforts of DOI, DOE, and EPA run contrary to the Administration's pledge to

eliminate government waste and streamline processes. It mirrors the President's favorite example

of the headache caused by agency jurisdiction, "The Interior Department is in charge of salmon

while they're in fresh water, but the Commerce Department handles them when they're in

saltwater. I hear it gets even more complicated once they're smoked."

Additional regulation of fracking is unnecessary because, as EPA Administrator Lisa

Jackson pointed out, fracking is not an unregulated activity.

Federal regulation by

EPA, DOE, and DOI would cause needless delay and uncertainty along with multiple additional

layers of red tape. Ultimately, federal intervention will chill investment and decrease energy

independence.

Quite the opposite - the states, not

the federal government, have always regulated the process and have done so with a solid track

record. Officials in state after state have gone on the record to say that fracking has not caused

any problems and any reports to the contrary are inaccurate.

One of the principal obstacles to drilling is EPA's failure to issue an air pollution permit for the project. Since most new offshore drilling has occurred in the Gulf of Mexico under Interior jurisdiction, EPA has little experience with offshore permitting. That inexperience seems to be amounting to incompetence. Alaska Senator Lisa Murkowski testified before the

House Energy and Commerce Committee, "If EPA cannot demonstrate some competency ...

then EPA should not expect to keep its authority for long."

After years of studying the issue,

EPA granted an air permit last summer only to have it remanded by the EPA's Environmental

Appeals Board in January for not adequately reviewing the potential health effects on people

living on shore. The closest village, located 70 miles from the proposed drill site and occupying one square mile, is home to 245 people. EPA Administrator Lisa Jackson told the

Senate Energy Committee, "I believe that the analysis will clearly show that there is no public

health concern here."

Shell continues to wait for the rest of EPA to conclude what its Administrator already has.

A "curious" twist in the quest to develop NPR-A is the related action of other agencies.

EPA and the U.S. Fish and Wildlife Service both designated the Colville River Delta as an "Aquatic Resource of National Significance," a decision they made without notice and comment,

but one that potentially has great consequences. Sen. Murkowski's spokesman called the move "capricious and done only to interfere with development."

EPA's Contribution to NEPA Delays

EPA is also responsible for delays at the project approval stage. A couple of examples best illustrate the effect of EPA's pressure on land managers conducting NEPA analyses. In one

case, involving a large project of 1,250 wells in Wyoming, EPA inexplicably changed the type of

air study it required. The companies involved in the EIS for the large project had already spent

\$2.5 million based on prior guidance from EPA. In a second case, EPA asked a small

business operating in Utah, Gasco Energy, to complete three rounds of air modeling for its 1,500

well project. EPA changed its request three times as to what type of air study it required, which

resulted in years of delay and hundreds of thousands of dollars in unnecessary expenses. EPA

made these requests despite Gasco Energy agreeing to controls and other mitigation measures

above and beyond those the law requires.

Texas has weathered the recession better than most states,

Last June, the EPA decided to strike down the "flex permit" system Texas has used since 1996, rejecting Texas-issued air-quality permits for refiners and other industrial plants.

due in no small part to a

booming oil and gas production, and the state is fighting to keep EPA from interfering with its

success. Under Obama, EPA put a spotlight on the state, seemingly assuming that a profitable

oil and gas industry is an indication of insufficient regulation.

Then,

in December, EPA sent Texas regulators a letter saying it had "no choice" but to seize control of

permitting in the state.

EPA Oversteps Texas Regulator

Another high profile example of the EPA overstepping Texas regulators based on false claims of urgency came last December. The issue began when a landowner filed a complaint

with the Texas Railroad Commission (RRC), the state oil and gas regulator, on August 6, 2010,

stating that methane had contaminated water wells. The RRC commenced a full investigation

into the source of the methane within days of the complaint. Over the next several months, the

RRC – with full cooperation from Range, the company that owned gas production wells nearby –

collected samples, performed tests, and conducted interviews. The investigation found that

homeowners in the area had reported gas in their water for decades. Chemical fingerprinting of

the gas in the well indicated that it did not come from Range's wells but from a shallow gas

formation where wells were drilled in the early 1980s. After finishing its investigation in

March 2011, the RRC officially concluded that Range did not cause the water well

contamination and that it likely came from the shallow gas formation.225

EPA, on the other hand, raced to issue an emergency order in December 2010, assuming the culpability of Range without the benefit of all the facts. EPA did not allow the RRC to finish

its investigation,

did not discuss the results of independent EPA sampling with the RRC as the

organizations had planned, and did not give Range an opportunity to present important

objective facts. The Order directed Range to provide drinking water to the residents and to

begin taking actions to correct the problem within 48 hours. The Order imposed costly

requirements on Range, yet EPA has been unable to provide data indicating Range production

activities contributed to the contamination of the wells. In addition to the cost of its voluntary

cooperation with the Texas RRC, Range is incurring significant expenses defending itself –

between \$1.5 million to \$1.75 million so far.

The Committee has reviewed documents indicating that this action was coordinated with

local environmental activists. EPA Regional Administrator Al Armendariz wrote in an email to

his friends at the Environmental Defense Fund and Public Citizen just before issuing the press

release, "We're about to make a lot of news [...] [T]ime to Tivo Channel 8."

Such an act was unprecedented in Texas.

He went on,

*"Thank you both for helping to educate me on the public's perspective of these issues."
"Yee*

haw! Hats off to the new Sheriff and his deputies!" one activist replied.²³¹

After issuing the emergency order, EPA shifted rapidly into spin mode, exaggerating the circumstances and misrepresenting the work already conducted by the RRC. "I believe we've got

two people whose houses could explode. So we've got to move," the Administrator told the

Dallas Morning News ,

attempting to justify his declaration of an "imminent and substantial

endangerment to a public drinking water aquifer through methane contamination" from

Range's

"fracked" production well.

EPA also played into environmental rhetoric by highlighting that Range utilized

hydraulic fracturing to produce natural gas. The Order did not allege the gas was a consequence

of hydraulic fracturing, and EPA technical staff admitted that hydraulic fracturing in the Barnett

Shale deep below the well could not be the cause of the gas occurring in the water wells.

In reality, the emergency basis was false. As the findings of fact

attached to the order stated, the threat to the homes had already been evaluated, and one of the

water wells had been disconnected from the home months earlier.

Despite the well contamination having no connection to hydraulic fracturing, EPA included in

their press release announcing the emergency order, "EPA believes that natural gas plays a key

role in our nation's clean energy future and the process known as hydraulic fracturing is one way

of accessing that vital resource. However, we want to make sure natural gas development is

safe."

EPA has refused to cooperate with either the Range or the RRC to resolve the dispute. In

January, the RRC held an open hearing to receive expert testimony on the issue. Several experts

explained flaws in EPA's methodology, explaining that deep Barnett Shale had very low levels

of nitrogen compared to the shallow Strawn formation.

Possibly not so coincidentally, Range is also a very active driller in the Marcellus Shale

of Pennsylvania.

Nitrogen, therefore, was the

distinguishing fingerprint. If the well had high levels of nitrogen, then the contamination was

not coming from the Barnett Shale where Range had drilled. EPA had failed to conduct this

analysis, but RRC took the time to do it. EPA declined to participate in the open hearing. Some

critics joked that "EPA had better things to do – like asking the Department of Justice to impose

a \$16,500-a-day fine on the company for failing to comply with an order that EPA itself has

neither the interest nor ability to defend or explain in an open forum."237

One Texas Railroad Commissioner called EPA's action "Washington politics of the

worst kind. The EPA's act is nothing more than grandstanding in an effort to interject the federal

government into Texas business. The Railroad Commission has been on top of this issue from

Day 1. We will continue to take all necessary action to protect Texas lakes, rivers and aquifers.

Texans have no interest in Washington doing for Texas what it did for Louisiana fishermen."

01268-EPA-1121

**Brendan
Gilfillan/DC/USEPA/US**
05/24/2011 08:02 AM

To Seth Oster, David McIntosh, Richard Windsor
cc Adora Andy
bcc
Subject Re: PLEASE READ: Issa rpt is out - here are the EPA-related excerpts

Politico story just posted.

House GOP: Obama intentionally raising gas prices

By Patrick Reis and Bob King
POLITICO Pro
5/24/11 7:58 AM EDT

The Obama administration is "pursuing an agenda to raise the price Americans pay for energy," House Republicans charged in a report released late Monday — repeating an accusation they've made before, but this time laying it out in a 43-page document just ahead of what's likely to be a contentious hearing Tuesday morning.

Republicans on Darrell Issa's House Oversight committee are pulling out all the stops to skewer EPA chief Lisa Jackson and Interior Deputy Secretary David Hayes at the 9 a.m. hearing on "pain at the pump" and the policies that promote it.

The report includes repeats of GOP allegations that the administration wants high gasoline prices to advance its renewable energy agenda, along with fresh attacks on regulations by EPA, the Fish and Wildlife Service and other agencies.

"The most troubling things about outlandish statements made by key Obama Administration officials about the need to raise energy costs is that when we examined the evidence, they appear to reflect the agenda they are pursuing," Issa said in a statement on the panel's website. "These are obviously not the policies Americans want or support."

But the GOP report came only after top committee Democrat Elijah Cummings launched a pre-emptive strike earlier Monday: a report of his own blaming speculators for the high prices and calling on the committee to shine its spotlight on Wall Street.

From: Seth Oster
Sent: 05/24/2011 07:22 AM EDT
To: David McIntosh; Richard Windsor
Cc: Adora Andy; Brendan Gilfillan
Subject: Re: PLEASE READ: Issa rpt is out - here are the EPA-related excerpts

David -- I'll be in the office at about 8 am and will head up from there to the Hill to join you this morning. (b)(5)

you shortly.

From: David McIntosh
Sent: 05/24/2011 07:04 AM EDT
To: Richard Windsor
Cc: Seth Oster; Adora Andy; Brendan Gilfillan
Subject: PLEASE READ: Issa rpt is out - here are the EPA-related excerpts

http://oversight.house.gov/images/stories/Testimony/REPORT_-_Rising_Energy_Costs_An_Intentional_Result_of_Government_Action.pdf

EPA has collaborated with environmental groups to target independent energy producers for environmental concerns not related to their operations. *In an email message reviewed by the Committee, environmental advocates and EPA's Texas-based regional director exchanged celebratory accolades for efforts that create barriers to energy production. One exchange concluded: "Yee haw! Hats off to the new Sheriff and his deputies!"*

The Obama Administration has advanced an agenda that discourages development of domestic carbon-based energy resources. Administration actions include the threat of new

federal regulation of hydraulic fracturing, withdrawal of federal lands, both on and offshore,

from energy production, increasingly burdensome requirements for oil shale research and development leases, and a de facto moratorium on drilling permits. This strategy has added to

permitting delays, created additional layers of review, and prolonged study periods. In addition,

other laws such as the Endangered Species Act and the Clean Air Act have been used to further

suppress domestic oil and gas production, leading to higher gasoline prices and growing

dependence on foreign oil.

Before EPA issued the Endangerment Finding for Greenhouse Gasses under the Clean A

ir Act (CAA), the White House and the agency had been warned by economists, legislators,

and their own advisors that the GHG regulations would impose a high cost on the economy via

higher energy prices and increased uncertainty. Former Energy and Commerce Chairman Dingell

famously stated in April 2008 that regulating GHGs under the CAA would result in a "glorious

mess"

Failing to pass cap-and-trade, the Administration turned to regulation to do what it

couldn't via Congress. Namely, EPA issued the controversial endangerment finding for CO2 and

other greenhouse gases (GHGs). This finding put in motion the onerous mechanisms of the

Clean Air Act which imposes enormous costs on consumers of carbon-based fuel.

Before EPA issued the Endangerment Finding for Greenhouse Gasses under the Clean

Air Act (CAA), the White House and the agency had been warned by economists, legislators,

and their own advisors that the GHG regulations would impose a high cost on the economy via

higher energy prices and increased uncertainty. Former Energy and Commerce Chairman Dingell

famously stated in April 2008 that regulating GHGs under the CAA would result in a "glorious

mess"

that would wreak havoc on the economy. In March 2009, then-Ranking Member Issa

warned EPA that, . . . the immediate result of issuing an endangerment finding is that thousands

of American small businesses, already struggling in one of the toughest economic [climates] our

generation has ever seen, will be thrown into a sea of legal uncertainty, further depressing their

ability to stay viable.

Bottom line: the Administration knew that the implementation of EPA's

GHG regulations would have a large economic impact. During consideration of cap-and-trade

legislation, a top White House economic official warned that, "if you don't pass this [cap-and-

trade] legislation then...the EPA is going to have to regulate in this area. And it is not going to

be able to regulate in a market-based way, so it's going to have to regulate in a command-and-

control way, which will probably generate even more uncertainty."

Despite the success of fracking, federal agencies appear to be in a race to see which one can regulate it first. The Department of Interior announced last November that it will consider r

egulating fracking on federal lands.

The EPA, which concluded seven years ago that fracking

"poses little or no threat" to drinking water supplies, is revisiting the issue. Having found no

evidence that fracking chemicals reach drinking water, EPA now wants to study the entire

lifecycle of the water used. In addition, DOE has convened a study group to review the fracking

process. In a written statement, DOE Secretary Steven Chu stated, "I am looking forward to

hearing from this diverse, respected group of experts on best practices for safe and responsible

natural gas production." Although the study groups members are certainly highly respected, a

survey of their biographies indicates none has recent industry experience with the advancements

in the technology.

As Chairman Fred Upton of the Energy and Commerce Committee pointed out,

the

duplicative efforts of DOI, DOE, and EPA run contrary to the Administration's pledge to

eliminate government waste and streamline processes. It mirrors the President's favorite example

of the headache caused by agency jurisdiction, "The Interior Department is in charge of salmon

while they're in fresh water, but the Commerce Department handles them when they're in

saltwater. I hear it gets even more complicated once they're smoked."

Additional regulation of fracking is unnecessary because, as EPA Administrator Lisa

Jackson pointed out, fracking is not an unregulated activity.

Federal regulation by

EPA, DOE, and DOI would cause needless delay and uncertainty along with multiple additional

layers of red tape. Ultimately, federal intervention will chill investment and decrease energy

independence.

Quite the opposite - the states, not

the federal government, have always regulated the process and have done so with a solid track

record. Officials in state after state have gone on the record to say that fracking has not caused

any problems and any reports to the contrary are inaccurate.

One of the principal obstacles to drilling is EPA's failure to issue an air pollution permit for the project. Since most new offshore drilling has occurred in the Gulf of Mexico under Interior jurisdiction, EPA has little experience with offshore permitting. That inexperience seems to be amounting to incompetence. Alaska Senator Lisa Murkowski testified before

the

House Energy and Commerce Committee, "If EPA cannot demonstrate some competency

...

then EPA should not expect to keep its authority for long."

After years of studying the issue,

*EPA granted an air permit last summer only to have it remanded by the EPA's
Environmental*

*Appeals Board in January for not adequately reviewing the potential health effects on
people*

*living on shore. The closest village, located 70 miles from the proposed drill site and
occupying one square mile, is home to 245 people. EPA Administrator Lisa Jackson told
the*

*Senate Energy Committee, "I believe that the analysis will clearly show that there is no
public*

health concern here."

Shell continues to wait for the rest of EPA to conclude what its

Administrator already has.

A "curious" twist in the quest to develop NPR-A is the related action of other agencies.

*EPA and the U.S. Fish and Wildlife Service both designated the Colville River Delta as an
"Aquatic Resource of National Significance," a decision they made without notice and
comment,*

*but one that potentially has great consequences. Sen. Murkowski's spokesman called the
move "capricious and done only to interfere with development."*

EPA's Contribution to NEPA Delays

*EPA is also responsible for delays at the project approval stage. A couple of examples
best illustrate the effect of EPA's pressure on land managers conducting NEPA analyses. In*

one

case, involving a large project of 1,250 wells in Wyoming, EPA inexplicably changed the type of

air study it required. The companies involved in the EIS for the large project had already spent

\$2.5 million based on prior guidance from EPA. In a second case, EPA asked a small

business operating in Utah, Gasco Energy, to complete three rounds of air modeling for its 1,500

well project. EPA changed its request three times as to what type of air study it required, which

resulted in years of delay and hundreds of thousands of dollars in unnecessary expenses. EPA

made these requests despite Gasco Energy agreeing to controls and other mitigation measures

above and beyond those the law requires.

Texas has weathered the recession better than most states,

Last June, the EPA decided to strike down the "flex permit" system Texas has used since 1996, rejecting Texas-issued air-quality permits for refiners and other industrial plants.

due in no small part to a

booming oil and gas production, and the state is fighting to keep EPA from interfering with its

success. Under Obama, EPA put a spotlight on the state, seemingly assuming that a profitable

oil and gas industry is an indication of insufficient regulation.

Then,

in December, EPA sent Texas regulators a letter saying it had "no choice" but to seize control of

permitting in the state.

EPA Oversteps Texas Regulator

Another high profile example of the EPA overstepping Texas regulators based on false claims of urgency came last December. The issue began when a landowner filed a complaint

with the Texas Railroad Commission (RRC), the state oil and gas regulator, on August 6, 2010,

stating that methane had contaminated water wells. The RRC commenced a full investigation

into the source of the methane within days of the complaint. Over the next several months, the

RRC – with full cooperation from Range, the company that owned gas production wells nearby –

collected samples, performed tests, and conducted interviews. The investigation found that

homeowners in the area had reported gas in their water for decades. Chemical fingerprinting of

the gas in the well indicated that it did not come from Range's wells but from a shallow gas

formation where wells were drilled in the early 1980s. After finishing its investigation in

March 2011, the RRC officially concluded that Range did not cause the water well

contamination and that it likely came from the shallow gas formation.²²⁵

EPA, on the other hand, raced to issue an emergency order in December 2010, assuming

the culpability of Range without the benefit of all the facts. EPA did not allow the RRC to finish

its investigation,

did not discuss the results of independent EPA sampling with the RRC as the

organizations had planned, and did not give Range an opportunity to present important

objective facts. The Order directed Range to provide drinking water to the residents and to

begin taking actions to correct the problem within 48 hours. The Order imposed costly

requirements on Range, yet EPA has been unable to provide data indicating Range production

activities contributed to the contamination of the wells. In addition to the cost of its voluntary

cooperation with the Texas RRC, Range is incurring significant expenses defending itself –

between \$1.5 million to \$1.75 million so far.

The Committee has reviewed documents indicating that this action was coordinated with

local environmental activists. EPA Regional Administrator Al Armendariz wrote in an email to

his friends at the Environmental Defense Fund and Public Citizen just before issuing the press

release, "We're about to make a lot of news [...] [T]ime to Tivo Channel 8."

Such an act was unprecedented in Texas.

He went on,

*"Thank you both for helping to educate me on the public's perspective of these issues."
"Yee*

haw! Hats off to the new Sheriff and his deputies!" one activist replied.²³¹

*After issuing the emergency order, EPA shifted rapidly into spin mode, exaggerating the
circumstances and misrepresenting the work already conducted by the RRC. "I believe
we've got*

*two people whose houses could explode. So we've got to move," the Administrator told
the*

Dallas Morning News ,

attempting to justify his declaration of an "imminent and substantial

*endangerment to a public drinking water aquifer through methane contamination" from
Range's*

"fracked" production well.

EPA also played into environmental rhetoric by highlighting that Range utilized

hydraulic fracturing to produce natural gas. The Order did not allege the gas was a

consequence

of hydraulic fracturing, and EPA technical staff admitted that hydraulic fracturing in the Barnett

Shale deep below the well could not be the cause of the gas occurring in the water wells.

In reality, the emergency basis was false. As the findings of fact

attached to the order stated, the threat to the homes had already been evaluated, and one of the

water wells had been disconnected from the home months earlier.

Despite the well contamination having no connection to hydraulic fracturing, EPA included in

their press release announcing the emergency order, "EPA believes that natural gas plays a key

role in our nation's clean energy future and the process known as hydraulic fracturing is one way

of accessing that vital resource. However, we want to make sure natural gas development is

safe."

EPA has refused to cooperate with either the Range or the RRC to resolve the dispute. In

January, the RRC held an open hearing to receive expert testimony on the issue. Several experts

explained flaws in EPA's methodology, explaining that deep Barnett Shale had very low levels

of nitrogen compared to the shallow Strawn formation.

Possibly not so coincidentally, Range is also a very active driller in the Marcellus Shale

of Pennsylvania.

Nitrogen, therefore, was the

distinguishing fingerprint. If the well had high levels of nitrogen, then the contamination was

not coming from the Barnett Shale where Range had drilled. EPA had failed to conduct this

analysis, but RRC took the time to do it. EPA declined to participate in the open hearing. Some

critics joked that "EPA had better things to do – like asking the Department of Justice to impose

a \$16,500-a-day fine on the company for failing to comply with an order that EPA itself has

*neither the interest nor ability to defend or explain in an open forum."*²³⁷

One Texas Railroad Commissioner called EPA's action "Washington politics of the

worst kind. The EPA's act is nothing more than grandstanding in an effort to interject the federal

government into Texas business. The Railroad Commission has been on top of this issue from

Day 1. We will continue to take all necessary action to protect Texas lakes, rivers and aquifers.

Texans have no interest in Washington doing for Texas what it did for Louisiana fishermen."

01268-EPA-1123

**Diane
Thompson/DC/USEPA/US**
05/25/2011 09:27 PM

To "Seth Oster"
cc "Richard Windsor", "Brendan Gilfillan"
bcc
Subject Fw: Fwd: SOS in NJ: Possible bad news from Christie tomorrow on RGGI

LPJ will want a reactive statment if this happens..

(b)(5) deliberative

She will want that to come from her spokesperson.

From: Judith Enck
Sent: 05/25/2011 08:59 PM EDT
To: thompson.diane@epa.gov
Subject: Fw: Fwd: SOS in NJ: Possible bad news from Christie tomorrow on RGGI

Fyi
Sent by EPA Wireless E-Mail Services

From: Laura Haight [lhaight@nypirg.org]
Sent: 05/25/2011 08:37 PM AST
To: Judith Enck
Subject: Fwd: SOS in NJ: Possible bad news from Christie tomorrow on RGGI

Hi Judith,

FYI. (b)(5) deliberative

* Sigh *
Laura

----- Forwarded message -----

From: **Martinez, Luis** <lmartinez@nrdc.org>
Date: Wed, May 25, 2011 at 7:25 PM
Subject: SOS in NJ: Possible bad news from Christie tomorrow on RGGI
To: RGGI List-serve <rggi@googlegroups.com>

Hi everyone

Rumors are swirling that Christie will announce his intention to pull NJ from RGGI tomorrow morning. We are working on any last resort measures to delay the decision or change his mind. At this point we think only high level calls to Christie would be effective. If you can or know someone who can reach him, this would be the time to do that. Let's keep our fingers crossed for tomorrow.

Best,

Luis

-

--

Laura Haight, NYPIRG
518-436-0876, ext. 258
518-588-5481 (cell)

01268-EPA-1124

Seth Oster/DC/USEPA/US

05/26/2011 09:06 AM

To Judith Enck, Richard Windsor, Lisa Plevin, "Diane Thompson", "Brendan Gilfillan"

cc

bcc

Subject Re: Nj to leave rggi

We will develop a response.

Judith -- (b)(5) deliberative Thanks.

Seth

Judith Enck

----- Original Message -----

From: Judith Enck

Sent: 05/26/2011 09:03 AM EDT

To: Richard Windsor; Lisa Plevin; thompson.diane@epa.gov;
oster.seth@epa.gov

Subject: Nj to leave rggi

I spoke to nj commissioner bob martin and he confirmed that today gov christie will announce that he is pulling nj out of rggi. He will cancel the mou with other states and believes he can do this without his state legislature. It will be a muddled message on climate change as he will also announce a moratorium on new coal fired power plants in nj and a committment to efficiency and renewables. He will say that rggi is not effective and is a make believe program

Sent by EPA Wireless E-Mail Services

01268-EPA-1125

Judith Enck/R2/USEPA/US
05/26/2011 09:11 AM

To Seth Oster, Richard Windsor, Lisa Plevin, "Diane Thompson",
"Brendan Gilfillan", "Bonnie Bellow"

cc

bcc

Subject Re: Nj to leave rggi

[REDACTED] (b)(5) deliberative

Tx
Sent by EPA Wireless E-Mail Services
Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 05/26/2011 09:06 AM EDT
To: Judith Enck; Richard Windsor; Lisa Plevin; "Diane Thompson"
<thompson.diane@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>
Subject: Re: Nj to leave rggi

We will develop a response.

Judith -- [REDACTED] (b)(5) deliberative . Thanks.

Seth
Judith Enck

----- Original Message -----

From: Judith Enck
Sent: 05/26/2011 09:03 AM EDT
To: Richard Windsor; Lisa Plevin; thompson.diane@epa.gov;
oster.seth@epa.gov
Subject: Nj to leave rggi

I spoke to nj commissioner bob martin and he confirmed that today gov christie will announce that he is pulling nj out of rggi. He will cancel the mou with other states and believes he can do this without his state legislature. It will be a muddled message on climate change as he will also announce a moratorium on new coal fired power plants in nj and a committment to efficiency and renewables. He will say that rggi is not effective and is a make believe program
Sent by EPA Wireless E-Mail Services

01268-EPA-1126

Bonnie Bellow/R2/USEPA/US
05/26/2011 09:18 AM

To Judith Enck, "Brendan Gilfillan", Lisa Plevin, Richard Windsor, Seth Oster, "Diane Thompson", Mary Mears
cc
bcc

Subject Re: Nj to leave rggi

We will work closely with Seth and Brendan and track the story closely. We'll let them know if we get any press inquiries.

Bonnie Bellow
Director, Public Affairs Division
U.S. Environmental Protection Agency
Region 2
212-637-3660 office
646-369-0062 cell

Judith Enck I'm not planning on saying anything. thi... 05/26/2011 09:11:16 AM

From: Judith Enck/R2/USEPA/US
To: Seth Oster/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Lisa Plevin/R2/USEPA/US@EPA, "Diane Thompson" <thompson.diane@epa.gov>, "Brendan Gilfillan" <gilfillan.brendan@epa.gov>, "Bonnie Bellow" <Bellow.Bonnie@epamail.epa.gov>
Date: 05/26/2011 09:11 AM
Subject: Re: Nj to leave rggi

(b)(5) deliberative

Tx
Sent by EPA Wireless E-Mail Services

Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 05/26/2011 09:06 AM EDT
To: Judith Enck; Richard Windsor; Lisa Plevin; "Diane Thompson" <thompson.diane@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>
Subject: Re: Nj to leave rggi

We will develop a response.

Judith -- (b)(5) deliberative . Thanks.

Seth
Judith Enck

----- Original Message -----

From: Judith Enck
Sent: 05/26/2011 09:03 AM EDT
To: Richard Windsor; Lisa Plevin; thompson.diane@epa.gov; oster.seth@epa.gov
Subject: Nj to leave rggi

I spoke to nj commissioner bob martin and he confirmed that today gov christie will announce that he is

pulling nj out of rggi. He will cancel the mou with other states and believes he can do this without his state legislature. It will be a muddled message on climate change as he will also announce a moratorium on new coal fired power plants in nj and a committment to efficiency and renewables. He will say that rggi is not effective and is a make believe program
Sent by EPA Wireless E-Mail Services

01268-EPA-1131

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

06/06/2011 08:32 AM

cc

bcc

Subject Fw: "Capito says Obama concurs on EPA"

Purely FYI. [redacted] (b)(5) deliberative

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

-----Original Message-----

From: Samuels, Jonathan D.
Sent: Friday, June 03, 2011 4:26 PM
To: Konwinski, Lisa; Ganesan.Arvin@epamail.epa.gov
Subject: RE: "Capito says Obama concurs on EPA"

[redacted] (b)(5) deliberative
Let's chat after the interagency please

-----Original Message-----

From: Konwinski, Lisa
Sent: Friday, June 03, 2011 4:22 PM
To: Ganesan.Arvin@epamail.epa.gov; Samuels, Jonathan D.
Subject: RE: "Capito says Obama concurs on EPA"

(b)(5) deliberative [redacted]

[redacted]

-----Original Message-----

From: Ganesan.Arvin@epamail.epa.gov [mailto:Ganesan.Arvin@epamail.epa.gov]
Sent: Friday, June 03, 2011 4:16 PM
To: Samuels, Jonathan D.; Konwinski, Lisa
Subject: "Capito says Obama concurs on EPA"

Hi Jonathan and Lisa,

See the article below. [redacted] (b)(5) deliberative

(b)(5) deliberative

Shelley Moore Capito's quote: ""When I brought this issue to his attention, in his response he said that he said he felt that we should be considering economic and job impacts," Capito said during a conference call with reporters Wednesday."

Capito says Obama concurs on EPA
by The Associated Press
The Associated Press

MCT REGIONAL NEWS

By Jared Hunt

Charleston Daily Mail, W.Va.

(MCT)

June 02--U.S. Rep. Shelley Moore Capito, R-W.Va., says President Barack Obama agrees that the U.S. Environmental Protection Agency should analyze the potential economic impacts of its decisions before making them final.

Capito joined members of the congressional GOP leadership this morning for a closed-door meeting with President Obama regarding ways to solve the nation's debt crisis.

During that meeting, Capito said she specifically discussed the issue of jobs with the president, with particular regard to the way the EPA has affected the Appalachian coal industry.

Critics have argued that the EPA has conducted a "war on coal" in recent years, and that the EPA's environmental policy is costing jobs in the state.

Capito said EPA administrator Lisa Jackson has told her privately and stated publicly that the agency does not take economic factors into account when considering policy decisions.

"When I brought this issue to his attention, in his response he said that he said he felt that we should be considering economic and job impacts," Capito said during a conference call with reporters Wednesday.

Last month, Capito introduced legislation that would require the EPA to determine the potential jobs and economic impact prior to issuing new policies or denying permits.

"All I'm asking for is a level playing field here where we're consider both of these -- the economy and environment -- with these decisions," she said.

While she said the president did leave some "wobble room" in his statements, he seemed to agree with the reasoning behind her point of view. .

"He said if there's a specific statute that specifically says you don't have to consider job or economic considerations, then that needs to change in the law," Capito said. She also noted that the president kept referring to the "fragile economy" during their discussion.

On a scale of 1 to 10, Capito said she rated her encouragement over the president's response to her plan at a 6.

"A little better than so-so maybe, but not overly no," she said.

She said she plans to talk to GOP leadership in the U.S. House of Representatives to discuss moving forward on her bill.

During the call with reporters, Capito also talked about some of the recent economic data coming out showing that the economy may be softening.

She said the biggest issue Congress and the White House have to confront is the nation's burgeoning debt.

"What we can do is deal with the debt and deficit in a responsible way, deal with the overspending, because that sends a chill through the entire economic sector," she said.

She said leaders in Washington needed to work out a long-term plan regarding spending and tax policies, which provides certainty to the

private sector so that business owners can confidently invest in the American economy.

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

01268-EPA-1132

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

cc

06/06/2011 08:35 AM

bcc

Subject Re: Fw: [epa_e-clips] US EPA - Daily News Clips - Monday, June 6, 2011

That could be a very helpful article. This section is particularly good. Talk about looking purely political...

Even in the face of the rising violations, Bill Bissett, executive director of the Kentucky Coal Association, defended the industry's record and suggested the focus should instead be on President Barack Obama's administration and the competence of the state inspectors.

"We need to continue to work toward a goal of 100 percent compliance, but this information released by OSM needs to be reviewed in the context of a changing regulatory playing field, Bissett said. He described an uncertain regulatory climate, adding that there has been a change in the way the rules have been interpreted."

 ARVIN R. GANESAN
 Deputy Associate Administrator
 Office of the Administrator
 United States Environmental Protection Agency
 Ganesan.Arvin@epa.gov
 (p) 202.564.5200
 (f) 202.501.1519

Richard Windsor

[See last article on Kentucky. ----- Orig...](#)

06/06/2011 07:54:30 AM

From: Richard Windsor/DC/USEPA/US
 To: "Gwendolyn KeyesFleming" <KeyesFleming.Gwendolyn@epamail.epa.gov>, "Arvin Ganesan" <ganesan.arvin@epa.gov>, "Janet Woodka" <Woodka.Janet@epamail.epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>, "Nancy Stoner" <Stoner.Nancy@epa.gov>
 Date: 06/06/2011 07:54 AM
 Subject: Fw: [epa_e-clips] US EPA - Daily News Clips - Monday, June 6, 2011

See last article on Kentucky.

----- Original Message -----

From: "EPA NEWS" [us-epa-reports@vocus.com]
 Sent: 06/06/2011 07:01 AM AST
 To: "EPA E-Clips" <epa_e-clips@lists.epa.gov>
 Subject: [epa_e-clips] US EPA - Daily News Clips - Monday, June 6, 2011

Good Morning. Here are your daily news clips. This is a service provided by HQ's Office of External Affairs and Environmental Education. Please click on the link below for the clips. Contact the Office of Media Relations at 202-564-4355 if you have any questions.

http://us.vocuspr.com/Publish/518041/Forward_518041_1456605.htm?Email=epa_e-clips%40lists.epa.gov&Date=6%2f6%2f2011+7%3a01%3a52+AM

You are currently subscribed to epa_e-clips as:
Windsor.Richard@epamail.epa.gov

To unsubscribe, send a blank email to
leave-1142251-1032889.e244f88599ed9de8403f7c512c240eb6@lists.epa.gov
OR:

Use the listserver's web interface at
https://lists.epa.gov/read/?forum=epa_e-clips to manage your subscription.

For problems with this list, contact epa_e-clips-Owner@lists.epa.gov

01268-EPA-1133

Richard Windsor/DC/USEPA/US
06/06/2011 09:14 AM

To Arvin Ganesan
cc
bcc

Subject Re: "Capito says Obama concurs on EPA"

(b)(5) deliberative
Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 06/06/2011 08:32 AM EDT
To: Richard Windsor
Subject: Fw: "Capito says Obama concurs on EPA"

Purely FYI. **(b)(5) deliberative**

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

-----Original Message-----

From: Samuels, Jonathan D.
Sent: Friday, June 03, 2011 4:26 PM
To: Konwinski, Lisa; Ganesan.Arvin@epamail.epa.gov
Subject: RE: "Capito says Obama concurs on EPA"

(b)(5) deliberative
Let's chat after the interagency please

-----Original Message-----

From: Konwinski, Lisa
Sent: Friday, June 03, 2011 4:22 PM
To: Ganesan.Arvin@epamail.epa.gov; Samuels, Jonathan D.
Subject: RE: "Capito says Obama concurs on EPA"

(b)(5) deliberative

(b)(5) deliberative

-----Original Message-----

From: Ganesan.Arvin@epamail.epa.gov [mailto:Ganesan.Arvin@epamail.epa.gov]
Sent: Friday, June 03, 2011 4:16 PM

To: Samuels, Jonathan D.; Konwinski, Lisa
Subject: "Capito says Obama concurs on EPA"

Hi Jonathan and Lisa,

(b)(5) deliberative

Shelley Moore Capito's quote: ""When I brought this issue to his attention, in his response he said that he said he felt that we should be considering economic and job impacts," Capito said during a conference call with reporters Wednesday."

Capito says Obama concurs on EPA
by The Associated Press
The Associated Press

MCT REGIONAL NEWS

By Jared Hunt

Charleston Daily Mail, W.Va.

(MCT)

June 02--U.S. Rep. Shelley Moore Capito, R-W.Va., says President Barack Obama agrees that the U.S. Environmental Protection Agency should analyze the potential economic impacts of its decisions before making them final.

Capito joined members of the congressional GOP leadership this morning for a closed-door meeting with President Obama regarding ways to solve the nation's debt crisis.

During that meeting, Capito said she specifically discussed the issue of jobs with the president, with particular regard to the way the EPA has affected the Appalachian coal industry.

Critics have argued that the EPA has conducted a "war on coal" in recent years, and that the EPA's environmental policy is costing jobs in the state.

Capito said EPA administrator Lisa Jackson has told her privately and stated publicly that the agency does not take economic factors into account when considering policy decisions.

"When I brought this issue to his attention, in his response he said that he said he felt that we should be considering economic and job impacts," Capito said during a conference call with reporters Wednesday.

Last month, Capito introduced legislation that would require the EPA to determine the potential jobs and economic impact prior to issuing new policies or denying permits.

"All I'm asking for is a level playing field here where we're consider both of these -- the economy and environment -- with these decisions," she said.

While she said the president did leave some "wobble room" in his statements, he seemed to agree with the reasoning behind her point of view. .

"He said if there's a specific statute that specifically says you don't have to consider job or economic considerations, then that needs to change in the law," Capito said. She also noted that the president kept referring to the "fragile economy" during their discussion.

On a scale of 1 to 10, Capito said she rated her encouragement over the president's response to her plan at a 6.

"A little better than so-so maybe, but not overly no," she said.

She said she plans to talk to GOP leadership in the U.S. House of Representatives to discuss moving forward on her bill.

During the call with reporters, Capito also talked about some of the recent economic data coming out showing that the economy may be softening.

She said the biggest issue Congress and the White House have to confront is the nation's burgeoning debt.

"What we can do is deal with the debt and deficit in a responsible way, deal with the overspending, because that sends a chill through the entire economic sector," she said.

She said leaders in Washington needed to work out a long-term plan regarding spending and tax policies, which provides certainty to the private sector so that business owners can confidently invest in the American economy.

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

01268-EPA-1134

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

06/06/2011 09:24 AM

cc

bcc

Subject Re: "Capito says Obama concurs on EPA"

(b)(5) deliberative

(b)(5) deliberative

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

Richard Windsor

(b)(5) deliberative

----- Or...

06/06/2011 09:14:47 AM

From: Richard Windsor/DC/USEPA/US
To: Arvin Ganesan/DC/USEPA/US@EPA
Date: 06/06/2011 09:14 AM
Subject: Re: "Capito says Obama concurs on EPA"

(b)(5) deliberative

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 06/06/2011 08:32 AM EDT
To: Richard Windsor
Subject: Fw: "Capito says Obama concurs on EPA"

Purely FYI.

(b)(5) deliberative

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

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To: Konwinski, Lisa; Ganesan.Arvin@epamail.epa.gov
Subject: RE: "Capito says Obama concurs on EPA"

(b)(5) deliberative

Let's chat after the interagency please

-----Original Message-----

From: Konwinski, Lisa

Sent: Friday, June 03, 2011 4:22 PM

To: Ganesan.Arvin@epamail.epa.gov; Samuels, Jonathan D.

Subject: RE: "Capito says Obama concurs on EPA"

(b)(5) deliberative

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Subject: "Capito says Obama concurs on EPA"

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(b)(5) deliberative

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by The Associated Press
The Associated Press

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By Jared Hunt

Charleston Daily Mail, W.Va.

(MCT)

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ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

01268-EPA-1142

Seth Oster/DC/USEPA/US
06/08/2011 11:07 AM

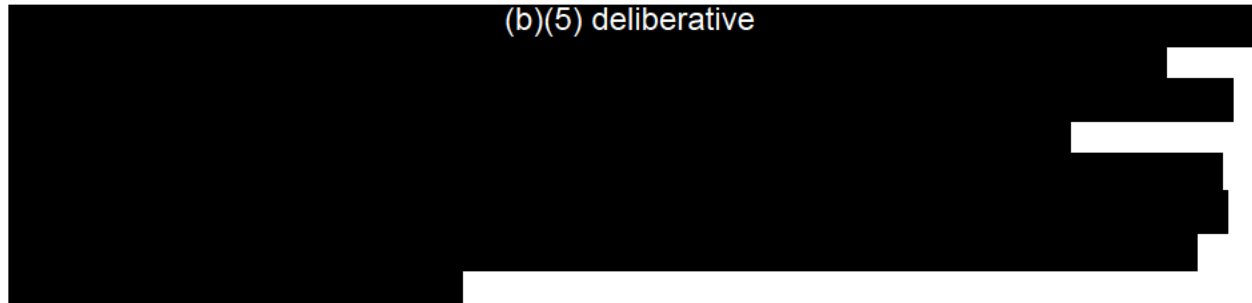
To Richard Windsor
cc Daniel Kanninen, Diane Thompson
bcc

Subject David Departure -- Draft Memo to Staff -- FOR APPROVAL

Administrator,

Below is the draft that I suggest you consider for David's departure/Arvin's appointment memo to staff for tomorrow. (I wrote it myself because it's David and Arvin)

(b)(5) deliberative



I'm copying Dan and Diane, who I suspect may have different feelings about this.

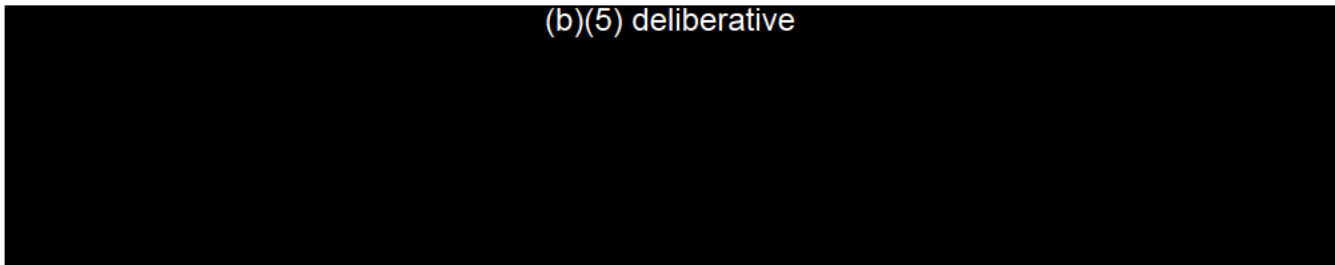
Seth

DRAFT -- ALL HANDS EMAIL FROM LPJ

SUBJECT: Personnel Announcements

Dear Colleagues,

(b)(5) deliberative



(b)(5) deliberative



Sincerely,

Lisa P. Jackson

01268-EPA-1143

Daniel
Kanninen/DC/USEPA/US
06/08/2011 11:25 AM

To Seth Oster
cc Diane Thompson, Richard Windsor
bcc
Subject Re: David Departure -- Draft Memo to Staff -- FOR APPROVAL

(b)(5) deliberative

[Redacted]

[Redacted]

[Redacted]

dk

Dan Kanninen
White House Liaison
U.S. Environmental Protection Agency
202.564.7960
kanninen.daniel@epa.gov

Seth Oster Administrator, Below is the draft that I s... 06/08/2011 11:07:28 AM

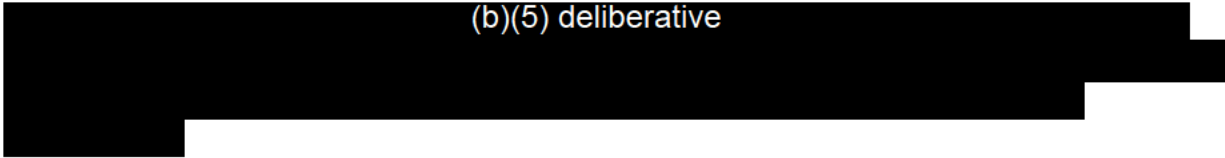
From: Seth Oster/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Daniel Kanninen/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA
Date: 06/08/2011 11:07 AM
Subject: David Departure -- Draft Memo to Staff -- FOR APPROVAL

Administrator,

Below is the draft that I suggest you consider for David's departure/Arvin's appointment memo to staff for tomorrow. (I wrote it myself because it's David and Arvin)

(b)(5) deliberative

(b)(5) deliberative

A large black rectangular redaction box covers the majority of the top section of the page, with the text "(b)(5) deliberative" centered at the top of the redacted area.

I'm copying Dan and Diane, who I suspect may have different feelings about this.


Seth

DRAFT -- ALL HANDS EMAIL FROM LPJ

SUBJECT: Personnel Announcements

Dear Colleagues,

(b)(5) deliberative

A very large black rectangular redaction box covers the entire middle section of the page, from just below the salutation to just above the signature. The text "(b)(5) deliberative" is centered at the top of this redacted area.

Sincerely,

Lisa P. Jackson

01268-EPA-1144

Adora Andy/DC/USEPA/US
06/08/2011 03:48 PM

To Laura Vaught, "Richard Windsor", Bob Perciasepe, Diane Thompson, "Bob Sussman", David McIntosh, "Seth Oster", "Arvin Ganesan", Stephanie Owens, Sarah Pallone, Dru Ealons, "Gina McCarthy"

cc

bcc

Subject Re: BLOOMBERG: Dingell to Ask EPA to Extend Comment Time on Clean-Air Rule

+Gina
Laura Vaught

----- Original Message -----

From: Laura Vaught
Sent: 06/08/2011 03:42 PM EDT
To: Adora Andy; "Richard Windsor" <windsor.richard@epa.gov>; Bob Perciasepe; Diane Thompson; "Bob Sussman" <sussman.bob@epa.gov>; David McIntosh; "Seth Oster" <oster.seth@epa.gov>; "Arvin Ganesan" <ganesan.arvin@epa.gov>; Stephanie Owens; Sarah Pallone; Dru Ealons
Subject: Re: BLOOMBERG: Dingell to Ask EPA to Extend Comment Time on Clean-Air Rule

With apologies to those on this email who just got this exact same note from me, below is a little more info on this as an fyi.

we might get as soon as Friday though more likely early next week. Right now they have 25 Dems signed on (is Dem only letter), but they are keeping it open this week to potentially add more.

Will share as soon as they finalize and send.
Adora Andy

----- Original Message -----

From: Adora Andy
Sent: 06/08/2011 03:35 PM EDT
To: Laura Vaught; "Richard Windsor" <windsor.richard@epa.gov>; Bob Perciasepe; Diane Thompson; "Bob Sussman" <sussman.bob@epa.gov>; David McIntosh; "Seth Oster" <oster.seth@epa.gov>; "Arvin Ganesan" <ganesan.arvin@epa.gov>; Stephanie Owens; Sarah Pallone; Dru Ealons
Subject: BLOOMBERG: Dingell to Ask EPA to Extend Comment Time on Clean-Air Rule

Rachael Schultz

----- Original Message -----

From: Rachael Schultz
Sent: 06/08/2011 03:28 PM EDT
To: Betsaida Alcantara; Brendan Gilfillan; Alisha Johnson; Seth Oster; Adora Andy; Andra Belknap; Mary Robbins; Shira Sternberg; Alexandria Carter
Subject: BLOOMBERG: Dingell to Ask EPA to Extend Comment Time on Clean-Air Rule

Dingell to Ask EPA to Extend Comment Time on Clean-Air Rule

Bloomberg

By Jim Snyder - Jun 8, 2011

U.S. Representative John Dingell, a [Michigan](#) Democrat, will ask the [Environmental Protection](#)

[Agency](#) to extend the comment period for a clean-air rule designed to cut mercury and other toxic emissions.

Dingell, a former chairman of the House Energy Committee, is circulating a letter among lawmakers that asks EPA to give utilities, manufacturers, environmental groups and other interests 120 days to comment, double the current schedule.

Coal-dependent utilities such as American Electric Power Co. have said the proposed rule would raise electricity prices and cost jobs. Dingell plans to send the letter to EPA Administrator Lisa Jackson next week. It doesn't ask to delay the rule, which a court has said must be released in November.

The clean-air rule may have "wide-reaching impacts on the way our country generates and consumes electricity," according to the letter. "Such a dense and wide-ranging rulemaking requires thorough analysis and evaluation by stakeholders."

The rule would require cuts to emissions of mercury, which can hinder the neurological development of children, and other toxins. The agency has said its rule will prevent as many as 17,000 premature deaths and 11,000 heart attacks at an annual cost to industry of about \$10.9 billion. The EPA estimates the rules will yield up to \$140 billion in health benefits.

While reducing emissions will improve public health and the environment, "we also must be mindful of the economic impact new regulations could have, especially with the complexity and breadth of applicability for this proposed rule being so significant," Dingell wrote in the letter.

'Economic Implications'

Dingell will join Republican Representatives Fred Upton of Michigan and Ed Whitfield of [Kentucky](#) and Senator James Inhofe of [Oklahoma](#) in seeking to extend the time for comments.

The rule has "major electric reliability and economic implications for the nation," Upton, chairman of the Energy and Commerce Committee, and the Republicans wrote in a May 17 letter. They are seeking a comment period of at least 120 days.

The EPA estimates less than 1 percent of coal-fired [power plants](#) production capacity would close as a result of its rule.

The American Coalition for Clean Coal Electricity, an Alexandria, Virginia-based group that backs policies promoting coal, released a report that found as much as 47.8 gigawatts of electricity, about 15 percent of coal's U.S. production capacity, may close prematurely because of the mercury rule and a separate regulation designed to cut emissions of sulfur dioxide and nitrogen oxides, which cause smog and acid rain.

'Common-Senate' Rules

In response to the coalition's report, [Brendan Gilfillan](#), an EPA spokesman, said the agency was

working with utilities and other interested groups to ensure its clean-air rules were “reasonable, common-sense and achievable.”

“More than half of all coal-fired power plants already deploy the widely available pollution control technologies that allow them to meet these important standards,” Gilfillan said in an e-mail.

Daniel Weiss, senior fellow at the [Center for American Progress](#), a Washington-based group that says it supports progressive public policies, said the EPA should reject calls to extend its comment period.

“There has been ample time to review and analyze this proposal,” Weiss said. EPA first said it would regulate mercury emissions in 2000. The delay was sought by “big utilities and big coal companies” to organize opposition to the rule, Weiss said.

01268-EPA-1146

Seth Oster/DC/USEPA/US

06/08/2011 05:04 PM

To Richard Windsor

cc Daniel Kanninen, Diane Thompson

bcc

Subject PLEASE APPROVE

Draft for tomorrow.  (b)(5) deliberative



Please approve.

Thanks.

Seth

DRAFT -- ALL HANDS EMAIL FROM LPJ

SUBJECT: Personnel Announcements

Dear Colleagues,

(b)(5) deliberative



Again, our best wishes to David – and our gratitude.

Sincerely,

Lisa P. Jackson

01268-EPA-1147

Eric Wachter/DC/USEPA/US

To Richard Windsor

06/08/2011 05:43 PM

cc

bcc

Subject Fw: Awards and Recognition News Release (HQ): 11th Annual Clean Air Excellence Awards Recognize Public And Private Sector Achievements / Winners' efforts help environment, education, and economy

----- Forwarded by Eric Wachter/DC/USEPA/US on 06/08/2011 05:43 PM -----

Message Information

Date 06/07/2011 04:42 PM

From "DiLodovico, Tony" <ADilodovico@birdsall.com>

To LisaP Jackson/DC/USEPA/US@EPA

cc

Subject FW: Awards and Recognition News Release (HQ): 11th Annual Clean Air Excellence Awards Recognize Public And Private Sector Achievements / Winners' efforts help environment, education, and economy

Message Body

Hi Lisa! Not sure if you get e-mails directly but figured what the heck!

How have you been? Hope all is well!

(b) (6)

Also, Ocean County Soils District, where I am the Vice Chairman of the Board of Supervisors, also just recently received the 2011 Environmental Quality Award from Region 2! Double cool!!

Tony DiLodovico
Vice President - Regulatory Consultant
Birdsall Services Group, Inc.

750 Vassar Ave
Lakewood, New Jersey 08701
P: 732-961-2162 x5020 | F: 732-961-2163

ADilodovico@birdsall.com

www.birdsall.com

From: U.S. EPA [mailto:usaepa@govdelivery.com]

Sent: Tuesday, June 07, 2011 12:13 PM

To: DiLodovico, Tony

Subject: Awards and Recognition News Release (HQ): 11th Annual Clean Air Excellence Awards Recognize Public And Private Sector Achievements / Winners' efforts help environment, education, and economy

CONTACT:

Stacy Kika
kika.stacy@epa.gov
202-564-0906
202-564-4355

FOR IMMEDIATE RELEASE

June 7, 2011

11th Annual Clean Air Excellence Awards Recognize Public And Private Sector Achievements

Winners' efforts help environment, education, and economy

WASHINGTON - The U.S. Environmental Protection Agency (EPA) is honoring 12 programs from across the United States for innovative efforts in achieving cleaner air to protect the health of Americans. The 11th annual Clean Air Excellence Award recipients include organizations from both the public and private sector who have demonstrated a commitment to creating new green infrastructure and jobs in the United States. Organizations also are being recognized for planning and education efforts that help citizens make better informed environmental decisions.

"EPA's history is marked by innovations that have made our communities cleaner, healthier and more prosperous. This year's Clean Air Excellence Award winners are continuing that tradition," EPA Administrator Lisa P. Jackson said. "From educating our families and inspiring them to take action to developing new environmental plans and strategies to creating cutting-edge clean air and transportation innovations, the winners of this award are helping to make our air cleaner and our communities more sustainable. They are proving that American ingenuity is more than a match for the challenges we face as we move toward cleaner air, healthier families and a stronger economy."

The awards program, established in 2000 at the recommendation of the Clean Air Act Advisory Committee, annually recognizes entries that reduce air pollution, demonstrate innovative models for others to follow, and offer sustainable outcomes.

This year's award recipients were selected from 75 applicants and represent achievements in four categories: clean air technology, community action, education/outreach, and regulatory policy innovations. Award winners are

Clean Air Technology

Union Pacific Railroad Company, Melrose Park, Ill.
Project: Genset Ultra Low Emitting Locomotive

California Cartage Company, LLC, Santa Monica, Calif.
Project: Liquefied Natural Gas Port Truck Project

Community Action

Placer County Air Pollution Control District, Auburn, Calif.
Project: Forest Resource Sustainability in Placer County, Calif.

New York University, N.Y.
Project: New York University Climate Action Plan

Education Outreach

City of Bellevue Utilities, Bellevue, Wash.
Project: Community greenhouse gas reduction program.

Houston-Galveston Area Council, Houston, Texas
Project: Commuter traffic reduction program

Maricopa County Air Quality Department, Phoenix, Ariz.
Project: Particulate matter reduction handbook

Southern Maine Regional Planning Commission, Springvale, Maine
Project: Air quality and transportation educational program

Regulation/Policy Innovations

The Cape Cod Commission, Barnstable, Mass.
Project: Energy Performance Standards for Developments of Regional Impact

North Central Texas Council of Governments, Arlington, Texas
Project: Regional Emissions Enforcement Program

Eglin Air Force Base, 96 CEG/CEV (Environment Management Division), Fla.
Project: Air Quality Compliance Assistance Program

Transportation Efficiency Innovations

Pacific Gas & Electric Company, San Francisco, Calif.
Project: Advancing Electric Vehicle Charging Stations

The awards will be presented on June 7, 2011 at Almas Temple in Washington, D.C. from 4:30-6:30 p.m. EDT.

More information: <http://www.epa.gov/air/cleanairawards/index.html>

R191

Note: If a link above doesn't work, please copy and paste the URL into a browser.

[View all news releases related to awards and recognition](#)

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Processed By	Jacqueline Leavy
PO Office	Category:
OEX	CMS
Message Count	1

01268-EPA-1148

Richard Windsor/DC/USEPA/US
06/08/2011 05:52 PM

To Eric Wachter
cc
bcc

Subject Re: Awards and Recognition News Release (HQ): 11th Annual Clean Air Excellence Awards Recognize Public And Private Sector Achievements / Winners' efforts help environment, education, and economy

[Redacted] (b) (6) . Tx.
Eric Wachter

----- Original Message -----

From: Eric Wachter
Sent: 06/08/2011 05:43 PM EDT
To: Richard Windsor
Subject: Fw: Awards and Recognition News Release (HQ): 11th Annual Clean Air Excellence Awards Recognize Public And Private Sector Achievements / Winners' efforts help environment, education, and economy

----- Forwarded by Eric Wachter/DC/USEPA/US on 06/08/2011 05:43 PM -----

Message Information

Date 06/07/2011 04:42 PM06/08/2011 05:52:23 PM
From "DiLodovico, Tony" <ADilodovico@birdsall.com>
To LisaP Jackson/DC/USEPA/US@EPA
cc
Subject FW: Awards and Recognition News Release (HQ): 11th Annual Clean Air Excellence Awards Recognize Public And Private Sector Achievements / Winners' efforts help environment, education, and economy

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ADilodovico@birdsall.com
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To: DiLodovico, Tony

Subject: Awards and Recognition News Release (HQ): 11th Annual Clean Air Excellence Awards Recognize Public And Private Sector Achievements / Winners' efforts help environment, education, and economy

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Stacy Kika
kika.stacy@epa.gov
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R191

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01268-EPA-1149

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

cc

06/08/2011 10:11 PM

bcc

Subject Romney draws early fire from conservatives over views on climate change

It will be interesting to see how this plays out.

Romney draws early fire from conservatives over views on climate change

By [Philip Rucker](#) and Peter Wallsten, Wednesday, June 8, 9:29 PM

It seemed like a straightforward question on a second-tier issue: Would Mitt Romney disavow the science behind global warming?

The putative Republican presidential front-runner, eager to prove his conservative bona fides, could easily have said what he knew many in his party's base wanted to hear.

Instead, the former Massachusetts governor stuck to the position he has held for many years — that he believes the world is getting warmer and that humans are contributing to it.

Romney's answer to a question about climate change last Friday during [his first town hall](#) meeting since announcing his second presidential campaign allowed him to demonstrate what he hopes voters will see as a new and improved candidate — an authentic leader with core convictions.

But the exchange in New Hampshire also served as a fresh indicator of Romney's great quandary. He must shed the flip-flopper reputation that haunted his last presidential campaign and also appeal to conservative voters wary of his past support for near-universal health care, abortion rights, same-sex marriage and other positions befitting a politician elected in liberal Massachusetts.

So far, Romney's reviews from the right are not positive. His views about climate change in particular put him at odds with many in his party's base.

"Bye-bye, nomination," Rush Limbaugh [said Tuesday](#) on his radio talk show after playing a clip of Romney's climate remark. "Another one down. We're in the midst here of discovering that this is all a hoax. The last year has established that the whole premise of man-made global warming is a hoax and we still have presidential candidates that want to buy into it."

Then came the Club for Growth, which issued [a white paper](#) criticizing Romney. "Governor

Romney's regulatory record as governor contains some flaws," the report said, "including a significant one — his support of 'global warming' policies."

And Conservatives4Palin.com, a blog run by some of former Alaska governor Sarah Palin's more active supporters, posted [an item](#) charging that Romney is "simpatico" with President Obama after he "totally bought into the man-made global warming hoax."

A Romney spokeswoman declined to comment about the criticism but did provide excerpts from Romney's 2009 book, "[No Apology](#)," in which the candidate articulates the same environmental positions.

The episode suggests that Romney and his team, trying to market the candidate as authentic, see more of a political benefit by sticking with his position and taking heat than by shifting to win over a crucial segment of the conservative base.

"The fact that he doesn't change his position . . . that's the upside for us," said one Romney adviser who spoke on the condition of anonymity because he was not authorized to speak on behalf of the campaign. "He's not going to change his mind on these issues to put his finger in the wind for what scores points with these parts of the party."

Romney, in his full answer to the question about climate change, maintained his position while offering enough nuance to extend an open hand to those who disagree.

"I don't speak for the scientific community, of course, but I believe the world's getting warmer," he said. "I can't prove that, but I believe based on what I read that the world is getting warmer. And number two, I believe that humans contribute to that. I don't know how much our contribution is to that, because I know that there have been periods of greater heat and warmth in the past, but I believe we contribute to that."

Romney added that "it's important for us to reduce our emissions of pollutants and greenhouse gases that may be significant contributors." He also said he does not support a cap-and-trade policy, saying it would put American companies at a competitive disadvantage in the world. "We don't call it America warming," he said. "We call it global warming."

But it was his line that "humans contribute" that sparked the conservative backlash.

Romney has long known that the health-care legislation he signed in Massachusetts — which, like Obama's federal health-care overhaul, includes an individual mandate — could be his Achilles heel in pursuit of the Republican nomination.

Now, some conservatives say, Romney should add climate change to that list.

"If [voters] get past Romneycare, then this will be a 'do not pass go'-type issue," said Christopher Horner, a senior fellow at the conservative Competitive Enterprise Institute and a leading global warming skeptic. "This could just be the last straw, I think."

Four years ago, Romney drew scorn from some conservatives when he appeared to veer to the right and disavow his formerly liberal positions. And after he lost the 2008 nomination, polling suggested that many Republican voters doubted his authenticity.

This time, Romney is trying to turn around that authenticity narrative. That effort began last month in Michigan with [a PowerPoint presentation](#) on health care.

Trying to stop a conservative drumbeat of criticism, Romney said that the law he signed as governor was "a state solution to a state problem" and that he stands by it. But if elected president, he said, he would issue an executive order on his first day in office paving the way for states to opt out of the new federal law.

In the 2008 presidential campaign, climate change was not a major issue. Although Sen. John McCain (Ariz.), the Republican nominee, said he believed the science behind global warming, he did little to highlight his bipartisan work earlier in the Senate on climate change.

Public opinion is politicized on the issue. [A March Gallup poll](#) found that 32 percent of Republicans think the effects of global warming are already being felt and 36 percent believe the rise in the Earth's temperatures is caused by humans, while 67 percent say the seriousness of global warming is exaggerated in the news.

The same survey found the opposite trend on the other side of the political fence. Sixty-two percent of Democrats polled said the effects of global warming have begun and 71 percent said humans are causing the rising temperatures, while 22 percent think the situation is exaggerated.

Among independents, there was a fairly even split on those questions.

For Romney, the past few weeks have been encouraging. He raised more than \$10 million in a single day last month, and has since crisscrossed the country vacuuming up many more checks. Romney is widely expected to trounce other candidates when he posts his fundraising total for the quarter that ends June 30.

Meanwhile, [a Washington Post-ABC News poll this week](#) showed Romney as the strongest current or prospective Republican candidate in the 2012 presidential field. Among all Americans, Obama and Romney are locked in a dead heat, at 47 percent each. But the poll found that among registered voters, Romney is numerically ahead of Obama, 49 percent to 46 percent, while independents split for Romney 50 percent to 43 percent.

"I hate to disagree with Rush Limbaugh, but I don't think the campaign's over," said Katon Dawson, a former chairman of the South Carolina Republican Party, pointing to Romney's strength in fundraising and organization. As for climate change, added Dawson, who hasn't endorsed a candidate, "I'm not sure that's a deal-breaker for Mitt Romney."

Polling director Jon Cohen contributed to this report.

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01268-EPA-1150

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

06/09/2011 01:38 PM

cc

bcc

Subject Fw: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

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You're scheduled to testify in front of EPW on Weds.

(b)(5) deliberative

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Date: 06/08/2011 04:30 PM
Subject: Re: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

(b)(5) deliberative

Other quotes from Holmstead testimony:

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- Of the many air pollutants regulated by EPA, fine particle pollution is perhaps the greatest threat to public health. Hundreds of studies in the peer-reviewed literature have found that these microscopic particles can reach the deepest regions of the lungs. Exposure to fine particles is associated with premature death, as well as asthma attacks, chronic bronchitis, decreased lung function, and respiratory disease. Exposure is also associated with aggravation of heart and lung disease, leading to increased hospitalizations, emergency room and doctor visits, and use of medication. (May 2005)

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Arvin Ganesan [Here is the extractable quote we need t...](#) 06/08/2011 04:25:11 PM

From: Arvin Ganesan/DC/USEPA/US
 To: Lorie Schmidt/DC/USEPA/US@EPA
 Cc: David McIntosh/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA, "mccarthy gina" <mccarthy.gina@epa.gov>, Seth Oster/DC/USEPA/US@EPA
 Date: 06/08/2011 04:25 PM
 Subject: Re: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

(b)(5) deliberative

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Here is the testimony. There are others we have as well.[attachment "holmstead.pdf" deleted by Arvin Ganesan/DC/USEPA/US]

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Lorie Schmidt [I am checking to see if someone can d...](#) 06/08/2011 02:16:30 PM

From: Lorie Schmidt/DC/USEPA/US
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 Subject: Re: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

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[REDACTED] (b)(5) deliberative

[REDACTED]

[REDACTED]

David McIntosh

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Sent: 06/08/2011 01:23 PM EDT
To: Arvin Ganesan; "mccarthy gina" <mccarthy.gina@epa.gov>; Joseph Goffman; Lorie Schmidt; Laura Vaught; Seth Oster
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[REDACTED] (b)(5) deliberative

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Subject: Re: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

[REDACTED] (b)(5)
Arvin Ganesan

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From: Arvin Ganesan
Sent: 06/08/2011 01:15 PM EDT
To: mccarthy.gina@epa.gov; Joseph Goffman; Lorie Schmidt; David McIntosh; Laura Vaught; Seth Oster
Subject: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

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1. AIR POLLUTION: Utility groups trade blows on new EPA emissions rules (06/08/2011)

Gabriel Nelson, E&E reporter

Coal-heavy power companies and their cleaner cousins are continuing to spar over new air pollution regulations from

U.S. EPA, releasing competing analyses this week on the effects of a pair of rules that would make coal plants spend billions of dollars to control toxic chemicals and emissions that lead to soot and smog.

Those two regulations -- the Clean Air Transport Rule, which would cap key emissions that travel across state lines, and the "Utility MACT" rule, which would set limits on mercury and other toxic chemicals -- would cost power companies an extra \$17.8 billion per year, according to a [report](#) released today by a coal-industry group.

The American Coalition for Clean Coal Electricity, a trade group including coal companies and coal-heavy utilities such as Southern Co. and American Electric Power Co. Inc., paid for the study by New York-based National Economic Research Associates Inc.

NERA analysts concluded that those new costs would lead to a 13 percent drop in coal-fired generation and a 26 percent increase for natural gas. Electricity prices would rise by an average of 11.5 percent across the country, with double-digit hikes for ratepayers in 21 states.

On balance, those increases would cause the economy would shed about 144,000 jobs for the next decade, the study says, despite claims from supporters that the rules will create construction work. EPA estimated that the rules would have little effect on jobs, and might increase total employment in the long run.

The new study was welcomed by lobbyists for coal-heavy utilities, who are hoping to derail the rules on Capitol Hill by arguing that they will hinder an economic recovery. They are looking to lawmakers such as Rep. Ed Whitfield (R-Ky.), the chairman of the House subcommittee that oversees the Clean Air Act, who is crafting a bill to that effect.

"If anyone comes to you in the dark of night and says, 'I have a proposal to increase electricity costs across the board, and it's a job creator,' do not buy anything from that person," said Scott Segal, a lobbyist at Bracewell & Giuliani LLP, during a debate on the rules yesterday at the Environmental Law Institute. "The notion that a very expensive rule is a great way to create jobs -- give me that money and I will create far more jobs."

But other utilities, which get their electricity from other fuels and have installed pollution controls on their coal plants, say the rules are needed to level the playing field.

And environmental and public health groups say those costs are outweighed by the health and environmental benefits of the rules. Combined, the two proposals would prevent between 20,800 and 53,000 premature deaths each year as well as a slew of heart attacks, asthma flare-ups and other health problems, according to EPA projections.

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"While there will be companies that will need to make major investments to comply," Bradley said, "many are well on their way toward compliance."

Making the rest of the boilers comply with the toxics rules would cost \$10.9 billion and achieving the proposed Transport Rule would cost another \$2.9 billion per year, according to EPA estimates. But the agency pegged the monetized health benefits much higher -- in the hundreds of billions of dollars.

Some are skeptical. Among them is Jeff Holmstead, an attorney at Bracewell & Giuliani who was air chief at EPA under the George W. Bush administration.

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But John Walke, clean air director at the Natural Resources Defense Council, said it would be unwise to put off the pollution rules, which would replace air pollution standards that were struck down in court during the last administration.

"Just as when a battery of tobacco industry lobbyists argued that cigarettes don't cause cancer, the public doesn't buy the arguments of a handful of industry lobbyists over the expertise of pediatricians, American Lung Association doctors and the Environmental Protection Agency," Walke said.

[Click here](#) to read the NERA analysis.

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01268-EPA-1151

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

06/09/2011 01:51 PM

cc

bcc

Subject Re: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

Will do. (b)(5) deliberative

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Richard Windsor Yes!!!! By the way, a look into Holmst... 06/09/2011 01:45:50 PM

From: Richard Windsor/DC/USEPA/US
To: Arvin Ganesan/DC/USEPA/US@EPA
Date: 06/09/2011 01:45 PM
Subject: Re: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

(b)(5) deliberative
Tx.

Arvin Ganesan

----- Original Message -----

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Sent: 06/09/2011 01:38 PM EDT
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Lorie Schmidt I am checking to see if someone can d... 06/08/2011 02:16:30 PM

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[Redacted]

[Redacted]

David McIntosh

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Subject: Re: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

(b)(5)

Arvin Ganesan

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From: Arvin Ganesan

Sent: 06/08/2011 01:15 PM EDT

To: mccarthy.gina@epa.gov; Joseph Goffman; Lorie Schmidt; David McIntosh; Laura Vaught; Seth Oster

Subject: AIR POLLUTION: Utility groups trade blows on new EPA emissions rules

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01268-EPA-1152

Steve Owens/DC/USEPA/US

To Bob Sussman

06/09/2011 02:45 PM

cc Bob Perciasepe, Richard Windsor

bcc

Subject Re: From Greenwire -- CHEMICALS: U.S. Chamber asks White House to delay action on BPA, phthalates

Yes. I saw the letter this morning. It's a bit over the top, and its timing is interesting.

Bob Sussman

This Greenwire story was sent to you b...

06/09/2011 01:40:38 PM

From: Bob Sussman/DC/USEPA/US@EPA
 To: Steve Owens/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
 Date: 06/09/2011 01:40 PM
 Subject: From Greenwire -- CHEMICALS: U.S. Chamber asks White House to delay action on BPA, phthalates

This Greenwire story was sent to you by: sussman.bob@epa.gov

Personal message:



THE LEADER IN ENERGY & ENVIRONMENTAL POLICY NEWS

An E&E Publishing Service

CHEMICALS: U.S. Chamber asks White House to delay action on BPA, phthalates *(Thursday, June 9, 2011)*

Jeremy P. Jacobs, E&E reporter

The U.S. Chamber of Commerce is urging the White House to suspend consideration of U.S. EPA's plan to add plastic additives bisphenol A (BPA) and phthalates to its chemicals of concern list. In a letter to the Office of Information and Regulatory Affairs Administrator Cass Sunstein, the U.S. Chamber's William Kovacs said Tuesday that EPA lacks scientific evidence needed to justify listing the substances.

The list is intended to track chemicals that might pose an "unreasonable risk of injury to health or the environment" under the 1976 Toxic Substances Control Act (TSCA).

"It appears EPA lacks the sound regulatory science needed to meet the statutory threshold for a restriction or ban of the targeted chemicals," Kovacs wrote. "Consequently, it seems to have resorted to other, less scientifically rigorous devices."

Saying the proposal represents a "tectonic shift in EPA policy," Kovacs cites a recent executive order from President Obama that requires new regulations to both protect public health but also promote economic growth and job creation.

"There is no evidence," Kovacs wrote, "that EPA has considered economic cost and jobs impact of its actions, developed a reasoned balance of benefits and costs, evaluated a range of lesser burdensome alternatives, determined whether there are viable alternatives to the subject chemical or evaluated how a listing might affect the quality, performance and safety of various products." Further, Kovacs said that EPA must seek the views of stakeholders and manufacturers before taking action.

"EPA, however, has chosen not to do so," Kovacs said.

Adding phthalates and BPA to the chemicals of concern list could pave the way to stricter regulations on the substances. Environmental watchdogs and some lawmakers have long called for EPA to limit the use of the compounds, citing studies linking the chemicals to endocrine problems. Many state legislatures have passed their own bans on BPA ([Greenwire](#), Feb. 24).

Congressional Democrats recently called for action on BPA after a Food and Drug Administration

study found the chemical in 71 of the 78 canned foods it tested ([E&E Daily](#) , June 2). EPA's efforts to add BPA to the chemicals of concern list remain stalled. OIRA extended its review of the request last September and has not acted on it since ([Greenwire](#) , Sept. 28, 2010).

Greens decry chamber effort

Green groups have recently focused their fire on industry for delays in BPA regulations. The Center for Progressive Reform last week accused industry of promulgating five "myths" on BPA, charges that industry firmly denied ([Greenwire](#) , June 2).

Ken Cook, the president of the Environmental Working Group, expressed outrage yesterday about the chamber's letter.

"From climate change legislation, to affordable health care and paltry increases to the minimum wage, the U.S. Chamber of Commerce opposes virtually any initiative that would make our quality of life a little bit better, including EPA's efforts to protect children from toxic chemicals," Cook said.

In addition to BPA and phthalates, the chamber urged OIRA to suspend consideration of all substances EPA wants to add to its chemicals of concern list. Those include substances that have long been the focus of environmental watchdogs like long-chain perfluorinated compounds (PFCs) -- which are used in nonstick and stain-resistant products -- and polybrominated diphenyl ethers (PBDEs) -- which are used in flame retardants.

[Click here](#) for the U.S. Chamber's letter.

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01268-EPA-1154

Shawn Garvin/R3/USEPA/US

06/09/2011 07:42 PM

To Richard Windsor, Gina McCarthy, Seth Oster, Sarah Pallone,
Arvin Ganesan, Janet Woodka

cc

bcc

Subject Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP
HURTING WEST VIRGINIA FAMILIES

FYI...

----- Forwarded by Shawn Garvin/R3/USEPA/US on 06/09/2011 07:40 PM -----

From: Shawn Garvin/R3/USEPA/US
 To: Diana Esher/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA
 Cc: Anthony Raia/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, Stacie Driscoll/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Jessica Greathouse/R3/USEPA/US@EPA, Patrick Egan/R3/USEPA/US@EPA
 Date: 06/09/2011 07:40 PM
 Subject: Re: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Diana & Mick - **(b)(5) deliberative**

Thank you - Shawn

Jessica Greathouse	Jessica H. Greathouse State and...	06/09/2011 04:06:26 PM
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From: Jessica Greathouse/R3/USEPA/US
 To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Diana Esher/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Stacie Driscoll/R3/USEPA/US@EPA
 Cc: Arvin Ganesan/DC/USEPA/US@EPA, Anthony Raia/DC/USEPA/US@EPA
 Date: 06/09/2011 04:06 PM
 Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Jessica H. Greathouse
 State and Congressional Liaison
 U.S. Environmental Protection Agency
 (304) 224-3181

----- Forwarded by Jessica Greathouse/R3/USEPA/US on 06/09/2011 04:09 PM -----

From: "Communications Office - Gov. Earl Ray Tomblin" <govofficecomm@wv.gov>
 To: Jessica Greathouse/R3/USEPA/US@EPA
 Date: 06/09/2011 04:01 PM
 Subject: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

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**For Immediate Release
June 9, 2011**

**Contact: Jacqueline Proctor
304-558-2000**

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242 Jobs will be lost at AEP due to EPA regulations

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01268-EPA-1155

Seth Oster/DC/USEPA/US
06/09/2011 07:43 PM

To Shawn Garvin, Richard Windsor, Gina McCarthy, Sarah Pallone, Arvin Ganesan, Janet Woodka, "Brendan Gilfillan", "Bob Perciasepe", David McIntosh

cc

bcc

Subject Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Thanks Shawn.

(b)(5) deliberative

Seth
Shawn Garvin

----- Original Message -----

From: Shawn Garvin
Sent: 06/09/2011 07:42 PM EDT
To: Richard Windsor; Gina McCarthy; Seth Oster; Sarah Pallone; Arvin Ganesan; Janet Woodka
Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES
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Date: 06/09/2011 07:40 PM
Subject: Re: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Diana & Mick -

(b)(5) deliberative

Thank you - Shawn

Jessica Greathouse Jessica H. Greathouse State and... 06/09/2011 04:06:26 PM

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Date: 06/09/2011 04:06 PM
Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

----- Forwarded by Jessica Greathouse/R3/USEPA/US on 06/09/2011 04:09 PM -----

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To: Jessica Greathouse/R3/USEPA/US@EPA
Date: 06/09/2011 04:01 PM
Subject: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

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**For Immediate Release
June 9, 2011**

**Contact: Jacqueline Proctor
304-558-2000**

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242 Jobs will be lost at AEP due to EPA regulations

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increase in real gross domestic product (GDP) due to our approach to our energy sector and the improving business climate of our State. Our work to improve our State continues, as West Virginia continues to pay down its debt, lower business taxes, explore ways to strengthen our energy sector, and rebuild our manufacturing base. We all want a clean and healthy environment. But the EPA's inflexible approach that is driving our Nation's energy policy is wrong, and it will permanently damage industries, businesses, and cause significant negative impacts on consumers and workers. It needs to stop."

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01268-EPA-1156

Shawn Garvin/R3/USEPA/US

06/09/2011 07:46 PM

To Seth Oster

cc Arvin Ganesan, David McIntosh, "Brendan Gilfillan", Gina McCarthy, Janet Woodka, "Bob Perciasepe", Richard Windsor, Sarah Pallone

bcc

Subject Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Seth -

(b)(5) deliberative

Thanks - Shawn

Seth Oster	Thanks Shawn. As you can imagine, w...	06/09/2011 07:43:50 PM
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From: Seth Oster/DC/USEPA/US
 To: Shawn Garvin/R3/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Sarah Pallone/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Janet Woodka/DC/USEPA/US@EPA, "Brendan Gilfillan" <gilfillan.brendan@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, David McIntosh/DC/USEPA/US
 Date: 06/09/2011 07:43 PM
 Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Thanks Shawn.

(b)(5) deliberative

Seth

Shawn Garvin

----- Original Message -----

From: Shawn Garvin

Sent: 06/09/2011 07:42 PM EDT

To: Richard Windsor; Gina McCarthy; Seth Oster; Sarah Pallone; Arvin Ganesan; Janet Woodka

Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES
FYI...

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 Cc: Anthony Raia/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, Stacie Driscoll/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Jessica Greathouse/R3/USEPA/US@EPA, Patrick Egan/R3/USEPA/US@EPA
 Date: 06/09/2011 07:40 PM
 Subject: Re: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Diana & Mick - (b)(5) deliberative

Thank you - Shawn

Jessica Greathouse Jessica H. Greathouse State and... 06/09/2011 04:06:26 PM

From: Jessica Greathouse/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Diana Esher/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Stacie Driscoll/R3/USEPA/US@EPA
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Anthony Raia/DC/USEPA/US@EPA
Date: 06/09/2011 04:06 PM
Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

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**For Immediate Release
June 9, 2011**

**Contact: Jacqueline Proctor
304-558-2000**

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01268-EPA-1157

Seth Oster/DC/USEPA/US
06/09/2011 07:50 PM

To Richard Windsor, "Brendan Gilfillan", "Bob Perciasepe"
cc
bcc

Subject Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

(b)(5) deliberative [redacted] Brendan will send it to you.
Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 06/09/2011 07:46 PM EDT
To: Seth Oster; Shawn Garvin; Gina McCarthy; Sarah Pallone; Arvin Ganesan; Janet Woodka; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Bob Perciasepe; David McIntosh
Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

(b)(5) deliberative [redacted]

Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 06/09/2011 07:43 PM EDT
To: Shawn Garvin; Richard Windsor; Gina McCarthy; Sarah Pallone; Arvin Ganesan; Janet Woodka; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Bob Perciasepe; David McIntosh
Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Thanks Shawn. **(b)(5) deliberative** [redacted]

Seth
Shawn Garvin

----- Original Message -----

From: Shawn Garvin
Sent: 06/09/2011 07:42 PM EDT
To: Richard Windsor; Gina McCarthy; Seth Oster; Sarah Pallone; Arvin Ganesan; Janet Woodka
Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES
FYI...

----- Forwarded by Shawn Garvin/R3/USEPA/US on 06/09/2011 07:40 PM -----

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To: Diana Esher/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA
Cc: Anthony Raia/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, Stacie Driscoll/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Jessica Greathouse/R3/USEPA/US@EPA, Patrick Egan/R3/USEPA/US@EPA

Date: 06/09/2011 07:40 PM
Subject: Re: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Diana & Mick - [REDACTED] (b)(5) deliberative

Thank you - Shawn

Jessica Greathouse Jessica H. Greathouse State and... 06/09/2011 04:06:26 PM

From: Jessica Greathouse/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Diana Esher/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Stacie Driscoll/R3/USEPA/US@EPA
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Anthony Raia/DC/USEPA/US@EPA
Date: 06/09/2011 04:06 PM
Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

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Subject: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

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**For Immediate Release
June 9, 2011**

**Contact: Jacqueline Proctor
304-558-2000**

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01268-EPA-1158

**Brendan
Gilfillan/DC/USEPA/US**
06/09/2011 07:57 PM

To Richard Windsor, "Bob Perciasepe", "Seth Oster"
cc
bcc

Subject Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP
HURTING WEST VIRGINIA FAMILIES

Here's the latest draft of a statement:

(b)(5) deliberative

----- Original Message -----

From: Richard Windsor
Sent: 06/09/2011 07:46 PM EDT
To: Seth Oster; Shawn Garvin; Gina McCarthy; Sarah Pallone; Arvin Ganesan; Janet Woodka; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Bob Perciasepe; David McIntosh
Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

(b)(5) deliberative

Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 06/09/2011 07:43 PM EDT
To: Shawn Garvin; Richard Windsor; Gina McCarthy; Sarah Pallone; Arvin Ganesan; Janet Woodka; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Bob Perciasepe; David McIntosh
Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Thanks Shawn. (b)(5) deliberative

Seth
Shawn Garvin

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Date: 06/09/2011 07:40 PM
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Diana & Mick - (b)(5) deliberative

Thank you - Shawn

Jessica Greathouse Jessica H. Greathouse State and... 06/09/2011 04:06:26 PM

From: Jessica Greathouse/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Diana Esher/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Stacie Driscoll/R3/USEPA/US@EPA
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Anthony Raia/DC/USEPA/US@EPA
Date: 06/09/2011 04:06 PM
Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

----- Forwarded by Jessica Greathouse/R3/USEPA/US on 06/09/2011 04:09 PM -----

From: "Communications Office - Gov. Earl Ray Tomblin" <govofficecomm@wv.gov>
To: Jessica Greathouse/R3/USEPA/US@EPA
Date: 06/09/2011 04:01 PM
Subject: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

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**For Immediate Release
June 9, 2011**

**Contact: Jacqueline Proctor
304-558-2000**

GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

242 Jobs will be lost at AEP due to EPA regulations

CHARLESTON, W.Va. -Gov. Earl Ray Tomblin issued the following statement after learning American Electric Power (AEP) will close three West Virginia power plants by 2014 resulting in the loss of 242 jobs. AEP cites environmental regulations issued by the federal Environmental Protection Agency (EPA) as the cause of the impending closures.

"Today's announcement by AEP reinforces the belief that the EPA is out of touch with the economic impact of their overreaching regulations," Gov. Tomblin said. "While the nation's economy is struggling, West Virginia recently saw a 4 percent increase in real gross domestic product (GDP) due to our approach to our energy sector and the improving business climate of our State. Our work to improve our State continues, as West Virginia continues to pay down its debt, lower business taxes, explore ways to strengthen our energy sector, and rebuild our manufacturing base. We all want a clean and healthy environment. But the EPA's inflexible approach that is driving our Nation's energy policy is wrong, and it will permanently damage industries, businesses, and cause significant negative impacts on consumers and workers. It needs to stop."

#

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01268-EPA-1159

**Brendan
Gilfillan/DC/USEPA/US**
06/09/2011 09:11 PM

To Richard Windsor, Seth Oster, Shawn Garvin, Gina McCarthy,
Sarah Pallone, Arvin Ganesan, Janet Woodka, "Brendan
Gilfillan", Bob Perciasepe, David McIntosh

cc

bcc

Subject Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP
HURTING WEST VIRGINIA FAMILIES

All -

Here's our final statement on this.

It's unfortunate that they have apparently already made the business decision to shut these plants down without so much as asking for a meeting with EPA to discuss a plan for moving forward under these proposed standards - standards we are still taking public comment on. We are currently working with industry and other stakeholders to ensure that these Important Clean Air Act standards are reasonable, common-sense and achievable. More than half of all coal-fired power plants already deploy the widely available pollution control technologies that allow them to meet these important standards. These reasonable steps taken under the Clean Air Act will reduce hazardous air pollution, including mercury, arsenic and other toxic pollution, and as a result protect our families, particularly children.

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 06/09/2011 07:46 PM EDT
To: Seth Oster; Shawn Garvin; Gina McCarthy; Sarah Pallone; Arvin Ganesan; Janet Woodka; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Bob Perciasepe; David McIntosh
Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

(b)(5) deliberative

Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 06/09/2011 07:43 PM EDT
To: Shawn Garvin; Richard Windsor; Gina McCarthy; Sarah Pallone; Arvin Ganesan; Janet Woodka; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Bob Perciasepe; David McIntosh
Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Thanks Shawn. (b)(5) deliberative

Seth
Shawn Garvin

----- Original Message -----

From: Shawn Garvin

Sent: 06/09/2011 07:42 PM EDT
To: Richard Windsor; Gina McCarthy; Seth Oster; Sarah Pallone; Arvin Ganesan; Janet Woodka
Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES
FYI...

----- Forwarded by Shawn Garvin/R3/USEPA/US on 06/09/2011 07:40 PM -----

From: Shawn Garvin/R3/USEPA/US
To: Diana Esher/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA
Cc: Anthony Raia/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, Stacie Driscoll/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Jessica Greathouse/R3/USEPA/US@EPA, Patrick Egan/R3/USEPA/US@EPA
Date: 06/09/2011 07:40 PM
Subject: Re: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Diana & Mick - (b)(5) deliberative

Thank you - Shawn

Jessica Greathouse Jessica H. Greathouse State and... 06/09/2011 04:06:26 PM

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Cc: Arvin Ganesan/DC/USEPA/US@EPA, Anthony Raia/DC/USEPA/US@EPA
Date: 06/09/2011 04:06 PM
Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Jessica H. Greathouse
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**For Immediate Release
June 9, 2011**

**Contact: Jacqueline Proctor
304-558-2000**

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01268-EPA-1160

Shawn Garvin/R3/USEPA/US
06/09/2011 10:11 PM

To Brendan Gilfillan, Richard Windsor, Seth Oster, Gina McCarthy, Sarah Pallone, Arvin Ganesan, Janet Woodka, "Brendan Gilfillan", Bob Perciasepe, David McIntosh
cc
bcc

Subject Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Brendan - Thanks.

Shawn

Sent by EPA Wireless E-Mail Services
Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan
Sent: 06/09/2011 09:11 PM EDT
To: Richard Windsor; Seth Oster; Shawn Garvin; Gina McCarthy; Sarah Pallone; Arvin Ganesan; Janet Woodka; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Bob Perciasepe; David McIntosh
Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES
All -

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Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 06/09/2011 07:46 PM EDT
To: Seth Oster; Shawn Garvin; Gina McCarthy; Sarah Pallone; Arvin Ganesan; Janet Woodka; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Bob Perciasepe; David McIntosh
Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

(b)(5) deliberative

Seth Oster

----- Original Message -----

From: Seth Oster

Sent: 06/09/2011 07:43 PM EDT

To: Shawn Garvin; Richard Windsor; Gina McCarthy; Sarah Pallone; Arvin Ganesan; Janet Woodka; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Bob Perciasepe; David McIntosh

Subject: Re: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Thanks Shawn. [REDACTED]

(b)(5) deliberative

Seth

Shawn Garvin

----- Original Message -----

From: Shawn Garvin

Sent: 06/09/2011 07:42 PM EDT

To: Richard Windsor; Gina McCarthy; Seth Oster; Sarah Pallone; Arvin Ganesan; Janet Woodka

Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

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Date: 06/09/2011 07:40 PM
Subject: Re: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Diana & Mick - [REDACTED]

(b)(5) deliberative

Thank you - Shawn

Jessica Greathouse

Jessica H. Greathouse State and...

06/09/2011 04:06:26 PM

From: Jessica Greathouse/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Diana Esher/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Stacie Driscoll/R3/USEPA/US@EPA
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Anthony Raia/DC/USEPA/US@EPA
Date: 06/09/2011 04:06 PM
Subject: Fw: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

Jessica H. Greathouse
 State and Congressional Liaison
 U.S. Environmental Protection Agency
 (304) 224-3181

----- Forwarded by Jessica Greathouse/R3/USEPA/US on 06/09/2011 04:09 PM -----

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Date: 06/09/2011 04:01 PM
Subject: 06-09-11 GOVERNOR CALLS UPON EPA TO STOP HURTING WEST VIRGINIA FAMILIES

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**For Immediate Release
June 9, 2011**

**Contact: Jacqueline Proctor
304-558-2000**

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01268-EPA-1162

Joseph Goffman/DC/USEPA/US
06/10/2011 01:30 PM

To David McIntosh
cc Richard Windsor, Adora Andy, Arvin Ganesan, Bob Perciasepe, Bob Sussman, Brendan Gilfillan, Diane Thompson, Gina McCarthy, Laura Vaught, Michael Goo, Scott Fulton, Seth Oster

bcc

Subject Re: Signed MACT letter

(b)(5) deliberative

Joseph Goffman
Senior Counsel to the Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency
202 564 3201

David McIntosh (b)(5) deliberative 06/10/2011 01:27:32 PM

From: David McIntosh/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Adora Andy/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA, Michael Goo/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA
Date: 06/10/2011 01:27 PM
Subject: Re: Signed MACT letter

(b)(5) deliberative

Richard Windsor (b)(5) deliberative . ---- Orig... 06/10/2011 01:09:14 PM

From: Richard Windsor/DC/USEPA/US
To: Laura Vaught/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Michael Goo/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA
Date: 06/10/2011 01:09 PM
Subject: Re: Signed MACT letter

Tx. (b)(5) deliberative

Laura Vaught

----- Original Message -----

From: Laura Vaught

Sent: 06/10/2011 01:05 PM EDT

To: Richard Windsor; Gina McCarthy; Michael Goo; Joseph Goffman; Arvin Ganesan; David McIntosh; Seth Oster; Adora Andy; Brendan Gilfillan; Bob Perciasepe; Bob Sussman; Scott Fulton; Diane Thompson

Subject: Fw: Signed MACT letter

The expected Dingell letter requesting 60 day extension of comment period on Mercury and Air Toxics Standard just arrived. 27 House Dems signed it (b)(5) deliberative

Dingell's office is not doing any press on it - which doesn't necessarily mean someone else won't, but his office isn't going to generate that.

----- Forwarded by Laura Vaught/DC/USEPA/US on 06/10/2011 12:54 PM -----

From: "Murtha, Katie" <Katie.Murtha@mail.house.gov>
To: Laura Vaught/DC/USEPA/US@EPA, Lorie Schmidt/DC/USEPA/US@EPA
Date: 06/10/2011 12:47 PM
Subject: FW: Signed MACT letter

Have a great weekend, ladies.

[attachment "AR-M455N_20110610_232235.pdf" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-1165

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

06/13/2011 12:45 PM

cc

bcc

Subject Fw: POSTED: American Electric Power's Dirty Trick;
response to AEP threat to fire employees if mercury, toxics
standards are implemented

This is very good work by CAP.

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

----- Forwarded by Arvin Ganesan/DC/USEPA/US on 06/13/2011 12:45 PM -----

From: Dan Weiss <dweiss@americanprogress.org>
To: undisclosed-recipients:;
Date: 06/13/2011 12:43 PM
Subject: POSTED: American Electric Power's Dirty Trick; response to AEP threat to fire employees if
mercury, toxics standards are implemented

Daniel J. Weiss
Senior Fellow and Director of Climate Strategy
Center for American Progress
Center for American Progress Action Fund
202-481-8123 O
202-390-1807 M
dweiss@americanprogress.org

American Electric Power's threat to close coal-fired power plants rather than comply with EPA requirements to reduce air toxics is designed to bring opposition to pollution controls, write Daniel J. Weiss and Valeri Vasquez.

http://www.americanprogress.org/issues/2011/06/dirty_trick.html

On June 9, [American Electric Power](#), a major utility company that owns plants from Texas to Virginia, announced that it plans to close 21 coal-fired electricity units rather than invest in reducing their toxic air pollution to comply with the [forthcoming Environmental Protection Agency reduction requirements](#). In reality, AEP is threatening to shut down these plants to stoke congressional and public opposition to EPA's efforts to reduce toxic air pollution. So far, several [legislators](#) have risen to the bait, including Sen. Joe Manchin (D-WV) and Rep. Shelly Moore Capito (R-WV). Both have again attacked EPA for attempting to protect children and others from cancer-causing air pollution. Other utilities, however, support EPA's

requirements, which are also job creators.

AEP would prefer to shutter these plants because it claims that the cost of reducing the arsenic, lead, mercury, acid gases, and other toxic pollutants is prohibitive. What AEP did *not* say is that the cost of cleanup is expensive because these units are very old and dirtier than newer plants—50 years old on average. (see [attached spreadsheet](#)) One of the units was built during World War II, and the newest one was completed during the Carter administration. Most of the other units were built in the 1950s.

AEP's threat to close these plants due to the pending EPA air toxics rules is also somewhat misleading. Last year, it announced a plan to close five units at the Phillip Sporn Plant in New Haven, West Virginia. [Source Watch](#), a nonprofit that publishes "documented information about the corporations, industries, and people trying to sway public opinion," reported on AEP's 2010 retirement plans.

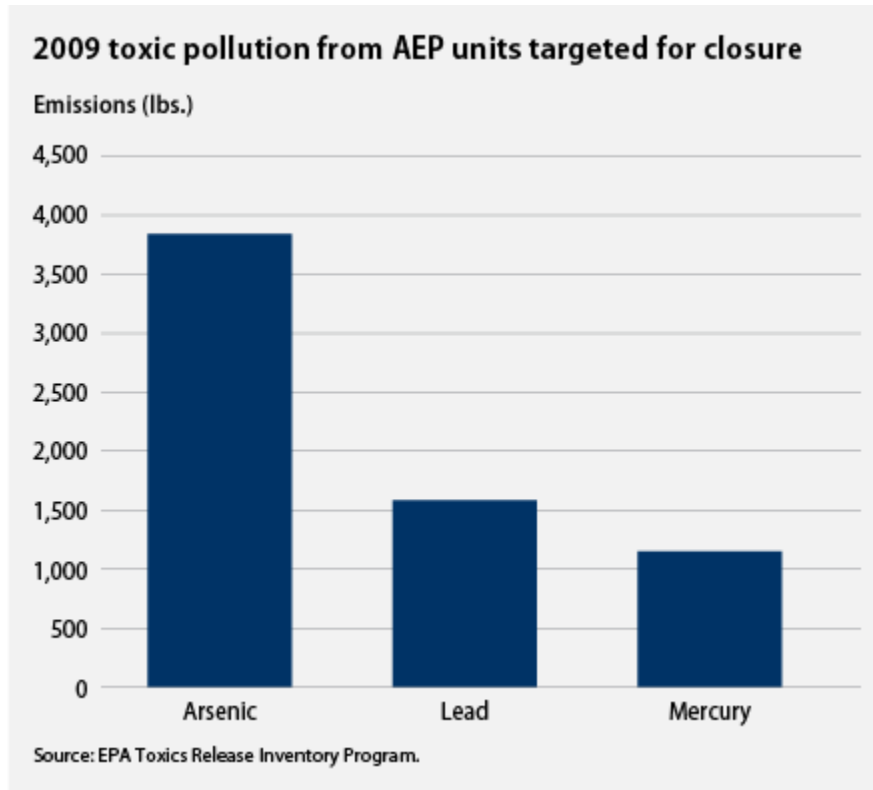
"In October 2010, Ohio Power Co. filed an application with the Public Utilities Commission of Ohio for the approval of a December 2010 closure of the coal-fired Philip Sporn Power Plant unit 5...In September 2009, Appalachian Power filed an integrated resource plan (IRP) in Virginia that projected a 2010 shutdown for Sporn unit 5. The same IRP projected that Sporn units 1-4, with 580 MW of total capacity, would be retired in 2018."

In other words, AEP planned to close this plant five months *before* EPA's March 2011 proposal to reduce toxic air pollution from coal-fired utilities. Yet AEP has included closing these units under "AEP's current plan for compliance with the [EPA] rules as proposed includes permanently retiring the following coal-fueled power plants."

The plants on the AEP chopping block are large emitters of toxic air pollution. For instance, in 2009, the Welsh Plant in Pittsburg, Texas emitted 462 pounds of mercury, according to the 2009 Toxic Release Inventory program run by EPA. (see [attached spreadsheet](#) for links to all TRI power plant data) This level is second only to the 53-year-old Kammer Plant in Moundsville, West Virginia, which during the same year spewed 364 pounds of mercury. This [heavy metal](#) causes severe developmental disabilities, deafness, and blindness in cases of prenatal and infant exposure. The chemical can lower fertility rates and raise chances of heart disease in adults.

AEP's aging power plants flood the sky with a deadly list of other toxic substances as well. The Big Sandy Plant contributed more than 1,300 pounds of cancer-causing arsenic to the air over Louisa, Kentucky, in 2009.

But these are just the tip of the toxic iceberg. In 2009, the 21 AEP units marked for closing pumped nearly 1,200 pounds of mercury into the air (see [attached spreadsheet](#) for links to Toxic Release Inventory data on these pollutants from individual plants) They also emitted 3,842 of [arsenic](#), which is used for rat poison. And these plants emitted nearly 1,600 pounds of [lead](#), which causes learning disabilities in children as well as organ failure. Most shockingly, these 21 plants spewed 4.7 million pounds of acid gases. The [American Lung Association](#) reports that these gases trigger "irritation to skin, eye, nose throat, [and] breathing passages."



AEP acknowledges that EPA's standards would add employment. It noted that "jobs would be created from the installation of emissions reduction equipment." In fact, the [Wall Street Journal](#) reports that: "AEP, whose utility operations stretch from Texas to Ohio, said high demands for labor and materials could drive the potential capital investment higher owing to a constrained time allowed to make changes required under the plan." In other words, the reduction to toxic air pollution will drive *more* capital investment in other aging power plants, which will create jobs.

This prediction is supported by a University of Massachusetts analysis for [CERES](#) of the net job impact of the EPA's air transport and utility air toxics rules. It found that there would be significant job creation—nearly 360,000—due to "construction, installation, & professional job gains over 5 years" from capital expenditures to reduce these pollutants. In addition, many of the AEP-affected states with closing plants would still experience a *net increase* in operation and maintenance jobs. (see chart below)

EPA's air toxics rules would lead to significant job creation in states with AEP plants

State	Construction, installation, and professional job gains over five years	Net change in operation and maintenance jobs
Indiana	95,193	850
Kentucky	31,477	(107)
Ohio	76,240	(407)
Virginia	123,014	856
West Virginia	32,253	92
Total	358,177	1,284

Source: CERES.

Closing aging, dirty power plants will certainly end employment for some workers. Those affected by this should receive assistance with job placement, retraining, and education. But that is no excuse for blocking or delaying reductions in cancer-causing chemicals from coal-fired power plants.

What's more, many utilities believe that EPA's proposed reduction in air toxics can be met without significant rate increases or a decline in electricity reliability. In fact, many coal-fired power plants are already meeting the proposed mercury reduction standard. The [Clean Energy Group](#)—an electric company coalition that has 146,000 megawatts of the United States' total electric generating capacity—conducted an analysis that found that:

“Nearly 60 percent of all coal fired boilers that submitted stack test data to EPA are currently achieving the Utility Toxics Rule's proposed mercury emissions standard... Many states already impose more stringent mercury emissions limits on coal fired power plants than have been proposed by EPA.”

The Clean Energy Group also evaluated PJM Interconnection's—a regional transmission organization—recent “future capacity auction” that ensures:

“...future electric system reliability [with] PJM's forward capacity auction [that] requires power plant operators and other participating companies to offer (i.e., commit) resources, including both generating capacity and demand side resources, three years in advance of when they are needed.”

This auction was an early test of whether there would continue to be adequate electricity generation to meet demand. The success of the auction proves that utilities do not anticipate any shortage of electricity in the PJM region and thus have capacity to meet the forthcoming EPA requirements:

“The results of PJM's most recent Reliability Pricing Model (“RPM”) forward capacity auction clearly indicate the industry can meet future electricity demand while maintaining electric system reliability in one of the most coal dependent regions of the country [the Mid-Atlantic and

Midwestern states].”

[Tennessee Valley Authority](#) owns and operates 11 coal-fired power plants with nearly 60 electricity generation units, with some nearly 70 years old. [In April it announced plans](#) to retire:

“...18 older coal generation units...as part of the federal utility’s vision of being one of the nation’s leading providers of low-cost and cleaner energy by 2020.

Its President and CEO Tom Kilgore affirmed that the EPA’s standards will help TVA rejuvenate its fleet.”

“In the longer term, these actions reinforce our vision to keep bills low, keep our service reliability high and further improve air quality as we modernize the TVA power system.”

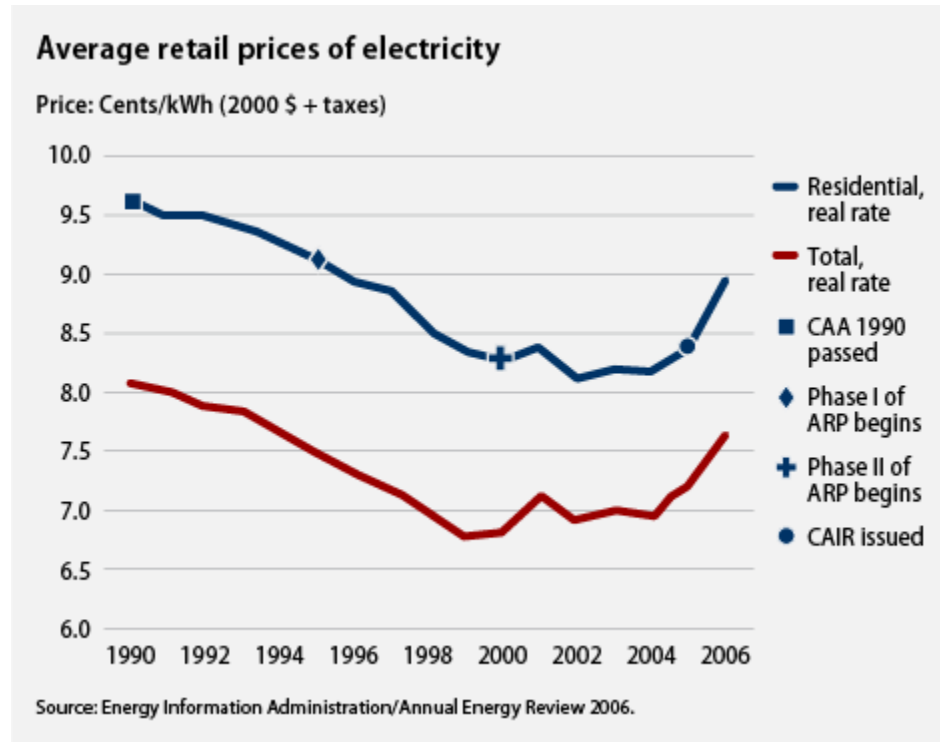
A half dozen major utilities—including Exelon, the nation’s largest—also believe that the proposed air toxics reductions from coal-fired utilities are affordable and will have little impact on reliability. CEOs from Exelon, PG&E, Calpine, NextEra Energy, Public Service Enterprise Group, Constellation Energy Group, and others wrote in [The Wall Street Journal](#) that:

“For over a decade, companies have recognized that the industry would need to install controls to comply with the act’s air toxicity requirements, and the technology exists to cost effectively control such emissions, including mercury and acid gases.”

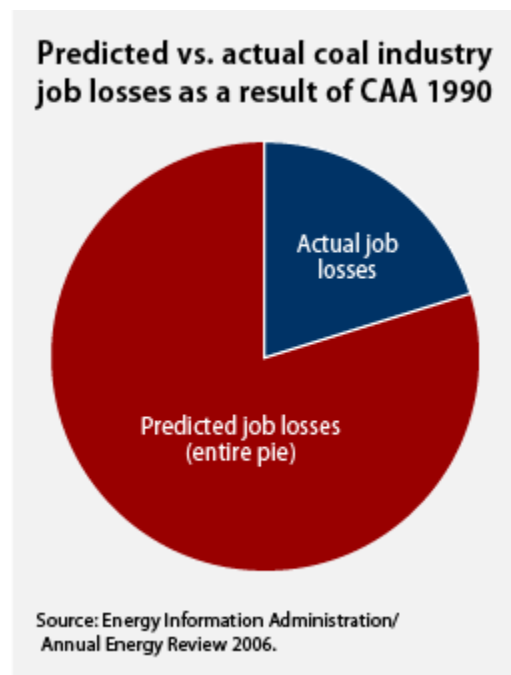
“To suggest that plants are retiring because of the EPA’s regulations fails to recognize that lower power prices and depressed demand are the primary retirement drivers. The units retiring are generally small, old and inefficient. These retirements are long overdue.”

“Contrary to the claims that the EPA’s agenda will have negative economic consequences, our companies’ experience complying with air quality regulations demonstrates that regulations can yield important economic benefits, including job creation, while maintaining reliability.”

EPA’s proposed air toxics standards will make a real difference in Americans’ lives. The [American Lung Association](#) determined that “EPA’s proposed mercury and air toxics reduction rule will prevent 17,000 premature deaths and 120,000 asthma attacks each year.”



AEP is making the same tired arguments polluters used over the past 40 years to frighten legislators and the public about pollution safeguards. In the 1980s the utility industry predicted that reducing acid rain pollution from coal-fired power plants would spark horrific rate increases. In fact, [utility rates were lower](#) in most states in 2006 compared to 1989. Acid rain polluters also predicted huge [job losses that didn't occur](#) either. And the cost of cutting acid rain pollution was one-quarter of EPA's prediction.



AEP's threatened job losses are little more than holding their employees hostage to allow the company to keep polluting. AEP's announcement is an economic kidnap note that reads, "Let me keep poisoning your air if you want to see these workers' jobs again." The ransom AEP demands is continued mercury, arsenic, and other cancer-causing pollution.

The president, Congress, and the media should disregard AEP's phony threats by allowing EPA to protect our children, seniors, and everyone else from deadly toxic air pollution from coal-fired power plants.

[Download data on all the American Electric Power plants the company plans to close](#) (.xls)

01268-EPA-1167

**Brendan
Gilfillan/DC/USEPA/US**
06/15/2011 12:48 PM

To Richard Windsor
cc
bcc

Subject Re: WSJ Editorial: The Obama Hiatus

(b)(5) deliberative

Richard Windsor

(b)(5) deliberative

06/15/2011 12:45:18 PM

From: Richard Windsor/DC/USEPA/US
To: Brendan Gilfillan/DC/USEPA/US@EPA
Date: 06/15/2011 12:45 PM
Subject: Re: WSJ Editorial: The Obama Hiatus

(b)(5) deliberative

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan
Sent: 06/15/2011 12:09 PM EDT
To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster
<oster.seth@epa.gov>; Adora Andy; Betsaida Alcantara; Gina McCarthy; David
McIntosh; Arvin Ganesan; Laura Vaught; Stephanie Owens; Dru Ealons; Michael
Moats; Daniel Kanninen; Michael Goo; Bicky Corman
Subject: WSJ Editorial: The Obama Hiatus

The Obama Hiatus

The Administration takes a two-year holiday from its own agenda.

President Obama's re-election machine is already running full bore, but has his entire Administration also decamped for the campaign trail? We ask because the towering ambitions of Mr. Obama's first two years have suddenly gone into abeyance in his third, apparently to be deferred until years five through eight. The White House is more or less conceding that it doesn't have a chance of winning a second term unless his major policies go on hiatus.

This holiday from committing liberal history began in December with the White House-GOP deal that extended the Bush tax rates through the 2012 election and added a payroll tax cut on employees to 4.2% from 6.2%. These proposals came from the same Democrats who only months earlier had increased payroll taxes to finance their health-care bill and routinely claim that tax rates don't matter to the private economy. But then, 9.1% joblessness and 1.8% growth have a way of concentrating the political mind.

Next came the much-ballyhooed White House scrub for "excessive" regulation, even as hundreds of new rules mandated by the legislation of the first two years continue to be written and to slow business investment. But at least the rule review persuaded the Environmental Protection Agency to stop treating dairy farm milk spills as if they were Gulf oil leaks. That should help next year in Wisconsin.

Picking up the vacation pace, this week the EPA delayed by two months the carbon regulations that it wants to impose, even as it resists bipartisan attempts on Capitol Hill to kill them altogether. Next up may be a delay in pending regulations meant to harm coal-fired power, before opponents gather enough votes to kill them. The EPA has already yanked an entire rule that would have forced thousands of businesses to install new industrial boilers.

Maybe the White House should short-circuit all this by dispatching EPA administrator Lisa Jackson to an undisclosed location through November 2012.

Also this week, The Commodity Futures Trading Commission voted—five to zero—to delay by six months the derivatives swap rules that were due this month under the Dodd-Frank financial re-regulation. The alphabet soup of financial regulators will eventually add tens of thousands of pages to the Federal Register, but for now they are conceding that the derivatives market isn't the calamity they claimed it was in the rush to pass the bill.

Then there's health care. Over the last year, the Health and Human Services Department has granted at least 1,372 temporary waivers to ObamaCare mandates, most notably for price controls on private insurance companies. Many have gone to Democratic allies like unions, but many more went to ordinary businesses and even states. HHS has already given a pass to Nevada, New Hampshire and Maine, and another dozen or so have applied or are expected to ask for exemptions.

This is less political favoritism than a panicked, ad hoc bid to minimize pre-election insurance disruptions that can be attributed to a law that is still widely reviled. If the law isn't enforced, maybe voters will forget it passed. In its New Hampshire reprieve, HHS admitted that ObamaCare would "destabilize the individual market," though it neglected to mention that this is what ObamaCare is meant to do. Just not yet.

By the way, this waiver process isn't in the law's statutory language. HHS has simply created it via regulation. In other words, the health bureaucracy knew the rules they were writing would be destructive and have created a political safety valve. They have even found a way to override ObamaCare's cuts to the Medicare Advantage program that were counted as "savings" to make the health bill look less spendthrift. Medicare Advantage offers insurance choices to one in four seniors and is popular in, well, Florida, so seniors also get a two-year reprieve.

Why aren't liberals deploring this betrayal of their programs? Perhaps because even they can't ignore reality forever. Mr. Obama's epic fiscal binge, waves of new industrial policy and the political allocation of credit haven't created the boom they promised. If business can now be persuaded that the government assault is over and start to invest again so the economy improves

enough for Mr. Obama to win a second term, then a two-year delay in fulfilling their dreams is well worth it.

Liberals figure that as long as Mr. Obama can be re-elected next year on another hope-and-change platform, it will be too late to hope to change anything and he can then return to his legacy project of building a tax and entitlement state on the European model. The economy may benefit from Mr. Obama's temporary amnesty, but the real lesson of this hiatus from liberalism is that it should be shut down permanently.

01268-EPA-1168

**Brendan
Gilfillan/DC/USEPA/US**
06/15/2011 01:21 PM

To Richard Windsor
cc
bcc

Subject Re: WSJ Editorial: The Obama Hiatus

(b)(5) deliberative

Richard Windsor (b)(5) deliberative 06/15/2011 01:01:05 PM

From: Richard Windsor/DC/USEPA/US
To: Brendan Gilfillan/DC/USEPA/US@EPA
Date: 06/15/2011 01:01 PM
Subject: Re: WSJ Editorial: The Obama Hiatus

(b)(5) deliberative

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan
Sent: 06/15/2011 12:48 PM EDT
To: Richard Windsor
Subject: Re: WSJ Editorial: The Obama Hiatus

(b)(5) deliberative

(b)(5) deliberative

Richard Windsor (b)(5) deliberative 06/15/2011 12:45:18 PM

From: Richard Windsor/DC/USEPA/US
To: Brendan Gilfillan/DC/USEPA/US@EPA
Date: 06/15/2011 12:45 PM
Subject: Re: WSJ Editorial: The Obama Hiatus

(b)(5) deliberative

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan
Sent: 06/15/2011 12:09 PM EDT
To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster
<oster.seth@epa.gov>; Adora Andy; Betsaida Alcantara; Gina McCarthy; David
McIntosh; Arvin Ganesan; Laura Vaught; Stephanie Owens; Dru Ealons; Michael
Moats; Daniel Kanninen; Michael Goo; Bicky Corman
Subject: WSJ Editorial: The Obama Hiatus

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01268-EPA-1169

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

cc

06/15/2011 04:37 PM

bcc

Subject Fw: HUFFPO: New EPA Regulations: Lisa Jackson
Denounces American Electric Power

Well, this didn't land on Holmstead, but at least it got some traction.

"While Americans across the country suffer from this pollution, special interests who are trying to gut long-standing public health protections are now going so far as to claim that these pollutants aren't even harmful," said Jackson in a statement. "These myths are being perpetrated by some of the same lobbyists who have in the past testified before Congress about the importance of reducing mercury and particulate matter. Now on behalf of their clients, they're saying the exact opposite."

ARVIN R. GANESAN
Deputy Associate Administrator
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.15

-----Forwarded by Arvin Ganesan/DC/USEPA/US on 06/15/2011 04:36PM

To: Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Andra Belknap/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA, Shira Sternberg/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA
From: Alisha Johnson/DC/USEPA/US
Date: 06/15/2011 03:18PM
Subject: HUFFPO: New EPA Regulations: Lisa Jackson Denounces American Electric Power

New EPA Regulations: Lisa Jackson Denounces American Electric Power

Huffington Post

EPA Administrator Lisa Jackson

First Posted: 06/15/11 03:04 PM ET Updated: 06/15/11 03:11 PM ET

WASHINGTON -- Environmental Protection Agency chief Lisa Jackson hit back against powerful coal-burning utility American Electric Power on Wednesday, calling its recent claims that looming EPA rules will prompt massive layoffs and plant closings a "doomsday" scenario.

AEP said last week that the agency's proposed regulations on mercury and other toxic air pollution would cause the loss of 600 jobs and force the utility to prematurely retire nearly 6,000 megawatts from old coal-fired power plants.

"The sudden increase in electricity rates and impacts on state economies will be significant

at a time when people and states are still struggling" AEP Chairman Michael G. Morris said in a statement at the time. "We will continue to work through the EPA process with the hope that the agency will recognize the cumulative impact of the proposed rules and develop a more reasonable compliance schedule."

In her testimony before the Senate Environment and Public Works Committee Wednesday morning, Jackson roundly rejected that description of the situation. She also laid out the benefits of Clean Air Act regulations and accused industry lobbyists of distorting the truth for a paycheck.

"While Americans across the country suffer from this pollution, special interests who are trying to gut long-standing public health protections are now going so far as to claim that these pollutants aren't even harmful," said Jackson in a statement. "These myths are being perpetrated by some of the same lobbyists who have in the past testified before Congress about the importance of reducing mercury and particulate matter. Now on behalf of their clients, they're saying the exact opposite."

Jackson said the implementation of the EPA's newly proposed national standards for air pollution from power plants would prevent an estimated 17,000 premature deaths, 11,000 heart attacks and 120,000 cases of childhood asthma symptoms.

The public comment period, which lawmakers say may be extended, is currently slated to end July 5.

01268-EPA-1171

Scott Fulton/DC/USEPA/US
06/15/2011 08:19 PM

To Richard Windsor, Gina McCarthy, "Bob Perciasepe", "Diane Thompson", "Scott Fulton", "Michael Goo", "Bob Sussman", Janet McCabe, Joseph Goffman

cc

bcc

Subject Re: Per my voice mail of earlier today

(b)(5) deliberative, (b) (5) Attorney-client privilege
Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 06/15/2011 08:12 PM EDT
To: Gina McCarthy; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>; "Scott Fulton" <Fulton.Scott@epa.gov>; "Michael Goo" <goo.michael@epa.gov>; "Bob Sussman" <Sussman.bob@epa.gov>; Janet McCabe; Joseph Goffman
Subject: Re: Per my voice mail of earlier today

(b)(5) deliberative
Gina McCarthy

----- Original Message -----

From: Gina McCarthy
Sent: 06/15/2011 08:11 PM EDT
To: Richard Windsor; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Diane Thompson" <Thompson.Diane@EPA.GOV>; "Scott Fulton" <Fulton.Scott@EPA.GOV>; "Michael Goo" <goo.michael@epa.gov>; "Bob Sussman" <Sussman.bob@EPA.GOV>; Janet McCabe; Joseph Goffman
Subject: Fw: Per my voice mail of earlier today

Administrator - **(b)(5) deliberative**
[Redacted]

[Redacted]

Peter Tsirigotis

----- Original Message -----

From: Peter Tsirigotis
Sent: 06/15/2011 06:02 PM EDT
To: Gina McCarthy; Joseph Goffman
Cc: Steve Page; tsirigotis.peter@epa.gov
Subject: Fw: Per my voice mail of earlier today

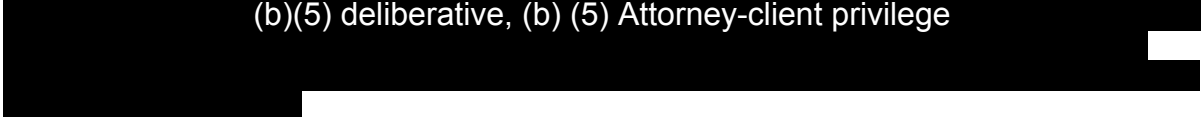
See attached. **(b)(5) deliberative**
[Redacted]

October 31, 2011 (halloween) signature of the proposed rules
April 30, 2012, signature of the final rules

----- Forwarded by Peter Tsirigotis/RTP/USEPA/US on 06/15/2011 05:57 PM -----

From: Wendy Blake/DC/USEPA/US
To: Peter Tsirigotis/RTP/USEPA/US@EPA
Cc: Patricia Embrey/DC/USEPA/US@EPA, Susmita Dubey/DC/USEPA/US@EPA
Date: 06/15/2011 01:07 PM
Subject: Per my voice mail of earlier today

(b)(5) deliberative, (b) (5) Attorney-client privilege



If you need anything further from us, please let us know.

Wendy

Wendy L. Blake
U.S. Environmental Protection Agency
Office of General Counsel
phone: (202) 564-1821
fax: (202) 564-5603

01268-EPA-1172

**Brendan
Giffilan/DC/USEPA/US**
06/16/2011 08:10 AM

To Richard Windsor, "Larry Elworth"
cc
bcc

Subject Re: [epa_e-clips] US EPA - Daily News Clips - Thursday,
June 16, 2011

It's his weekly column on his Senate office site:

Time to Hold EPA Accountable

Over the past two and a half years, the Environmental Protection Agency (EPA) has grown increasingly intrusive when it comes to regulating agriculture and businesses. This has been reflected in my conversations with many of you. Whether it's a proposed rule to regulate farm dust or farm ponds, or energy plants threatened with shutting their doors due to increased regulations, it's clear EPA is out of touch with a country and economy still working hard to emerge from a recession. The agency's aggressive rulemaking regime highlights the need to take stronger steps to rein it in, which is exactly what I've done.

Making EPA's regulations all the more frustrating is its recent barnstorming charm offensive throughout the Midwest. EPA officials have been touring rural America, maybe even stopping in a town near you, in an effort to convince farmers and ranchers that the agency's aggressive regulations won't negatively impact producers. They are telling you the Obama Administration is not "doing anything new" when it comes to new rules, especially agricultural regulations. It's baffling and disingenuous that they'd tell this to farmers and ranchers while simultaneously telling Congress they won't blink an eye if their regulations put farmers or other job creators out of business.

The double talk at EPA goes all the way to the top. Administrator Lisa Jackson recently stated that EPA plans to meet farmers and ranchers and take their thoughts into account before enacting new proposals. Yet in a letter to 33 concerned U.S. Senators, Assistant Administrator Gina McCarthy wrote that when EPA drafts proposals regarding air quality standards, it is "not focused on any specific category of sources or any activity, including activities relating to agriculture or rural roads." She left no room for confusion by adding, "the agency is prohibited from considering costs." In other words, the costs to American agriculture and businesses have no bearing on EPA's pursuit of its regulatory regime, and despite their best public relations campaign, agriculture will not be exempted.

These words are already bearing bitter-tasting fruit. Earlier this month, American Electric Power announced it would likely close three coal plants in West Virginia if EPA air quality regulations are finalized, at a cost of thousands of jobs. Everyone wants clean air, and EPA certainly should be focused on policies that improve the environment. But to be so blind to our country's agricultural and economic realities is leading us down a dangerous path.

Congress must now ramp up its oversight of EPA. Just as elected officials are held accountable for their decision-making, EPA officials must be held to the standard of their statements made to our country's farmers, ranchers and business owners. Their overreaching regulations will have rippling effects across the Heartland, and Americans have a right to know the price. Legislation I introduced with Senator Jim Inhofe (R-Okla.) would require a

cost analysis of proposed EPA rules before they go into effect. With EPA revving up its charm offensive while pushing for more onerous regulations, it's imperative that everyone involved is aware of exactly how our country and our economy will be impacted. It's time to hold EPA accountable.

----- Original Message -----

From: Richard Windsor
Sent: 06/16/2011 07:59 AM EDT
To: Brendan Gilfillan; "Larry Elworth" <Elworth.Lawrence@epa.gov>
Subject: Fw: [epa_e-clips] US EPA - Daily News Clips - Thursday, June 16, 2011

Can you get me the Johanns article referenced in the first article? Tx.

----- Original Message -----

From: "EPA NEWS" [us-epa-reports@vocus.com]
Sent: 06/16/2011 07:00 AM AST
To: "EPA E-Clips" <epa_e-clips@lists.epa.gov>
Subject: [epa_e-clips] US EPA - Daily News Clips - Thursday, June 16, 2011

Good Morning. Here are your daily news clips. This is a service provided by HQ's Office of External Affairs and Environmental Education. Please click on the link below for the clips. Contact the Office of Media Relations at 202-564-4355 if you have any questions.

http://us.vocuspr.com/Publish/518041/Forward_518041_1458818.htm?Email=epa_e-clips%40lists.epa.gov&Date=6%2f16%2f2011+7%3a00%3a48+AM

You are currently subscribed to epa_e-clips as:
Windsor.Richard@epamail.epa.gov

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OR:
Use the listserver's web interface at
https://lists.epa.gov/read/?forum=epa_e-clips to manage your subscription.

For problems with this list, contact epa_e-clips-Owner@lists.epa.gov

01268-EPA-1175

Seth Oster/DC/USEPA/US

06/20/2011 10:42 AM

To Brendan Gilfillan, David McIntosh, Richard Windsor, Bob Perciasepe, Betsaida Alcantara, Adora Andy, Bob Sussman, Laura Vaught, Stephanie Owens

cc

bcc

Subject Re: Politico breaking news:
SUPREME COURT TOSSES CLIMATE CHANGE LAWSUIT

The enviros are poised to react tot this expected decision.

(b)(5) deliberative

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

Brendan Gilfillan

SUPREME COURT TOSSES CLIMAT...

06/20/2011 10:37:29 AM

From: Brendan Gilfillan/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Seth Oster <oster.seth@epa.gov>, Adora Andy/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Daniel Kanninen/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA
Date: 06/20/2011 10:37 AM
Subject: Politico breaking news: SUPREME COURT TOSSES CLIMATE CHANGE LAWSUIT

SUPREME COURT TOSSES CLIMATE CHANGE LAWSUIT: In an [8-0 decision](#), the Supreme Court on Monday reversed a lower court ruling that allowed states and environmental groups to sue utilities over their greenhouse gas emissions. The justices held that EPA’s actions under the Clean Air Act displace the claims made under public nuisance laws.

01268-EPA-1176

Scott Fulton/DC/USEPA/US
06/20/2011 11:00 AM

To Brendan Gilfillan, Richard Windsor, Bob Perciasepe, Diane Thompson, "Seth Oster", Adora Andy, Betsaida Alcantara, David McIntosh, Arvin Ganesan, Laura Vaught, Avi Garbow, Gina McCarthy, Janet McCabe, Joseph Goffman, Bob Sussman, Daniel Kanninen, Stephanie Owens, Dru Ealons

cc

bcc

Subject Re: Politico breaking news:
SUPREME COURT TOSSES CLIMATE CHANGE LAWSUIT

(b)(5) deliberative, (b) (5) Attorney-client privilege

. Will put our folks with the press office immediately for purposes of developing a desk statement.
Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan

Sent: 06/20/2011 10:37 AM EDT

To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster <oster.seth@epa.gov>; Adora Andy; Betsaida Alcantara; David McIntosh; Arvin Ganesan; Laura Vaught; Scott Fulton; Avi Garbow; Gina McCarthy; Janet McCabe; Joseph Goffman; Bob Sussman; Daniel Kanninen; Stephanie Owens; Dru Ealons

Subject: Politico breaking news:
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01268-EPA-1177

Scott Fulton/DC/USEPA/US
06/20/2011 11:19 AM

To Brendan Gilfillan, Richard Windsor, Bob Perciasepe, Diane Thompson, "Seth Oster", Adora Andy, Betsaida Alcantara, David McIntosh, Arvin Ganesan, Laura Vaught, Avi Garbow, Gina McCarthy, Janet McCabe, Joseph Goffman, Bob Sussman, Daniel Kanninen, Stephanie Owens, Dru Ealons
cc "Joel Beauvais", "Richard Ossias", "Kevin Mclean"

bcc

Subject Re: Politico breaking news:
SUPREME COURT TOSSES CLIMATE CHANGE LAWSUIT

Hi Folks: (b)(5) deliberative, (b) (5) Attorney-client privilege
[Redacted]

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan
Sent: 06/20/2011 10:37 AM EDT
To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster <oster.seth@epa.gov>; Adora Andy; Betsaida Alcantara; David McIntosh; Arvin Ganesan; Laura Vaught; Scott Fulton; Avi Garbow; Gina McCarthy; Janet McCabe; Joseph Goffman; Bob Sussman; Daniel Kanninen; Stephanie Owens; Dru Ealons
Subject: Politico breaking news:
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01268-EPA-1178

**Brendan
Gilfillan/DC/USEPA/US**
06/20/2011 11:23 AM

To: Scott Fulton

cc Adora Andy, Arvin Ganesan, Avi Garbow, "Joel Beauvais",
Betsaida Alcantara, Bob Perciasepe, Bob Sussman, Daniel
Kanninen, David McIntosh, Diane Thompson, Dru Ealons,
Gina McCarthy, Janet McCabe, Joseph Goffman, Laura
Vaught, "Kevin Mclean", "Richard Ossias", "Seth Oster",
Richard Windsor, Stephanie Owens

bcc

Subject Re: Politico breaking news:
SUPREME COURT TOSSES CLIMATE CHANGE LAWSUIT

Thanks Scott. As an FYI, DOJ is only saying they're aware of the ruling and are reviewing it.

Scott Fulton Hi Folks: (b)(5) deliberative, (b) (5) 06/20/2011 11:19:58 AM

From: Scott Fulton/DC/USEPA/US
To: Brendan Gilfillan/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, "Seth Oster" <oster.seth@epa.gov>, Adora Andy/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Daniel Kanninen/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA
Cc: "Joel Beauvais" <Beauvais.Joel@epamail.epa.gov>, "Richard Ossias" <Ossias.Richard@epamail.epa.gov>, "Kevin Mclean" <Mclean.Kevin@epamail.epa.gov>
Date: 06/20/2011 11:19 AM
Subject: Re: Politico breaking news: SUPREME COURT TOSSES CLIMATE CHANGE LAWSUIT

Hi Folks: (b)(5) deliberative, (b) (5) Attorney-client privilege

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan
Sent: 06/20/2011 10:37 AM EDT
To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster <oster.seth@epa.gov>; Adora Andy; Betsaida Alcantara; David McIntosh; Arvin Ganesan; Laura Vaught; Scott Fulton; Avi Garbow; Gina McCarthy; Janet McCabe; Joseph Goffman; Bob Sussman; Daniel Kanninen; Stephanie Owens; Dru Ealons
Subject: Politico breaking news:
SUPREME COURT TOSSES CLIMATE CHANGE LAWSUIT

SUPREME COURT TOSSES CLIMATE CHANGE LAWSUIT: In an [8-0 decision](#), the Supreme Court on Monday reversed a lower court ruling that allowed states and environmental groups to sue utilities over their greenhouse gas emissions. The justices held that EPA's actions under the Clean Air Act displace the claims made under public nuisance laws.

01268-EPA-1189

Arvin Ganesan/DC/USEPA/US

To Richard Windsor, Bob Sussman, Bob Perciasepe, Seth Oster, Scott Fulton

06/23/2011 01:27 PM

cc

bcc

Subject Re: Boiler MACT Reconsideration Schedule

(b)(5) deliberative

There will also be additional notifications/outreach that we'll need to do.

Sent from my Blackberry Wireless Device
Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 06/23/2011 12:57 PM EDT

To: Bob Sussman; Bob Perciasepe; Seth Oster; Arvin Ganesan; Scott Fulton

Subject: Re: Boiler MACT Reconsideration Schedule

(b)(5)?

Bob Sussman

----- Original Message -----

From: Bob Sussman

Sent: 06/23/2011 12:35 PM EDT

To: Richard Windsor; Bob Perciasepe; Seth Oster; Arvin Ganesan; Scott Fulton

Subject: Boiler MACT Reconsideration Schedule

(b)(5) deliberative

(b)(5) deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
(202)-564-7397
US Environmental Protection Agency

01268-EPA-1190

Arvin Ganesan/DC/USEPA/US

To Richard Windsor, Seth Oster, Brendan Gilfillan, Bob Sussman, Bob Perciasepe

06/23/2011 02:45 PM

cc

bcc

Subject E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

This refers to the technical assistance that we provided to Bishop in advance of the Mica/Rahall CWA bill that passed out of T&I. **(b)(5) deliberative**

1. WATER POLICY: EPA warns Mica-Rahall bill would 'overturn' clean water law (06/23/2011)

Paul Quinlan, E&E reporter

U.S. EPA warned of the potential dire consequences of legislation being fast-tracked through the House that would give states final say on rules concerning water, wetlands and mountaintop-removal mining.

In a four-page [legal analysis](#), EPA said the measure ([H.R. 2018](#)) sponsored by House Transportation and Infrastructure Chairman John Mica (R-Fla.) and ranking member Nick Rahall (D-W.Va.) "would overturn almost 40 years of federal legislation by preventing EPA from protecting public health and water quality."

GOP House leaders expect to bring the bill to a floor vote this summer.

EPA said the Mica-Rahall bill would "significantly undermine" the agency's role of overseeing states' establishment and enforcement of water pollution limits and permits. It said the measure would hinder EPA's ability to intervene on behalf of downstream states harmed by pollution coming from a state upstream. And it said the bill would prevent EPA from protecting local communities from ill-conceived mountaintop-removal and similar projects allowed to go forward under Army Corps of Engineers-issued permits.

"This would fundamentally disrupt the balance established by the original [Clean Water Act] in 1972 -- a law that carefully constructed complementary roles for EPA, the Corps, and states," the analysis said.

That is the opposite of what proponents argue the bill would do. They say it would shore up what they see as the erosion of state authority under the Clean Water Act and restore a state-federal partnership on enforcement of the law.

At its core, the bill would prevent EPA from reversing or overruling previously issued approval of state water quality limits, permitting authority, or permits to dredge and fill waterways or wetlands.

Defenders of the agency say that power is necessary to keep up with new scientific understanding of pollution and health effects and to ensure that states, seen by many as more vulnerable to local influence and political pressure, are enforcing rules on their books to protect local and interstate waters.

Proponents of the bill counter that the Obama administration's EPA has abused that authority by overruling states, reversing decisions made under previous administrations and creating widespread regulatory uncertainty that has hindered job-creation and economic recovery.

Rahall and Mica have both bristled over EPA's recent actions affecting their home states, including the decision to subject mountaintop-removal mining applications to tougher review and to replace vague, state-established water pollution limits in Florida with tougher, numeric standards.

"Our coal miners are scared about their jobs, and they have received no comforting actions or signals," Rahall said yesterday before the committee approved the bill in a nearly party-line vote. "I hoped under this administration we would reach common ground. Unfortunately, that has not been the case."

In the analysis, EPA defends its power to veto permits issued by the Army Corps of Engineers, calling it "the action of last resort." Under the Mica-Rahall bill, the state would have to concur with the EPA veto.

Supporters rejected EPA's warnings, saying that states have a vested interest in protecting their waters and that EPA's arguments are "insulting to states, governors and state legislatures."

"It's not 1972 anymore -- we've come a long way since then," said Justin Harclerode, spokesman for committee Republicans. "These arguments only work if you believe that the states have no interest in protecting the health and safety of their citizens or the quality of their waters. ... Nothing in the bill overturns, prevents or eliminates any of EPA's traditional authorities or roles -- the bill simply restores the historic balance between the EPA and states under the Clean Water Act."

EPA provided the analysis to Rep. Tim Bishop (D-N.Y.), ranking member of the Transportation and Infrastructure subcommittee with jurisdiction over the Clean Water Act. Bishop railed against committee leaders' efforts to fast-track the bill and offered an amendment yesterday that would preserve EPA's authority over individual states. The amendment failed along party lines.

"This go-it-alone approach flies in the face of science, common sense and decades of experience implementing the Clean Water Act," Bishop said.

Groups weigh in

The bill has prompted an outpouring of support and opposition from various corners of the debate on federal regulatory authority over water.

Environmental groups panned the committee vote to approve the bill.

"This bill is a recipe for increased pollution, dirtier waters and more mountaintop removal mining," said Jon Devine, senior attorney in the water program at the Natural Resources Defense Council. "Its supporters seem intent on taking us back to the 'good old days' when rivers like the Cuyahoga caught fire and Lake Erie was declared dead."

Industry groups, such as the Associated Equipment Distributors, which represents heavy equipment dealers, supported the bill. "EPA is standing in the way of a broad range of economic activity that involves 'turning dirt,'" the group wrote in a letter to Mica and Rahall. "That is hampering job creation and recovery in an industry hit hard by the recession."

The National Water Resources Association (NWRA), which represents many Western agricultural irrigation districts and has advocated for states' rights over water, also applauded the bill. "The current EPA has continued to show little deference to states' rights," Executive Vice President Thomas Donnelly wrote in a letter to Mica.

A group of West Virginia chambers of commerce sent EPA Administrator Lisa Jackson a letter asking for swift consideration of mining permits, an issue the legislation seeks to address. The National Mining Association said the bill would "provide much needed certainty for jobs and the Appalachian economy."

Reporter Manuel Quinones contributed.

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(f) 202.501.1519

01268-EPA-1191

Arvin Ganesan/DC/USEPA/US

To Richard Windsor, Bob Perciasepe

06/23/2011 02:49 PM

cc

bcc

Subject Fw: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

Administrator and Bob:

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deliberati

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----- Forwarded by Arvin Ganesan/DC/USEPA/US on 06/23/2011 02:46 PM -----

From: Arvin Ganesan/DC/USEPA/US

To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA

Date: 06/23/2011 02:45 PM

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01268-EPA-1192

Arvin Ganesan/DC/USEPA/US

To Richard Windsor, Bob Perciasepe

06/23/2011 03:06 PM

cc

bcc

Subject Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5)

Sent from my Blackberry Wireless Device
Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 06/23/2011 03:04 PM EDT

To: Arvin Ganesan; Bob Perciasepe

Subject: Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5) deliberative

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan

Sent: 06/23/2011 02:49 PM EDT

To: Richard Windsor; Bob Perciasepe

Subject: Fw: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

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(p) 202.564.5200
(f) 202.501.1519

----- Forwarded by Arvin Ganesan/DC/USEPA/US on 06/23/2011 02:46 PM -----

From: Arvin Ganesan/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
Date: 06/23/2011 02:45 PM
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(f) 202.501.1519

01268-EPA-1193

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

06/23/2011 03:15 PM

cc

bcc

Subject Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5) deliberative

Sent from my Blackberry Wireless Device
Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 06/23/2011 03:09 PM EDT

To: Arvin Ganesan

Subject: Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5) deliberative

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan

Sent: 06/23/2011 03:06 PM EDT

To: Richard Windsor; Bob Perciasepe

Subject: Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5)

Sent from my Blackberry Wireless Device
Richard Windsor

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From: Richard Windsor

Sent: 06/23/2011 03:04 PM EDT

To: Arvin Ganesan; Bob Perciasepe

Subject: Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5) deliberative

Arvin Ganesan

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From: Arvin Ganesan

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Subject: Fw: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

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----- Forwarded by Arvin Ganesan/DC/USEPA/US on 06/23/2011 02:46 PM -----

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To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
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A group of West Virginia chambers of commerce sent EPA Administrator Lisa Jackson a letter asking for swift consideration of mining permits, an issue the legislation seeks to address. The National Mining Association said the bill would "provide much needed certainty for jobs and the Appalachian economy."

Reporter Manuel Quinones contributed.

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01268-EPA-1194

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

06/23/2011 04:10 PM

cc

bcc

Subject Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5)

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Richard Windsor

(b)(5) deliberative

06/23/2011 04:09:08 PM

From: Richard Windsor/DC/USEPA/US
To: Arvin Ganesan/DC/USEPA/US@EPA
Date: 06/23/2011 04:09 PM
Subject: Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5) deliberative

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 06/23/2011 03:15 PM EDT
To: Richard Windsor
Subject: Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

law

(b)(5) deliberative

Sent from my Blackberry Wireless Device

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 06/23/2011 03:09 PM EDT
To: Arvin Ganesan
Subject: Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

law

(b)(5) deliberative

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 06/23/2011 03:06 PM EDT

To: Richard Windsor; Bob Perciasepe

Subject: Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5)

Sent from my Blackberry Wireless Device
Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 06/23/2011 03:04 PM EDT

To: Arvin Ganesan; Bob Perciasepe

Subject: Re: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

(b)(5) deliberative

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan

Sent: 06/23/2011 02:49 PM EDT

To: Richard Windsor; Bob Perciasepe

Subject: Fw: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

Administrator and Bob:

I wanted to also tell you that while the tech analysis did not single out MTM, this article does. **(b)(5)**

deliberati

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----- Forwarded by Arvin Ganesan/DC/USEPA/US on 06/23/2011 02:46 PM -----

From: Arvin Ganesan/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
Date: 06/23/2011 02:45 PM
Subject: E&E: EPA warns Mica-Rahall bill would 'overturn' clean water law

This refers to the technical assistance that we provided to Bishop in advance of the Mica/Rahall CWA bill that passed out of T&I. There's opportunity here.

1. **WATER POLICY: EPA warns Mica-Rahall bill would 'overturn' clean water law** (06/23/2011)

Paul Quinlan, E&E reporter

U.S. EPA warned of the potential dire consequences of legislation being fast-tracked through the House that would give states final say on rules concerning water, wetlands and mountaintop-removal mining.

In a four-page [legal analysis](#), EPA said the measure ([H.R. 2018](#)) sponsored by House Transportation and Infrastructure Chairman John Mica (R-Fla.) and ranking member Nick Rahall (D-W.Va.) "would overturn almost 40 years of federal legislation by preventing EPA from protecting public health and water quality."

GOP House leaders expect to bring the bill to a floor vote this summer.

EPA said the Mica-Rahall bill would "significantly undermine" the agency's role of overseeing states' establishment and enforcement of water pollution limits and permits. It said the measure would hinder EPA's ability to intervene on behalf of downstream states harmed by pollution coming from a state upstream. And it said the bill would prevent EPA from protecting local communities from ill-conceived mountaintop-removal and similar projects allowed to go forward under Army Corps of Engineers-issued permits.

"This would fundamentally disrupt the balance established by the original [Clean Water Act] in 1972 -- a law that carefully constructed complementary roles for EPA, the Corps, and states," the analysis said.

That is the opposite of what proponents argue the bill would do. They say it would shore up what they see as the erosion of state authority under the Clean Water Act and restore a state-federal partnership on enforcement of the law.

At its core, the bill would prevent EPA from reversing or overruling previously issued approval of state water quality limits, permitting authority, or permits to dredge and fill waterways or wetlands.

Defenders of the agency say that power is necessary to keep up with new scientific understanding of pollution and health effects and to ensure that states, seen by many as more vulnerable to local influence and political pressure, are enforcing rules on their books to protect local and interstate waters.

Proponents of the bill counter that the Obama administration's EPA has abused that authority by overruling states, reversing decisions made under previous administrations and creating widespread regulatory uncertainty that has hindered job-creation and economic recovery.

Rahall and Mica have both bristled over EPA's recent actions affecting their home states, including the decision to subject mountaintop-removal mining applications to tougher review and to replace vague, state-established water pollution limits in Florida with tougher, numeric standards.

"Our coal miners are scared about their jobs, and they have received no comforting actions or signals," Rahall said yesterday before the committee approved the bill in a nearly party-line vote. "I hoped under this administration we would reach common ground. Unfortunately, that has not been the case."

In the analysis, EPA defends its power to veto permits issued by the Army Corps of Engineers, calling it "the action of last resort." Under the Mica-Rahall bill, the state would have to concur with the EPA veto.

Supporters rejected EPA's warnings, saying that states have a vested interest in protecting their waters and that EPA's arguments are "insulting to states, governors and state legislatures."

"It's not 1972 anymore -- we've come a long way since then," said Justin Harclerode, spokesman for committee Republicans. "These arguments only work if you believe that the states have no interest in protecting the health and safety of their citizens or the quality of their waters. ... Nothing in the bill overturns, prevents or eliminates any of EPA's traditional authorities or roles -- the bill simply restores the historic balance between the EPA and states under the Clean Water Act."

EPA provided the analysis to Rep. Tim Bishop (D-N.Y.), ranking member of the Transportation and Infrastructure subcommittee with jurisdiction over the Clean Water Act. Bishop railed against committee leaders' efforts to fast-track the bill and offered an amendment yesterday that would preserve EPA's authority over individual states. The amendment failed along party lines.

"This go-it-alone approach flies in the face of science, common sense and decades of experience implementing the Clean Water Act," Bishop said.

Groups weigh in

The bill has prompted an outpouring of support and opposition from various corners of the debate on federal regulatory authority over water.

Environmental groups panned the committee vote to approve the bill.

"This bill is a recipe for increased pollution, dirtier waters and more mountaintop removal mining," said Jon Devine, senior attorney in the water program at the Natural Resources Defense Council. "Its supporters seem intent on taking us back to the 'good old days' when rivers like the Cuyahoga caught fire and Lake Erie was declared dead."

Industry groups, such as the Associated Equipment Distributors, which represents heavy equipment dealers, supported the bill. "EPA is standing in the way of a broad range of economic activity that involves 'turning dirt,'" the group wrote in a letter to Mica and Rahall. "That is hampering job creation and recovery in an industry hit hard by the recession."

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Reporter Manuel Quinones contributed.

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01268-EPA-1196

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

06/23/2011 10:27 PM

cc

bcc

Subject Letter to Senators on NHSM/Boiler MACT

Hi:

The letter below is still going through final legal review, but I wanted to see if your'e comfortable with the direction. (b)(5) deliberative

[Redacted]

Do you have thoughts? I'll have the final draft ready for you tomorrow.

THanks!

(b)(5) deliberative

[Redacted]

(b)(5) deliberative



Sincerely,

Lisa P. Jackson

Administrator

United States Environmental Protection Agency

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01268-EPA-1197

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

06/24/2011 07:59 AM

cc

bcc

Subject Re: Letter to Senators on NHSM/Boiler MACT

(b)(5) deliberative

Sent from my Blackberry Wireless Device

From: Richard Windsor

Sent: 06/24/2011 07:53 AM EDT

To: Arvin Ganesan

Subject: Re: Letter to Senators on NHSM/Boiler MACT

(b)(5) deliberative

(b)(5) deliberative

s.

From: Arvin Ganesan

Sent: 06/23/2011 10:27 PM EDT

To: Richard Windsor

Subject: Letter to Senators on NHSM/Boiler MACT

Hi:

The letter below is still going through final legal review, but I wanted to see if your'e comfortable with the direction.

(b)(5) deliberative

Thanks!

(b)(5) deliberative

(b)(5) deliberative



(b)(5) deliberative



Sincerely,

Lisa P. Jackson

Administrator

United States Environmental Protection Agency

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01268-EPA-1198

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

cc

06/24/2011 04:04 PM

bcc

Subject letter to Senators re: NHMS

(b)(5) deliberative

Thanks.

(b)(5) deliberative

(b)(5) deliberative



Sincerely,

Lisa P. Jackson

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01268-EPA-1200

Seth Oster/DC/USEPA/US

06/25/2011 10:09 PM

To "Lisa Jackson", Bob Sussman, "Bob Perciasepe", "Paul Anastas", Al Armendariz, "Judith Enck", "Shawn M. Garvin"
cc "Betsaida Alcantara", "Brendan Gilfillan", "Stephanie Owens", "Arvin Ganesan"

bcc

Subject WSJ Editorial on Fracking

Extensive piece in today's Journal. You should read.

(b)(5) deliberative

Seth

WSJ Editorial: The Facts About Fracking

The real risks of the shale gas revolution, and how to manage them.

June 25, 2011

The U.S. is in the midst of an energy revolution, and we don't mean solar panels or wind turbines. A new gusher of natural gas from shale has the potential to transform U.S. energy production—that is, unless politicians, greens and the industry mess it up.

Only a decade ago Texas oil engineers hit upon the idea of combining two established technologies to release natural gas trapped in shale formations. Horizontal drilling—in which wells turn sideways after a certain depth—opens up big new production areas. Producers then use a 60-year-old technique called hydraulic fracturing—in which water, sand and chemicals are injected into the well at high pressure—to loosen the shale and release gas (and increasingly, oil).

The resulting boom is transforming America's energy landscape. As recently as 2000, shale gas was 1% of America's gas supplies; today it is 25%. Prior to the shale breakthrough, U.S. natural gas reserves were in decline, prices exceeded \$15 per million British thermal units, and investors were building ports to import liquid natural gas.

Today, proven reserves are the highest since 1971, prices have fallen close to \$4 and ports are being retrofitted for LNG exports. The shale boom is also reviving economically suffering parts of the country, while offering a new incentive for manufacturers to stay in the U.S. Pennsylvania's Department of Labor and Industry estimates fracking in the Marcellus shale formation, which stretches from upstate New York through West Virginia, has created 72,000 jobs in the Keystone State between the fourth quarter of 2009 and the first quarter of 2011.

The Bakken formation, along the Montana-North Dakota border, is thought to hold four billion barrels of oil (the biggest proven estimate outside Alaska), and the drilling boom helps explain North Dakota's unemployment rate of 3.2%, the nation's. Lowest.

All of this growth has inevitably attracted critics, notably environmentalists and their allies. They've launched a media and

political assault on hydraulic fracturing, and their claims are raising public anxiety. So it's a useful moment to separate truth from fiction in the main allegations against the shale revolution.

- Fracking contaminates drinking water. One claim is that fracking creates cracks in rock formations that allow chemicals to leach into sources of fresh water. The problem with this argument is that the average shale formation is thousands of feet underground, while the average drinking well or aquifer is a few hundred feet deep. Separating the two is solid rock. This geological reality explains why EPA administrator Lisa Jackson, a determined enemy of fossil fuels, recently told Congress that there have been no "proven cases where the fracking process itself has affected water."

A drilling team from Minard Run Oil Company pull out steel pipe during a fracking operation at a 2100 foot natural gas well in Pleasant Valley, Pennsylvania in 2008.

A second charge, based on a Duke University study, claims that fracking has polluted drinking water with methane gas. Methane is naturally occurring and isn't by itself harmful in drinking water, though it can explode at high concentrations. Duke authors Rob Jackson and Avner Vengosh have written that their research shows "the average methane concentration to be 17 times higher in water wells located within a kilometer of active drilling sites." They failed to note that researchers sampled a mere 68 wells across Pennsylvania and New York—where more than 20,000 water wells are drilled annually. They had no baseline data and thus no way of knowing if methane concentrations were high prior to drilling.

They also acknowledged that methane was detected in 85% of the wells they tested, regardless of drilling operations, and that they'd found no trace of fracking fluids in any wells. The Duke study did spotlight a long-known and more legitimate concern:

the possibility of leaky well casings at the top of a drilling site, from which methane might migrate to water supplies. As the BP Gulf of Mexico spill attests, proper well construction and maintenance are major issues in any type of drilling, and they ought to be the focus of industry standards and attention. But the risks are not unique to fracking, which has provided no unusual evidence of contamination.

- Fracking releases toxic or radioactive chemicals. The reality is that 99.5% of the fluid injected into fracture rock is water and sand. The chemicals range from the benign, such as citric acid (found in soda pop), to benzene. States like Wyoming and Pennsylvania require companies to publicly disclose their chemicals, Texas recently passed a similar law, and other states will follow. Drillers must dispose of fracking fluids, and environmentalists charge that disposal sites also endanger drinking water, or that drillers deliberately discharge radioactive wastewater into streams. The latter accusation inspired the EPA to require that Pennsylvania test for radioactivity. States already have strict rules designed to keep waste water from groundwater, including liners in waste pits, and drillers are subject to stiff penalties for violations. Pennsylvania's tests showed radioactivity at or below normal levels.

- Fracking causes cancer. In Dish, Texas, Mayor Calvin Tillman caused a furor this year by announcing that he was quitting to move his sons away from "toxic" gases—such as cancer-causing benzene—from the town's 60 gas wells. State health officials investigated and determined that toxin levels in the majority of Dish residents were "similar to those measured in the general U.S. population." Residents with higher levels of benzene in their blood were smokers. (Cigarette smoke contains benzene.)

- Fracking causes earthquakes. It is possible that the deep underground injection of fracking fluids might cause seismic activity. But the same can be said of geothermal energy exploration, or projects to sequester carbon dioxide underground. Given the ubiquity of fracking without seismic impact, the risks would seem to be remote.

- Pollution from trucks. Drillers use trucks to haul sand, cement and fluids, and those certainly increase traffic congestion and pollution. We think the trade-off between these effects and economic development are for states and localities to judge, keeping in mind that externalities decrease as drillers become more efficient.

- Shale exploration is unregulated. Environmentalists claim fracking was "exempted" in 2005 from the federal Safe Water Drinking Act, thanks to industry lobbying. In truth, all U.S. companies must abide by federal water laws, and what the greens are really saying is that fracking should be singled out for special and unprecedented EPA oversight. Most drilling operations—including fracking—have long been regulated by the states. Operators need permits to drill and are subject to inspections and reporting requirements. Many resource-rich states like Texas have detailed fracking rules, while states newer to drilling are developing these regulations.

As a regulatory model, consider Pennsylvania. Recently departed Governor Ed Rendell is a Democrat, and as the shale boom progressed he worked with industry and regulators to develop a flexible regulatory environment that could keep pace with a rapidly growing industry. As questions arose about well casings, for instance, Pennsylvania imposed new casing and performance requirements. The state has also increased fees for processing shale permits, which has allowed it to hire more inspectors and permitting staff. New York, by contrast, has missed the shale play by imposing a moratorium on fracking. The new state Attorney General, Eric Schneiderman, recently sued the federal government to require an extensive environmental review of the entire Delaware River Basin.

Meanwhile, the EPA is elbowing its way into the fracking debate, studying the impact on drinking water, animals and "environmental justice."

Amid this political scrutiny, the industry will have to take great drilling care while better making its public case. In this age of saturation media, a single serious example of water contamination could lead to a political panic that would jeopardize tens of billions of dollars of investment. The industry needs to establish best practices and blow the whistle on drillers that dodge the rules. The question for the rest of us is whether we are serious about domestic energy production.

All forms of energy have risks and environmental costs, not least wind (noise and dead birds and bats) and solar (vast expanses of land). Yet renewables are nowhere close to supplying enough energy, even with large subsidies, to maintain America's standard of living. The shale gas and oil boom is the result of U.S. business innovation and risk-taking. If we let the fear of undocumented pollution kill this boom, we will deserve our fate as a second-class industrial power.

01268-EPA-1201

**Brendan
Gilfillan/DC/USEPA/US**
06/26/2011 06:44 AM

To Paul Anastas, Seth Oster, "Lisa Jackson", Bob Sussman,
Bob Perciasepe, "Paul Anastas", Al Armendariz, "Judith
Enck", Shawn Garvin
cc "Betsaida Alcantara", "Brendan Gilfillan", Stephanie Owens,
"Arvin Ganesan"
bcc

Subject Re: WSJ Editorial on Fracking

Coincidentally, the latest piece in NYT's fracking series:ran this morning and it paints a slightly different picture: they have insider emails saying the natural gas reserves may not be as easy to access or as large as the companies are saying

DRILLING DOWN: Insiders Sound an Alarm Amid a Natural Gas Rush
By IAN URBINA
Published: June 26, 2011

Natural gas companies have been placing enormous bets on the wells they are drilling, saying they will deliver big profits and provide a vast new source of energy for the United States.

But the gas may not be as easy and cheap to extract from shale formations deep underground as the companies are saying, according to hundreds of industry e-mails and internal documents and an analysis of data from thousands of wells.

In the e-mails, energy executives, industry lawyers, state geologists and market analysts voice skepticism about lofty forecasts and question whether companies are intentionally, and even illegally, overstating the productivity of their wells and the size of their reserves. Many of these e-mails also suggest a view that is in stark contrast to more bullish public comments made by the industry, in much the same way that insiders have raised doubts about previous financial bubbles.

"Money is pouring in" from investors even though shale gas is "inherently unprofitable," an analyst from PNC Wealth Management, an investment company, wrote to a contractor in a February e-mail. "Reminds you of dot-coms."

"The word in the world of independents is that the shale plays are just giant Ponzi schemes and the economics just do not work," an analyst from IHS Drilling Data, an energy research company, wrote in an e-mail on Aug. 28, 2009.

Company data for more than 10,000 wells in three major shale gas formations raise further questions about the industry's prospects. There is undoubtedly a vast amount of gas in the formations. The question remains how affordably it can be extracted.

The data show that while there are some very active wells, they are often surrounded by vast zones of less-productive wells that in some cases cost more to drill and operate than the gas they produce is worth. Also, the amount of gas produced by many of the successful wells is falling much faster than initially predicted by energy companies, making it more difficult for them to turn a profit over the long run.

If the industry does not live up to expectations, the impact will be felt widely. Federal and state lawmakers are considering drastically increasing subsidies for the natural gas business in the hope that it will provide low-cost energy for decades to come.

But if natural gas ultimately proves more expensive to extract from the ground than has been predicted, landowners, investors and lenders could see their investments falter, while consumers will pay a price in higher electricity and home heating bills.

There are implications for the environment, too. The technology used to get gas flowing out of the ground - called hydraulic fracturing, or hydrofracking - can require over a million gallons of water per well, and some of that water must be disposed of because it becomes contaminated by the process. If shale gas wells fade faster than expected, energy companies will have to drill more wells or hydrofrack them more often, resulting in more toxic waste.

The e-mails were obtained through open-records requests or provided to The New York Times by industry consultants and analysts who say they believe that the public perception of shale gas does not match reality; names and identifying information were redacted to protect these people, who were not authorized to communicate publicly. In the e-mails, some people within the industry voice grave concerns.

"And now these corporate giants are having an Enron moment," a retired geologist from a major oil and gas company wrote in a February e-mail about other companies invested in shale gas. "They want to bend light to hide the truth."

Others within the industry remain optimistic. They argue that shale gas economics will improve as the price of gas rises, technology evolves and demand for gas grows with help from increased federal subsidies being considered by Congress. "Shale gas supply is only going to increase," Steven C. Dixon, executive vice president of Chesapeake Energy, said at an energy industry conference in April in response to skepticism about well performance.

Studying the Data

"I think we have a big problem."

Deborah Rogers, a member of the advisory committee of the Federal Reserve Bank of Dallas, recalled saying that in a May 2010 telephone call to a senior economist at the Reserve, Mine K. Yucel. "We need to take a close look at this right away," she added.

A former stockbroker with Merrill Lynch, Ms. Rogers said she started studying well data from shale companies in October 2009 after attending a speech by the chief executive of Chesapeake, Aubrey K. McClendon. The math was not adding up, Ms. Rogers said. Her research showed that wells were petering out faster than expected.

"These wells are depleting so quickly that the operators are in an expensive game of 'catch-up,'" Ms. Rogers wrote in an e-mail on Nov. 17, 2009, to a petroleum geologist in Houston, who wrote back that he agreed.

"This could have profound consequences for our local economy," she explained in the e-mail.

Fort Worth residents were already reeling from the sudden reversal of fortune for the natural gas industry.

In early 2008, energy companies were scrambling in Fort Worth to get residents to lease their land for drilling as they searched for so-called monster wells. Billboards along the highways stoked the boom-time excitement: "If you don't have a gas lease, get one!" Oil and gas companies were in a fierce bidding war for drilling rights, offering people bonuses as high as \$27,500 per acre for signing leases.

The actor Tommy Lee Jones signed on as a pitchman for Chesapeake, one of the largest shale gas companies. "The extremely long-term benefits include new jobs and capital investment and royalties and revenues that pay for public roads, schools and parks," he said in one television advertisement about drilling in the Barnett shale in and around Fort Worth.

To investors, shale companies had a more sophisticated pitch. With better technology, they had refined a "manufacturing model," they said, that would allow them to drop a well virtually anywhere in certain parts of a shale formation and expect long-lasting returns.

For Wall Street, this was the holy grail: a low-risk and high-profit proposition. But by late 2008, the

recession took hold and the price of natural gas plunged by nearly two-thirds, throwing the drilling companies' business model into a tailspin.

In Texas, the advertisements featuring Mr. Jones disappeared. Energy companies rescinded high-priced lease offers to thousands of residents, which prompted class-action lawsuits. Royalty checks dwindled. Tax receipts fell.

The impact of the downturn was immediate for many.

"Ruinous, that's how I'd describe it," said the Rev. Kyeve Tatum, president of the Fort Worth chapter of the Southern Christian Leadership Conference.

Mr. Tatum explained that dozens of black churches in Fort Worth signed leases on the promise of big money. Instead, some churches were told that their land may no longer be tax exempt even though they had yet to make any royalties on the wells, he said.

That boom-and-bust volatility had raised eyebrows among people like Ms. Rogers, as well as energy analysts and geologists, who started looking closely at the data on wells' performance.

In May 2010, the Federal Reserve Bank of Dallas called a meeting to discuss the matter after prodding from Ms. Rogers. One speaker was Kenneth B. Medlock III, an energy expert at Rice University, who described a promising future for the shale gas industry in the United States. When he was done, Ms. Rogers peppered him with questions.

Might growing environmental concerns raise the cost of doing business? If wells were dying off faster than predicted, how many new wells would need to be drilled to meet projections?

Mr. Medlock conceded that production in the Barnett shale formation - or "play," in industry jargon - was indeed flat and would probably soon decline.

"Activity will shift toward other plays because the returns there are higher," he predicted. Ms. Rogers turned to the other commissioners to see if they shared her skepticism, but she said she saw only blank stares.

Bubbling Doubts

Some doubts about the industry are being raised by people who work inside energy companies, too.

"Our engineers here project these wells out to 20-30 years of production and in my mind that has yet to be proven as viable," wrote a geologist at Chesapeake in a March 17 e-mail to a federal energy analyst. "In fact I'm quite skeptical of it myself when you see the % decline in the first year of production."

"In these shale gas plays no well is really economic right now," the geologist said in a previous e-mail to the same official on March 16. "They are all losing a little money or only making a little bit of money."

Around the same time the geologist sent the e-mail, Mr. McClendon, Chesapeake's chief executive, told investors, "It's time to get bullish on natural gas."

In September 2009, a geologist from ConocoPhillips, one of the largest producers of natural gas in the Barnett shale, warned in an e-mail to a colleague that shale gas might end up as "the world's largest uneconomic field." About six months later, the company's chief executive, James J. Mulva, described natural gas as "nature's gift," adding that "rather than being expensive, shale gas is often the low-cost source." Asked about the e-mail, John C. Roper, a spokesman for ConocoPhillips, said he absolutely believed that shale gas is economically viable.

A big attraction for investors is the increasing size of the gas reserves that some companies are reporting. Reserves - in effect, the amount of gas that a company says it can feasibly access from its wells - are

important because they are a central measure of an oil and gas company's value.

Forecasting these reserves is a tricky science. Early predictions are sometimes lowered because of drops in gas prices, as happened in 2008. Intentionally overbooking reserves, however, is illegal because it misleads investors. Industry e-mails, mostly from 2009 and later, include language from oil and gas executives questioning whether other energy companies are doing just that.

The e-mails do not explicitly accuse any companies of breaking the law. But the number of e-mails, the seniority of the people writing them, the variety of positions they hold and the language they use - including comparisons to Ponzi schemes and attempts to "con" Wall Street - suggest that questions about the shale gas industry exist in many corners.

"Do you think that there may be something suspicious going with the public companies in regard to booking shale reserves?" a senior official from Ivy Energy, an investment firm specializing in the energy sector, wrote in a 2009 e-mail.

A former Enron executive wrote in 2009 while working at an energy company: "I wonder when they will start telling people these wells are just not what they thought they were going to be?" He added that the behavior of shale gas companies reminded him of what he saw when he worked at Enron.

Production data, provided by companies to state regulators and reviewed by The Times, show that many wells are not performing as the industry expected. In three major shale formations - the Barnett in Texas, the Haynesville in East Texas and Louisiana and the Fayetteville, across Arkansas - less than 20 percent of the area heralded by companies as productive is emerging as likely to be profitable under current market conditions, according to the data and industry analysts.

Richard K. Stoneburner, president and chief operating officer of Petrohawk Energy, said that looking at entire shale formations was misleading because some companies drilled only in the best areas or had lower costs. "Outside those areas, you can drill a lot of wells that will never live up to expectations," he added.

Although energy companies routinely project that shale gas wells will produce gas at a reasonable rate for anywhere from 20 to 65 years, these companies have been making such predictions based on limited data and a certain amount of guesswork, since shale drilling is a relatively new practice.

Most gas companies claim that production will drop sharply after the first few years but then level off, allowing most wells to produce gas for decades.

Gas production data reviewed by The Times suggest that many wells in shale gas fields do not level off the way many companies predict but instead decline steadily.

"This kind of data is making it harder and harder to deny that the shale gas revolution is being oversold," said Art Berman, a Houston-based geologist who worked for two decades at Amoco and has been one of the most vocal skeptics of shale gas economics.

The Barnett shale, which has the longest production history, provides the most reliable case study for predicting future shale gas potential. The data suggest that if the wells' production continues to decline in the current manner, many will become financially unviable within 10 to 15 years.

A review of more than 9,000 wells, using data from 2003 to 2009, shows that - based on widely used industry assumptions about the market price of gas and the cost of drilling and operating a well - less than 10 percent of the wells had recouped their estimated costs by the time they were seven years old.

Terry Engelder, a professor of geosciences at Pennsylvania State University, said the debate over long-term well performance was far from resolved. The Haynesville shale has not lived up to early expectations, he said, but industry projections have become more accurate and some wells in the Marcellus shale, which stretches from Virginia to New York, are outperforming expectations.

A Sense of Confidence

Many people within the industry remain confident.

"I wouldn't worry about these shale companies," said T. Boone Pickens, the oil and gas industry executive, adding that he believes that if prices rise, shale gas companies will make good money.

Mr. Pickens said that technological improvements - including hydrofracking wells more than once - are already making production more cost-effective, which is why some major companies like ExxonMobil have recently bought into shale gas.

Shale companies are also adjusting their strategies to make money by focusing on shale wells that produce lucrative liquids, like propane and butane, in addition to natural gas.

Asked about the e-mails from the Chesapeake geologist casting doubt on company projections, a Chesapeake spokesman, Jim Gipson, said the company was fully confident that a majority of wells would be productive for 30 years or more.

David Pendery, a spokesman for IHS, added that though shale gas prospects had previously been debated by many analysts, in more recent years costs had fallen and technology had improved.

Still, in private exchanges, many industry insiders are skeptical, even cynical, about the industry's pronouncements. "All about making money," an official from Schlumberger, an oil and gas services company, wrote in a July 2010 e-mail to a former federal regulator about drilling a well in Europe, where some United States shale companies are hunting for better market opportunities.

"Looks like crap," the Schlumberger official wrote about the well's performance, according to the regulator, "but operator will flip it based on 'potential' and make some money on it."

"Always a greater sucker," the e-mail concluded.

Drilling Down: Articles in this series are examining the risks of natural gas drilling and efforts to regulate this rapidly growing industry.

Robbie Brown contributed reporting from Atlanta.

Paul Anastas

----- Original Message -----

From: Paul Anastas

Sent: 06/26/2011 06:07 AM EDT

To: Seth Oster; "Lisa Jackson" <windsor.richard@epa.gov>; Bob Sussman; Bob Perciasepe; "Paul Anastas" <anastas.paul@epa.gov>; Al Armendariz; "Judith Enck" <enck.judith@epa.gov>; Shawn Garvin

Cc: "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Stephanie Owens; "Arvin Ganesan" <ganesan.arvin@epa.gov>

Subject: Re: WSJ Editorial on Fracking

Thanks Seth

We should discuss further. As you know, Bob and I are appearing before the DOE Advisory Panel on Tuesday and these issues are likely to be raised

Seth Oster

----- Original Message -----

From: Seth Oster

Sent: 06/25/2011 10:09 PM EDT

To: "Lisa Jackson" <windsor.richard@epa.gov>; Bob Sussman; Bob Perciasepe;

"Paul Anastas" <anastas.paul@epa.gov>; Al Armendariz; "Judith Enck" <enck.judith@epa.gov>; Shawn Garvin

Cc: "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Stephanie Owens; "Arvin Ganesan" <ganesan.arvin@epa.gov>

Subject: WSJ Editorial on Fracking

Extensive piece in today's Journal. You should read.

(b)(5) deliberative

Seth

WSJ Editorial: The Facts About Fracking

The real risks of the shale gas revolution, and how to manage them.

June 25, 2011

The U.S. is in the midst of an energy revolution, and we don't mean solar panels or wind turbines. A new gusher of natural gas from shale has the potential to transform U.S. energy production—that is, unless politicians, greens and the industry mess it up.

Only a decade ago Texas oil engineers hit upon the idea of combining two established technologies to release natural gas trapped in shale formations. Horizontal drilling—in which wells turn sideways after a certain depth—opens up big new production areas. Producers then use a 60-year-old technique called hydraulic fracturing—in which water, sand and chemicals are injected into the well at high pressure—to loosen the shale and release gas (and increasingly, oil).

The resulting boom is transforming America's energy landscape. As recently as 2000, shale gas was 1% of America's gas supplies; today it is 25%. Prior to the shale breakthrough, U.S. natural gas reserves were in decline, prices exceeded \$15 per million British thermal units, and investors were building ports to import liquid natural gas.

Today, proven reserves are the highest since 1971, prices have fallen close to \$4 and ports are being retrofitted for LNG exports. The shale boom is also reviving economically suffering parts of the country, while offering a new incentive for manufacturers to stay in the U.S. Pennsylvania's Department of Labor and Industry estimates fracking in the Marcellus shale formation, which stretches from upstate New York through West Virginia, has created 72,000 jobs in the Keystone State between the fourth quarter of 2009 and the first quarter of 2011.

The Bakken formation, along the Montana-North Dakota border, is thought to hold four billion barrels of oil (the biggest proven estimate outside Alaska), and the drilling boom helps explain North Dakota's unemployment rate of 3.2%, the nation's. Lowest.

All of this growth has inevitably attracted critics, notably environmentalists and their allies. They've launched a media and political assault on hydraulic fracturing, and their claims are raising public anxiety. So it's a useful moment to separate truth from fiction in the main allegations against the shale revolution.

- Fracking contaminates drinking water. One claim is that fracking creates cracks in rock formations that allow chemicals to leach into sources of fresh water. The problem with this argument is that the average shale formation is thousands of feet underground, while the average drinking well or aquifer is a few hundred feet deep. Separating the two is solid rock. This geological reality explains why EPA administrator Lisa Jackson, a determined enemy of fossil fuels, recently told Congress that there have been no "proven cases where the fracking process itself has affected water."

A drilling team from Minard Run Oil Company pull out steel pipe during a fracking operation at a 2100 foot natural gas well in Pleasant Valley, Pennsylvania in 2008.

A second charge, based on a Duke University study, claims that fracking has polluted drinking water with methane gas. Methane is naturally occurring and isn't by itself harmful in drinking water, though it can explode at high concentrations. Duke authors Rob Jackson and Avner Vengosh have written that their research shows "the average methane concentration to be 17 times higher in water wells located within a kilometer of active drilling sites." They failed to note that researchers sampled a mere 68 wells across Pennsylvania and New York—where more than 20,000 water wells are drilled annually. They had no baseline data and thus no way of knowing if methane concentrations were high prior to drilling.

They also acknowledged that methane was detected in 85% of the wells they tested, regardless of drilling operations, and that they'd found no trace of fracking fluids in any wells. The Duke study did spotlight a long-known and more legitimate concern:

the possibility of leaky well casings at the top of a drilling site, from which methane might migrate to water supplies. As the BP Gulf of Mexico spill attests, proper well construction and maintenance are major issues in any type of drilling, and they ought to be the focus of industry standards and attention. But the risks are not unique to fracking, which has provided no unusual evidence of contamination.

- Fracking releases toxic or radioactive chemicals. The reality is that 99.5% of the fluid injected into fracture rock is water and sand. The chemicals range from the benign, such as citric acid (found in soda pop), to benzene. States like Wyoming and Pennsylvania require companies to publicly disclose their chemicals, Texas recently passed a similar law, and other states will follow. Drillers must dispose of fracking fluids, and environmentalists charge that disposal sites also endanger drinking water, or that drillers deliberately discharge radioactive wastewater into streams. The latter accusation inspired the EPA to require that Pennsylvania test for radioactivity. States already have strict rules designed to keep waste water from groundwater, including liners in waste pits, and drillers are subject to stiff penalties for violations. Pennsylvania's tests showed radioactivity at or below normal levels.

- Fracking causes cancer. In Dish, Texas, Mayor Calvin Tillman caused a furor this year by announcing that he was quitting to move his sons away from "toxic" gases—such as cancer-causing benzene—from the town's 60 gas wells. State health officials investigated and determined that toxin levels in the majority of Dish residents were "similar to those measured in the general U.S. population." Residents with higher levels of benzene in their blood were smokers. (Cigarette smoke contains benzene.)

- Fracking causes earthquakes. It is possible that the deep underground injection of fracking fluids might cause seismic activity. But the same can be said of geothermal energy exploration, or projects to sequester carbon dioxide underground. Given the ubiquity of fracking without seismic impact, the risks would seem to be remote.

- Pollution from trucks. Drillers use trucks to haul sand, cement and fluids, and those certainly increase traffic congestion and pollution. We think the trade-off between these effects and economic development are for states and localities to judge, keeping in mind that externalities decrease as drillers become more efficient.

- Shale exploration is unregulated. Environmentalists claim fracking was "exempted" in 2005 from the federal Safe Water Drinking Act, thanks to industry lobbying. In truth, all U.S. companies must abide by federal water laws, and what the greens are really saying is that fracking should be singled out for special and unprecedented EPA oversight. Most drilling operations—including fracking—have long been regulated by the states. Operators need permits to drill and are subject to inspections and reporting requirements. Many resource-rich states like Texas have detailed fracking rules, while states newer to drilling are developing these regulations.

As a regulatory model, consider Pennsylvania. Recently departed Governor Ed Rendell is a Democrat, and as the shale boom progressed he worked with industry and regulators to develop a flexible regulatory environment that could keep pace with a rapidly growing industry. As questions arose about well casings, for instance, Pennsylvania imposed new casing and performance requirements. The state has also increased fees for processing shale permits, which has allowed it to hire more inspectors and permitting staff. New York, by contrast, has missed the shale play by imposing a moratorium on fracking. The new state Attorney General, Eric Schneiderman, recently sued the federal government to require an extensive environmental review of the entire Delaware River Basin.

Meanwhile, the EPA is elbowing its way into the fracking debate, studying the impact on drinking water, animals and "environmental justice."

Amid this political scrutiny, the industry will have to take great drilling care while better making its public case. In this age of saturation media, a single serious example of water contamination could lead to a political panic that would jeopardize tens of billions of dollars of investment. The industry needs to establish best practices and blow the whistle on drillers that dodge the rules. The question for the rest of us is whether we are serious about domestic energy production.

All forms of energy have risks and environmental costs, not least wind (noise and dead birds and bats) and solar (vast expanses of land). Yet renewables are nowhere close to supplying enough energy, even with large subsidies, to maintain America's standard of living. The shale gas and oil boom is the result of U.S. business innovation and risk-taking. If we let the fear of undocumented pollution kill this boom, we will deserve our fate as a second-class industrial power.

01268-EPA-1206

Arvin Ganesan/DC/USEPA/US

To Richard Windsor, Bob Sussman, Mathy Stanislaus, Lisa Feldt, Gina McCarthy, Bob Perciasepe, Diane Thompson, Michael Goo, Bicky Corman, Laura Vaught

06/29/2011 02:27 PM

cc

bcc

Subject Call with the Senate on NHSM

Lisa F and I had a followup call with the 5 Senate offices that we met with last week on the NHSM rule and its interactions with the Boiler MACT and CISWI standard. While their reaction was not a negative one to the guidance approach, they appeared to approach it with some degree of skepticism. We have committed to write them a follow up letter by the end of next week fully committing to guidance and including the concept paper that OSWER is currently drafting. (b)(5) deliberative

[REDACTED]

Thanks.
Arvin

01268-EPA-1209

Seth Oster/DC/USEPA/US

To Richard Windsor

07/02/2011 09:59 PM

cc

bcc

Subject Re: Washington Post Editorial: An overblown attack on EPA emissions rules

Were you expecting a negative piece?
Richard Windsor

----- Original Message -----

From: Richard Windsor**Sent:** 07/02/2011 09:54 PM EDT

To: Brendan Gilfillan; Bob Perciasepe; Diane Thompson; Seth Oster; Adora Andy; Betsaida Alcantara; "Arvin Ganesan" <ganesan.arvin@epa.gov>; "vaught laura" <vaught.laura@epa.gov>; "Stephanie Owens" <Owens.Stephanie@epa.gov>; "ealons gov" <ealons.gov@epa.gov>; Gina McCarthy; Joseph Goffman; "mccabe janet" <mccabe.janet@epa.gov>; Daniel Kanninen

Subject: Re: Washington Post Editorial: An overblown attack on EPA emissions rules

Well -i'll be.

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan**Sent:** 07/02/2011 09:08 PM EDT

To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster; Adora Andy; Betsaida Alcantara; ganesan.arvin@epa.gov; vaught.laura@epa.gov; owens.stephanie@epa.gov; ealons.gov@epa.gov; Gina McCarthy; Joseph Goffman; mccabe.janet@epa.gov; Daniel Kanninen

Subject: Washington Post Editorial: An overblown attack on EPA emissions rules

PRACTICALLY EVERY day on the campaign trail, Republican presidential hopefuls blast President Obama's "job-killing regulations." Atop their list are rules from the Environmental Protection Agency, one of which the EPA will finalize this week.

The would-be presidents aren't alone. Since the Republicans took control of Congress, GOP lawmakers have repeatedly attempted to derail rules on the greenhouse gas that cause climate change, as well as new restrictions on conventional air pollutants that the EPA has regulated for decades – gases and particulates that contribute to asthma, heart attacks and other health problems. Republicans on the House Energy and Commerce Committee have announced that they will introduce a bill in August designed to roll back pending regulations on toxic air pollutants from utilities and industrial boilers.

Yet predictions of EPA-induced disaster are wildly overblown, at best.

Bloomberg Government released a study on greenhouse gas regulation last month, finding that the first phase of the EPA's efforts will cost little and produce little in terms of emissions reductions, since power plants are becoming more efficient and therefore producing fewer emissions anyway. Bloomberg found that forthcoming greenhouse gas rules might be tougher, but that, among other things, utilities will respond by simply burning more cheap natural gas instead of coal.

Meanwhile, the Center for American Progress pointed out that many coal power plants – the sort of facilities that an EPA crackdown on toxic air pollutants such as mercury would affect – already have relevant pollution control technologies installed or in construction. And dozens of those that don't are old, inefficient, rarely used and, in many cases, slated for closure. Last year a Credit Suisse study found that

EPA anti-air-pollution rules might encourage some additional coal plants to shut down – but that the closures would actually help utilities in oversupplied power markets, not to mention improving ambient air quality.

There will, of course, be costs. But there will also be benefits. The EPA asserts that for every dollar spent on measures to cut particulate and ozone pollution, there will be \$30 in economic benefits to public health – fewer sick days taken, fewer chronic illnesses, fewer early deaths. On greenhouse gases, a fair reading of the EPA's new air pollution rules suggests that, if anything, they won't do nearly enough to address the risks associated with climate change, perhaps cutting emissions a few percentage points relative to business as usual. And since the EPA is using an old statute to tackle carbon emissions, which it hasn't done before, its effort to do even that will be subject to years of legal challenges.

Instead of blasting the EPA, Congress could craft climate policy that is both more efficient and more effective – upping energy research budgets and putting a price on carbon. But, judging from the rhetoric on the campaign trail and in the House, we aren't optimistic that will happen anytime soon.

01268-EPA-1210

Seth Oster/DC/USEPA/US

To Richard Windsor

07/02/2011 10:02 PM

cc

bcc

Subject Re: Washington Post Editorial: An overblown attack on EPA emissions rules

I actually told you about it -- it was when we talked when you were driving on Thursday. We had been working the piece. No word on the NY Times. I'm continuing to check the Web site. Nothing yet. Will let you know the minute I know.

Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 07/02/2011 10:00 PM EDT

To: Seth Oster

Subject: Re: Washington Post Editorial: An overblown attack on EPA emissions rules

From the Post? Wouldn't be surprised. Though I had no idea they were writing. Anything from NYT?

Seth Oster

----- Original Message -----

From: Seth Oster

Sent: 07/02/2011 09:59 PM EDT

To: Richard Windsor

Subject: Re: Washington Post Editorial: An overblown attack on EPA emissions rules

Were you expecting a negative piece?

Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 07/02/2011 09:54 PM EDT

To: Brendan Gilfillan; Bob Perciasepe; Diane Thompson; Seth Oster; Adora Andy; Betsaida Alcantara; "Arvin Ganesan" <ganesan.arvin@epa.gov>; "vaught laura" <vaught.laura@epa.gov>; "Stephanie Owens" <Owens.Stephannie@epa.gov>; "ealons gov" <ealons.gov@epa.gov>; Gina McCarthy; Joseph Goffman; "mccabe janet" <mccabe.janet@epa.gov>; Daniel Kanninen

Subject: Re: Washington Post Editorial: An overblown attack on EPA emissions rules

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Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan

Sent: 07/02/2011 09:08 PM EDT

To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster; Adora Andy; Betsaida Alcantara; ganesan.arvin@epa.gov; vaught.laura@epa.gov; owens.stephanie@epa.gov; ealons.gov@epa.gov; Gina McCarthy; Joseph Goffman; mccabe.janet@epa.gov; Daniel Kanninen

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Instead of blasting the EPA, Congress could craft climate policy that is both more efficient and more effective – upping energy research budgets and putting a price on carbon. But, judging from the rhetoric on the campaign trail and in the House, we aren't optimistic that will happen anytime soon.

01268-EPA-1212

Scott Fulton/DC/USEPA/US
07/03/2011 11:21 AM

To Bob Sussman, Avi Garbow
cc Nancy Stoner, Bob Perciasepe, Richard Windsor
bcc
Subject Re: Jul. 1 -- BNA, Inc. Daily Environment Report - Breaking News -- Rule v. guidance ruling

My folks are on it. We'll have an analysis to share on Tuesday.
Bob Sussman

----- Original Message -----

From: Bob Sussman
Sent: 07/03/2011 11:17 AM EDT
To: Scott Fulton; Avi Garbow
Cc: Nancy Stoner; Bob Perciasepe; Richard Windsor
Subject: Fw: Jul. 1 -- BNA, Inc. Daily Environment Report - Breaking News

-- Rule v. guidance ruling

I wanted to put on your screen this DC Circuit decision, which holds that "guidance" issued under the CAA is in fact rulemaking. (b)(5) deliberative, (b) (5) Attorney-client privilege

[Redacted]

[Redacted]

----- Forwarded by Bob Sussman/DC/USEPA/US on 07/03/2011 11:09 AM -----

From: Nancy Stoner/DC/USEPA/US
To: Gregory Peck/DC/USEPA/US@EPA, "Nancy Stoner" <stoner.nancy@epa.gov>, Bob Sussman/DC/USEPA/US@EPA
Date: 07/01/2011 02:20 PM
Subject: Re: Jul. 1 -- BNA, Inc. Daily Environment Report - Breaking News -- Rule v. guidance ruling

Not helpful -- (b)(5) deliberative,
Nancy K. Stoner

From: Gregory Peck
Sent: 07/01/2011 02:15 PM EDT
To: "Nancy Stoner" <stoner.nancy@epa.gov>; Bob Sussman
Subject: Fw: Jul. 1 -- BNA, Inc. Daily Environment Report - Breaking News -- Rule v. guidance ruling

Rut roh.

Gregory E. Peck
Chief of Staff
Office of Water
U.S. E.P.A.

From: Matthew Klasen
Sent: 07/01/2011 02:02 PM EDT
To: Gregory Peck; Karyn Wendelowski; Gautam Srinivasan
Subject: Fw: Jul. 1 -- BNA, Inc. Daily Environment Report - Breaking News -- Rule v. guidance ruling

Uh oh...new D.C. Circuit caselaw on rule v. guidance...

mk

Matt Klasen
U.S. Environmental Protection Agency
Office of Water (IO)
202-566-0780
cell (202) 380-7229

-----Forwarded by Matthew Klasen/DC/USEPA/US on 07/01/2011 02:01PM -----

To: Matthew Klasen/DC/USEPA/US@EPA
From: BNA Highlights <bhighlig@bna.com>
Date: 07/01/2011 01:58PM
Subject: Jul. 1 -- BNA, Inc. Daily Environment Report - Breaking News

E-mail not displaying correctly? View publication in your browser: <http://news.bna.com/deln>

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Breaking News

Appeals Court Vacates EPA Guidance On Alternatives to Ozone Pollution Fees

Posted July 1, 2011, 1:53 P.M. ET

A federal appeals court July 1 [vacated](#) Environmental Protection Agency guidance that allowed some states to avoid collecting polluter fees in areas with severe or extreme ozone problems by using alternative compliance measures instead, saying the agency should have conducted a notice-and-comment rulemaking (Natural Resources Defense Council v. EPA, D.C. Cir., No. 10-1056, 1/7/2011).

A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit concluded unanimously that EPA violated the Administrative Procedure Act in developing the alternatives through guidance rather than rulemaking.

"On the merits, we conclude that the guidance qualifies as a legislative rule that EPA was required to issue through notice and comment rulemaking and that one of its features—the so-called attainment alternative—violates the Clean Air Act's plain language," the court said in its decision.

EPA issued guidance in January 2010 allowing states to waive the fees if they established alternate programs to comply with Section 185 of the Clean Air Act. That section requires states to collect fees from polluters in "severe" and "extreme" ozone nonattainment areas for the since-revoked hourly ozone standard.

The Natural Resources Defense Council filed a lawsuit in March 2010, arguing that EPA's guidance without notice and comment violated the Administrative Procedure Act and that the attainment alternatives violated the Clean Air Act (93 DEN A-1, 5/13/11).

Judge David Tatel wrote the opinion, with Judith Rogers and Thomas Griffith concurring.

By [Amena H. Saiyid](#)

The decision by the U.S. Court of Appeals for the District of Columbia Circuit in Natural Resources Defense Council v. EPA is available at <http://tinyurl.com/3j4xmyw>.

D.C. Circuit Dismisses Petitions Challenging Decision to Abandon Yucca Mountain Project

Posted July 1, 2011, 1:53 P.M. ET

A federal appeals court July 1 dismissed four petitions challenging Obama administration efforts to abandon the Yucca Mountain radioactive waste repository project, which include the Energy Department's attempt to withdraw the license application for the project (In re: Aiken County, D.C. Cir., No. 10-1050, 7/1/11).

The steps taken by the administration are not final agency actions and are therefore not ripe for review, according to the [ruling](#) by the U.S. Court of Appeals for the District of Columbia Circuit.

Officials representing Aiken County, S.C., the state of South Carolina, and Washington state, along with three private citizens claimed that the Energy Department's recent actions demonstrating a desire to abandon the Yucca Mountain project violated the Nuclear Waste Policy Act, the National Environmental Policy Act, and the Administrative Procedure Act.

The states and county house sites that temporarily store spent nuclear fuel and high-level radioactive waste that would be transferred to a federal nuclear waste repository (56 DEN A-2, 3/23/11).

The claims are not ripe until the Nuclear Regulatory Commission either acts on the Energy Department's motion to withdraw the application or issues a decision on the license application,

according to the ruling.

The U.S. Court of Appeals for the District of Columbia Circuit ruling in In re: Aiken County is available at <http://tinyurl.com/3ep236s>.

Appeals Court Upholds Dismissal of Lawsuit By Sierra Club on Three Air Pollution Permits

Posted July 1, 2011, 1:53 P.M. ET

The U.S. Court of Appeals for the District of Columbia Circuit on July 1 [affirmed](#) the dismissal of an environmental group's lawsuit regarding three prevention of significant deterioration permits for power plants in Kentucky (Sierra Club v. Jackson, D.C. Cir., No. 10-5280, 7/1/11).

The case centers on whether the Environmental Protection Agency has a statutory obligation under Section 167 of the Clean Air Act to prevent Kentucky from issuing prevention of significant deterioration (PSD) permits to new or modified industrial facilities until it makes corrections to a state implementation plan for air pollution that the environmental group alleges is deficient.

The Sierra Club argued that EPA was obligated to intervene, but the court said the agency was not.

The Sierra Club was appealing a July 2010 decision by the U.S. District Court for the District of Columbia. The D.C. Circuit decision affirms the district court ruling (Sierra Club v. Jackson, D. C.C., No. 09-02089, 7/2/10).

The three projects at issue in the litigation are the East Kentucky Power Cooperative's J.K. Smith Generating Station, Conoco Phillips and Peabody's Kentucky NewGas Synthetic Natural Gas Production plant, and Cash Creek Generation LLC's coal-fired Cash Creek Generating Station.

The appeals court heard oral arguments on the case April 7 (68 DEN A-7, 4/8/11).

The decision by the U.S. Court of Appeals for the District of Columbia Circuit in Sierra Club v. Jackson is available at <http://tinyurl.com/3pyrnr7>.

This e-mail is published as a supplement to Daily Environment Report (ISSN 1521-9402) by The Bureau of National Affairs, Inc., 1801 S. Bell Street, Arlington, VA 22202. Full reports on the contents of this e-mail will appear in the next regular edition of Daily Environment Report.

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Request a [FREE Web trial](#). For subscription information, customer assistance, and other inquiries, contact your local BNA Representative or call BNA Customer Relations at 800-372-1033, Mon. - Fri. 8:30 am - 7:00 pm (ET), excluding most federal holidays.

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01268-EPA-1214

Sarah Pallone/DC/USEPA/US

To Richard Windsor

07/06/2011 08:18 AM

cc

bcc

Subject Re: NY Times: "EPA Chief Stands Firm as Tough Rules Loom"

I can think of no better individual to protect the values of this country and it's people. It is a pleasure and an honor to serve under you in this agency.

Sarah Hospodor-Pallone
Deputy Associate Administrator
for Intergovernmental Relations
Office of the Administrator
202-564-7178
pallone.sarah@epa.gov

Seth Oster

All,

07/05/2011 11:48:04 PM

From: Seth Oster/DC/USEPA/US
To: Bob Perciasepe/DC/USEPA/US@EPA, Janet Woodka/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Barbara Bennett/DC/USEPA/US@EPA, "Paul Anastas" <anastas.paul@epa.gov>, Craig Hooks/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Lisa Garcia/DC/USEPA/US@EPA, "Michelle DePass" <depass.michelle@epa.gov>, Steve Owens/DC/USEPA/US@EPA, Daniel Kanninen/DC/USEPA/US@EPA, "Eric Wachter" <wachter.eric@epa.gov>, Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA, Sarah Pallone/DC/USEPA/US@EPA, Bicky Corman/DC/USEPA/US@EPA, Michael Goo/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA, Nancy Stoner/DC/USEPA/US@EPA, Charles Imhohosen/DC/USEPA/US@EPA, Christopher Busch/DC/USEPA/US@EPA, "Aaron Dickerson" <dickerson.aaron@epa.gov>, "Gladys Stroman" <stroman.gladys@epa.gov>, Jose Lozano/DC/USEPA/US@EPA, Heidi Ellis/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA, Lawrence Elworth/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA, Malcolm Jackson/DC/USEPA/US@EPA, Curt Spalding/R1/USEPA/US@EPA, Judith Enck/R2/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA, Gwendolyn KeyesFleming/R4/USEPA/US@EPA, Susan Hedman/R5/USEPA/US@EPA, Al Armendariz/R6/USEPA/US@EPA, "Jared Blumenfeld" <blumenfeld.jared@epa.gov>, "Dennis McLerran" <mclerran.dennis@epa.gov>, Joel Beauvais/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA, Ryan Robison/DC/USEPA/US@EPA
Cc: "Betsaida Alcantara" <alcantara.betsaida@epa.gov>, Adora Andy/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Shira Sternberg/DC/USEPA/US@EPA, Alisha Johnson/DC/USEPA/US@EPA, "David Cohen" <cohen.david@epa.gov>, Andra Belknap/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Vicki Ekstrom/DC/USEPA/US@EPA
Date: 07/05/2011 11:48 PM
Subject: NY Times: "EPA Chief Stands Firm as Tough Rules Loom"

All,

Wednesday's New York Times will have a lengthy story about EPA and Administrator Jackson. The story is pasted below and this is the link to it online.

<http://www.nytimes.com/2011/07/06/science/earth/06epa.html?pagewanted=2&hpw>

Seth

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
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July 5, 2011

E.P.A. Chief Stands Firm as Tough Rules Loom

By [JOHN M. BRODER](#)

WASHINGTON – In the next weeks and months, [Lisa P. Jackson](#), the [Environmental Protection Agency](#) administrator, is scheduled to establish regulations on smog, mercury, carbon dioxide, mining waste and vehicle emissions that will affect every corner of the economy.

She is working under intense pressure from opponents in Congress, from powerful industries, from impatient environmentalists and from the Supreme Court, which just [affirmed the agency's duty](#) to address [global warming](#) emissions, a project that carries profound economic implications.

The new rules will roll out just as [President Obama](#)'s re-election campaign is getting under way, with a White House highly sensitive to the probability of political damage from a flood of government mandates that will strike particularly hard at the manufacturing sector in states crucial to the 2012 election.

No other cabinet officer is in as lonely or uncomfortable a position as Ms. Jackson, who has been left, as one adviser put it, behind enemy lines with only science, the law and a small band of loyal lieutenants to support her.

Ms. Jackson describes the job as draining but says there are certain principles she will not compromise, including rapid and vigorous enforcement of some of the most far-reaching health-related rules ever considered by the agency.

"The only thing worse than no E.P.A. is an E.P.A. that exists and doesn't do its job – it becomes just a placebo," she said last week in an hourlong interview in Houston. "We are doing our job."

Although she has not met with the president privately since February, Ms. Jackson said she was confident that he would back her on the tough decisions she had to make. "All of us are mindful that he has a lot of things to do," she said.

Attacks on her and her agency have become a central part of the Republican playbook, but she said she wanted no sympathy.

"Any E.P.A. director sits at the intersection of some very important issues – air pollution, clean water, and whether businesses can survive," said Ms. Jackson, a chemical engineer trained at Tulane and Princeton Universities and a former director of the New Jersey Department of Environmental Protection. "No one knows this job unless they've sat in the seat."

Ms. Jackson said she intended to go forward with new, tougher air- and water-quality rules, including those that address climate change, despite Congressional efforts to override her authority and even a

White House initiative to weed out overly burdensome regulations.

The first of these new rules is expected to be announced Thursday, imposing tighter restrictions on soot and smog emissions from coal-burning power plants in 31 states east of the Rockies. The regulation is expected to lead to the closing of several older plants and will require the installation of scrubbers at many of those that remain in operation. One former E.P.A. administrator, [William K. Reilly](#), who served under the first President George Bush, is a sometime adviser to Ms. Jackson. He said she was taking fire from all sides.

"She's got three very large challenges," Mr. Reilly said. "First, she's got to administer the [Clean Air Act](#) to try to accomplish something for which it was never designed, the control of carbon dioxide, a difficult regulatory challenge in itself. Second, she has to do that and cope with all these other regulations which are not of her making and have come to land on her desk in a climate of intense political polarization and economic distress."

"And the third challenge," he continued, "is that the White House – any White House – doesn't want to hear an awful lot from the E.P.A. It's not an agency that ever makes friends for a president. In the cabinet room, many of the secretaries got along with each other, but they all had an argument with me. It's the nature of the job."

Mr. Reilly said the White House had left Ms. Jackson out on a limb when it failed to push hard for the [cap-and-trade climate change bill](#) that passed the House in 2009 but stalled in the Senate last year. Administration officials had argued that legislation was far superior to agency regulation as a means of addressing climate-altering emissions. But when the bill ran up against bipartisan opposition in the Senate, Mr. Reilly said, "the White House didn't lift a finger," an assertion administration officials dispute.

The White House said that it fully supported the agency's aggressive standards for a variety of pollutants to protect public health and the environment and denied that it was resisting further regulatory action for political reasons.

"It's simply a matter of choosing the health and safety of the American people over polluters," Clark Stevens, a White House spokesman, said in an e-mailed statement, "and doing so in a common-sense way that allows us to protect public health while also growing the economy – which will continue to be a shared goal of this entire administration."

One of Ms. Jackson's most vocal critics is [Representative Edward Whitfield](#), Republican of Kentucky and chairman of the energy and power subcommittee of the House Energy and Commerce Committee. He has held several hearings at which Ms. Jackson served as target practice for opponents of E.P.A. regulation of carbon dioxide and other pollutants. Ms. Jackson said that was the roughest treatment she had gotten in her two and a half years in Washington.

Mr. Whitfield, who has never met privately with Ms. Jackson, was unapologetic.

"It is unprecedented the number of major regulations this administration is putting out," he said, "and I can't tell you how many calls and meetings and letters I have asking, 'Is there any way to slow E.P.A. down?'"

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set of challenges across the range of policy, from mountaintop-removal coal mining to wetlands preservation to the control of toxic emissions from power plants and refineries. She is also in charge of federal restoration efforts in the Gulf of Mexico after the BP [oil spill](#).

"Have they bitten off more than they can chew?" asked Jason S. Grumet, president of the [Bipartisan Policy Center](#), who has close ties to the White House and the agency. "Yes. But that's a testament to their aspirations, and now reality is setting in."

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01268-EPA-1215

Sarah Pallone/DC/USEPA/US
07/06/2011 08:27 AM

To Richard Windsor
cc
bcc

Subject Re: NY Times: "EPA Chief Stands Firm as Tough Rules Loom"

(b) (6)

[Redacted]

Sarah Hospodor-Pallone
Deputy Associate Administrator
for Intergovernmental Relations
Office of the Administrator
202-564-7178
pallone.sarah@epa.gov

Richard Windsor (b) (6) 07/06/2011 08:25:14 AM

From: Richard Windsor/DC/USEPA/US
To: Sarah Pallone/DC/USEPA/US@EPA
Date: 07/06/2011 08:25 AM
Subject: Re: NY Times: "EPA Chief Stands Firm as Tough Rules Loom"

(b) (6)

Sarah Pallone

----- Original Message -----

From: Sarah Pallone
Sent: 07/06/2011 08:18 AM EDT
To: Richard Windsor
Subject: Re: NY Times: "EPA Chief Stands Firm as Tough Rules Loom"

I can think of no better individual to protect the values of this country and it's people. It is a pleasure and an honor to serve under you in this agency.

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Deputy Associate Administrator
for Intergovernmental Relations
Office of the Administrator
202-564-7178
pallone.sarah@epa.gov

Seth Oster All, 07/05/2011 11:48:04 PM

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To: Bob Perciasepe/DC/USEPA/US@EPA, Janet Woodka/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Barbara Bennett/DC/USEPA/US@EPA, "Paul Anastas" <anastas.paul@epa.gov>, Craig Hooks/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Lisa Garcia/DC/USEPA/US@EPA, "Michelle DePass" <depass.michelle@epa.gov>, Steve

Owens/DC/USEPA/US@EPA, Daniel Kanninen/DC/USEPA/US@EPA, "Eric Wachter" <wachter.eric@epa.gov>, Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA, Sarah Pallone/DC/USEPA/US@EPA, Bicky Corman/DC/USEPA/US@EPA, Michael Goo/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA, Nancy Stoner/DC/USEPA/US@EPA, Charles Imohiosen/DC/USEPA/US@EPA, Christopher Busch/DC/USEPA/US@EPA, "Aaron Dickerson" <dickerson.aaron@epa.gov>, "Gladys Stroman" <stroman.gladys@epa.gov>, Jose Lozano/DC/USEPA/US@EPA, Heidi Ellis/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA, Lawrence Elworth/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA, Malcolm Jackson/DC/USEPA/US@EPA, Curt Spalding/R1/USEPA/US@EPA, Judith Enck/R2/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA, Gwendolyn KeyesFleming/R4/USEPA/US@EPA, Susan Hedman/R5/USEPA/US@EPA, Al Armendariz/R6/USEPA/US@EPA, "Jared Blumenfeld" <blumenfeld.jared@epa.gov>, "Dennis McLerran" <mclerran.dennis@epa.gov>, Joel Beauvais/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA, Ryan Robison/DC/USEPA/US@EPA

Cc: "Betsaida Alcantara" <alcantara.betsaida@epa.gov>, Adora Andy/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Shira Sternberg/DC/USEPA/US@EPA, Alisha Johnson/DC/USEPA/US@EPA, "David Cohen" <cohen.david@epa.gov>, Andra Belknap/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Vicki Ekstrom/DC/USEPA/US@EPA

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Seth

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01268-EPA-1216

Sarah Pallone/DC/USEPA/US
07/06/2011 08:31 AM

To Richard Windsor
cc
bcc

Subject Re: NY Times: "EPA Chief Stands Firm as Tough Rules Loom"

(b) (6)

Sarah Hospodor-Pallone
Deputy Associate Administrator
for Intergovernmental Relations
Office of the Administrator
202-564-7178
pallone.sarah@epa.gov

Richard Windsor (b) (6) 07/06/2011 08:30:29 AM

From: Richard Windsor/DC/USEPA/US
To: Sarah Pallone/DC/USEPA/US@EPA
Date: 07/06/2011 08:30 AM
Subject: Re: NY Times: "EPA Chief Stands Firm as Tough Rules Loom"

(b) (6)

Sarah Pallone

----- Original Message -----

From: Sarah Pallone
Sent: 07/06/2011 08:27 AM EDT
To: Richard Windsor
Subject: Re: NY Times: "EPA Chief Stands Firm as Tough Rules Loom"

I am actually back in the office, so any time you want to run for coffee or get a drink, let me know!

(b) (6)

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Cc: "Betsaida Alcantara" <alcantara.betsaida@epa.gov>, Adora Andy/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Shira Sternberg/DC/USEPA/US@EPA, Alisha Johnson/DC/USEPA/US@EPA, "David Cohen" <cohen.david@epa.gov>, Andra Belknap/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Vicki Ekstrom/DC/USEPA/US@EPA
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July 5, 2011

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Although she has not met with the president privately since February, Ms. Jackson said she was confident that he would back her on the tough decisions she had to make. "All of us are mindful that he has a lot of things to do," she said.

Attacks on her and her agency have become a central part of the Republican playbook, but she said she wanted no sympathy.

"Any E.P.A. director sits at the intersection of some very important issues – air pollution, clean water, and whether businesses can survive," said Ms. Jackson, a chemical engineer trained at Tulane and Princeton Universities and a former director of the New Jersey Department of Environmental Protection. "No one knows this job unless they've sat in the seat."

Ms. Jackson said she intended to go forward with new, tougher air- and water-quality rules, including those that address climate change, despite Congressional efforts to override her authority and even a White House initiative to weed out overly burdensome regulations.

The first of these new rules is expected to be announced Thursday, imposing tighter restrictions on soot and smog emissions from coal-burning power plants in 31 states east of the Rockies. The regulation is expected to lead to the closing of several older plants and will require the installation of scrubbers at many of those that remain in operation. One former E.P.A. administrator, [William K. Reilly](#), who served under the first President George Bush, is a sometime adviser to Ms. Jackson. He said she was taking fire from all sides.

"She's got three very large challenges," Mr. Reilly said. "First, she's got to administer the [Clean Air Act](#) to try to accomplish something for which it was never designed, the control of carbon dioxide, a difficult regulatory challenge in itself. Second, she has to do that and cope with all these other regulations which are not of her making and have come to land on her desk in a climate of intense political polarization and economic distress."

"And the third challenge," he continued, "is that the White House – any White House – doesn't want to hear an awful lot from the E.P.A. It's not an agency that ever makes friends for a president. In the cabinet room, many of the secretaries got along with each other, but they all had an argument with me. It's the nature of the job."

Mr. Reilly said the White House had left Ms. Jackson out on a limb when it failed to push hard for the [cap-and-trade climate change bill](#) that passed the House in 2009 but stalled in the Senate last year. Administration officials had argued that legislation was far superior to agency regulation as a means of addressing climate-altering emissions. But when the bill ran up against bipartisan opposition in the Senate, Mr. Reilly said, "the White House didn't lift a finger," an assertion administration officials dispute.

The White House said that it fully supported the agency's aggressive standards for a variety of pollutants to protect public health and the environment and denied that it was resisting further regulatory action for political reasons.

"It's simply a matter of choosing the health and safety of the American people over polluters," Clark Stevens, a White House spokesman, said in an e-mailed statement, "and doing so in a common-sense way that allows us to protect public health while also growing the economy – which will continue to be a shared goal of this entire administration."

One of Ms. Jackson's most vocal critics is [Representative Edward Whitfield](#), Republican of Kentucky and chairman of the energy and power subcommittee of the House Energy and Commerce Committee. He has held several hearings at which Ms. Jackson served as target practice for opponents of E.P.A. regulation of carbon dioxide and other pollutants. Ms. Jackson said that was the roughest treatment she had gotten in her two and a half years in Washington.

Mr. Whitfield, who has never met privately with Ms. Jackson, was unapologetic.

"It is unprecedented the number of major regulations this administration is putting out," he said, "and I can't tell you how many calls and meetings and letters I have asking, 'Is there any way to slow E.P.A. down?'"

"What's troubling to us," Mr. Whitfield continued, "is that President Obama on the one hand is saying we have to be really careful about these regulations and consider the impact on jobs and the economy, but over at the agency they're just going full speed ahead with minimal attention or analysis on job impact."

One hot spot where Ms. Jackson can count on friendly treatment is "The Daily Show," where she has [appeared](#) three times in two years. Questioning from the host, Jon Stewart, was gentle, to say the least, referring in a recent show to the agency's "unassailable successes" in dealing with air and water pollution and to the "tremendous corporate interests" arrayed against her.

Even those most supportive of Ms. Jackson say that the agency has taken on a virtually unmanageable set of challenges across the range of policy, from mountaintop-removal coal mining to wetlands

preservation to the control of toxic emissions from power plants and refineries. She is also in charge of federal restoration efforts in the Gulf of Mexico after the BP [oil spill](#).

"Have they bitten off more than they can chew?" asked Jason S. Grumet, president of the [Bipartisan Policy Center](#), who has close ties to the White House and the agency. "Yes. But that's a testament to their aspirations, and now reality is setting in."

The reality being that there is often political fallout whenever tough policy decisions are made, and that the timing of Ms. Jackson's rule setting could not be more inopportune for Mr. Obama. "It's always the case that there are conflicts between good policy and good politics, and the E.P.A. is often the crucible of those challenges," Mr. Grumet said.

One of the toughest pending decisions, he said, concerns a standard for permissible levels of smog-causing compounds including [ozone](#). The agency's scientific advisory panel has recommended setting a high bar that could put hundreds of counties out of compliance with the law, forcing them to take action to reduce emissions, even though the pollutants may be generated beyond their jurisdiction.

The law requires that E.P.A. make such decisions based solely on the health effects of the pollution, not on the possible cost of compliance, creating a huge political problem.

"Telling a government that has to stand for re-election that it should make decisions with no consideration of cost is understandably going to create great agita in the political offices," Mr. Grumet said.

01268-EPA-1225

Seth Oster/DC/USEPA/US

07/10/2011 08:24 PM

To "Lisa Jackson"

cc Adora Andy, "Betsaida Alcantara", Bob Perciasepe, "Diane Thompson"

bcc

Subject Baltimore Sun Baltimore Sun: "EPA administrator stands tall"

It's becoming a pattern that the early part of your weeks are starting to regularly begin with really good profiles of you. We can't take the credit for having worked this one they way we did with the NY Times last week. But it's just as good, if not better. Congratulations. We're going to circulate it.

Seth

Seth Oster
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[www.baltimoresun.com/news/opinion/editorial/bs-ed-lisa-jackson-20110709,0,6614641.st
ory](http://www.baltimoresun.com/news/opinion/editorial/bs-ed-lisa-jackson-20110709,0,6614641.story)

Baltimore Sun

EPA administrator stands tall

Our view: With latest rules, federal agency puts public health and welfare ahead of the financial interests of polluters

8:00 AM EDT, July 10, 2011

For those who long for clean water, breathable air and perhaps even a healthy Chesapeake Bay, there's at least one public figure willing to fight for your cause, and she's a former chemical engineer who has never held elected office.

U.S. Environmental Protection Agency Administrator Lisa P. Jackson has emerged as one of the most effective figures in the Obama administration to date. She's a tough, no-nonsense, plain-spoken regulator who doesn't seem especially fazed by constant attacks from House Republicans who insist that EPA rules are costing the nation precious jobs.

Of course, the EPA is not the economic boogeyman that conservatives claim. While polluters must sometimes dip into profits to meet minimum environmental standards, studies have shown the net effect on the economy is hardly disastrous. A recent Office of Management

and Budget report found the benefits of EPA regulations over the past 10 years outweigh the costs anywhere from 3-to-1 to as much as 20-to-1.

How is that possible? Because for every polluter who must toe the line — install scrubbers to take sulfur dioxide out of factory emissions, for instance — there are new jobs created in building and installing those scrubbers, opportunities in next-generation factories to replace aging technology, as well as health benefits to people living downwind from the facility.

The EPA is no jobs killer; it's often a job creator. But the agency's chief role is to look out for the health and welfare of the public by creating rules and procedures polluters must follow so that their profits are not based on choking or poisoning the American people.

One of the best examples came on Thursday, with the new EPA rules governing power plant emissions that contribute to soot, smog and acid rain. The agency estimates that for an additional \$1 billion investment to upgrade these plants, the public will be spared 34,000 premature deaths, 15,000 nonfatal heart attacks and countless cases of asthma and other respiratory ailments.

That's particularly helpful to residents of Maryland, where the state has already taken great strides to clean up local power plants but is powerless to do anything about coal-fired plants in the Midwest that send air pollution streaming eastward.

Of course, that won't stop the polluters and their allies in Congress from complaining about how the regulations will drive up costs while completely ignoring the billions of dollars in lost productivity and health care costs such air pollution causes downwind. Why should Maryland residents pay with their lives so others can run their air conditioners more cheaply?

But that's not the only battle Ms. Jackson and the EPA are taking on this summer and fall. New rules governing mercury emissions, mining wastes, vehicle emissions and, most controversial of all, climate change, are also coming out — much to the chagrin not only of Republicans but some Democrats facing re-election in 2012.

That Ms. Jackson so far seems resolute in her agency's efforts is a tribute to her professionalism and integrity. No doubt there are even some in the White House who would prefer that the EPA soften or delay its approach.

Closest to home, she's also been a driving force in the Obama administration's efforts to create a "pollution diet" for the Chesapeake Bay by holding states in the watershed accountable. That's drawn howls of protest from farmers, builders and others who may face increased regulations — and costs — as a result. But it's the best hope in a generation for a cleaner Chesapeake Bay, and Marylanders should be thrilled by Ms. Jackson's advocacy.

That's not to suggest that everything ever written by an EPA bureaucrat is above criticism or should be the last word in public policy. But the reality is that the agency is not caving to industry as it did so often during the George W. Bush years. It is putting the public's best interests ahead of polluters, even the deep-pocketed, politically influential kind. That's reason to cheer.

01268-EPA-1226

Adora Andy/DC/USEPA/US

07/11/2011 01:41 AM

To Seth Oster, "Richard Windsor"

cc "Betsaida Alcantara", Bob Perciasepe, "Diane Thompson"
bcc

Subject Re: Baltimore Sun Baltimore Sun: "EPA administrator stands tall"

This is HOT!!

From: Seth Oster
Sent: 07/10/2011 08:24 PM EDT
To: "Lisa Jackson" <windsor richard@epa.gov>
Cc: Adora Andy; "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; Bob Perciasepe; "Diane Thompson" <thompson.diane@epa.gov>
Subject: Baltimore Sun Baltimore Sun: "EPA administrator stands tall"

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Seth

Seth Oster
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oster.seth@epa.gov

www.baltimoresun.com/news/opinion/editorial/bs-ed-lisa-jackson-20110709,0,6614641.story

Baltimore Sun

EPA administrator stands tall

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01268-EPA-1227

Seth Oster/DC/USEPA/US

To Bob Perciasepe, Richard Windsor

07/11/2011 11:43 AM

cc

bcc

Subject Fw: HUFFINGTON POST: American Public: 1, Polluters: 0

Michael Brune offers "kudos" to you below for your work, as outlined in the NY Times profile, even while pushing back -- (b)(5) -- at the notion that you are "behind enemy lines" alone, by pointing out that there are other warriors out there too. He ends by encouraging readers to send EPA a message to "stand strong" on new, upcoming air pollution rules --- (b)(5) deliberative

Seth Oster
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----- Forwarded by Seth Oster/DC/USEPA/US on 07/11/2011 11:38 AM -----

From: Rachael Schultz/DC/USEPA/US
To: Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Alisha Johnson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Andra Belknap/DC/USEPA/US@EPA, Mary Robbins/DC/USEPA/US@EPA, Shira Sternberg/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Vicki Ekstrom/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA, Alexandria Carter/DC/USEPA/US@EPA, Thomas Scott/DC/USEPA/US@EPA
Date: 07/11/2011 11:06 AM
Subject: HUFFINGTON POST: American Public: 1, Polluters: 0

American Public: 1, Polluters: 0

Huffington Post
Posted: 7/11/11 09:21 AM ET
Michael Brune
Executive Director, The Sierra Club

This week, *The New York Times* ran a profile on Environmental Protection Agency Administrator Lisa Jackson, who some people think has the toughest job in the Obama administration. I was struck by how the article described her as being "behind enemy lines with only science, the law and a small band of loyal lieutenants to support her."

What an odd perspective. From that viewpoint, Jackson appears to be a solitary, lonely warrior, and there's hardly anyone to be found in all of America who really cares about clean air, clean

water, and public health besides a "small band" of do-gooders inside the EPA. Of course, the opposite is true: A supermajority of the American public -- across party lines -- believes that we need to do more to stand up to polluters. A bipartisan poll released this spring by the American Lung Association revealed how three quarters of Americans want to see stronger, updated standards on all forms of air toxics, soot, smog, and carbon pollution.

Yesterday, the EPA met this sentiment with action by announcing the first of a series of air pollution regulations that will be rolled out during the next few months. This one, called the Cross-State Air Pollution Rule, addresses the long-standing problem that pollution from coal-fired power plants frequently travels hundreds of miles and across state lines. Here's how a different article in the *New York Times* described what the new rule means: By the time the new requirements take effect in 2014, power plants will need to have cut their sulfur dioxide emissions by 73 percent and their nitrogen oxides by 54 percent from 2005 levels.

Cutting down on pollution that leads to soot and smog -- as well as acid rain and hazy outdoor air -- is expected to prevent 13,000 to 34,000 people from dying prematurely each year. The benefits would be greatest in northeastern states such as Ohio and Pennsylvania, which would see an estimated 3,100 and 2,900 early deaths avoided annually.

What wasn't mentioned is that investing in modern pollution controls mandated by this rule will cause *net savings* for American consumers. Save lives and save money -- what's not to like?

Polluters opposed this, not because it will save lives, but because, and this comes straight from the president of the American Coalition for Clean Coal Electricity: "America's coal-fueled electric industry ... needs adequate time to install clean coal technologies."

How much more time do they want? Another 20,000 deaths? 40,000? You don't need science *or* the law to see the absurdity of that argument. Just common sense and a little humanity.

So kudos to Administrator Jackson for standing up to polluters and doing her job of protecting our health. She may be behind enemy lines, but she's most definitely not alone.

There's more work to be done. During the coming months, the EPA will finalize important new air-pollution rules on ozone, toxic mercury, and carbon pollution. All of them face opposition from polluters and their allies. So for those of us who'd rather stand on the side of science, the law, and common sense, let's make it very clear that America is ready to move beyond the tired arguments of dirty energy industries. Make your voice count! Send a message here to the EPA that we need them to continue to stand firm against polluters.

01268-EPA-1228

Al Armendariz/R6/USEPA/US

07/11/2011 09:44 PM

To "Windsor, Richard", "Fulton, Scott", "Garcia, Lisa"

cc

bcc

Subject Fw: 2 new plants coming to Corpus Christi

As Scott once put it, our agency struggles with the problems created by the historic deficiencies in local zoning. Undoubtedly, there's work in R6 for the next 20 RA's.

(b)(5) deliberative

Highlights the critical importance the NAAQS and MACT and RMP rules have for siting and operating new plants.

Fyi,

Al

Al Armendariz
Regional Administrator
U.S. EPA - Region 6
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214-665-2100
twitter: @al_armendariz

From: "Suzie Canales" [suziecanales@att net]
Sent: 07/11/2011 08:34 PM EST
To: Al Armendariz; Lawrence Starfield; Layla Mansuri; Jeannine Hale
Cc: "Kelly Haragan" <kharagan@law.utexas.edu>; "Enrique Valdivia" <EValdivia@trla.org>
Subject: 2 new plants coming to Corpus Christi

I was shocked to learn about this today – we were blindsided by this. This is the last thing we need, especially the folks along refinery row...

caller.com
CORPUS CHRISTI, TEXAS

Printer-friendly story
Read more at caller.com

M&G Group chooses Corpus Christi for two new plants

By Mike D. Smith

Originally published 12:03 p.m., July 11, 2011

Updated 06:22 p.m., July 11, 2011

CORPUS CHRISTI — Access to materials and easy ways to ship finished product to the rest of the world are reasons an Italian company chose to build two new plants in Corpus Christi, a company official said.

M&G Group expects to add 250 permanent manufacturing jobs to the regional economy when a pair of planned resin manufacturing plants opens by early 2014.

The majority of those jobs will be new hires, though the company might relocate a few existing employees from other facilities, M&G Group global marketing sales director Fred Fournier said. Construction of each plant could take about 30 months, with building activity generating about 3,000 jobs.

The company expects an added benefit of 700 indirect jobs such as parts and materials suppliers, delivery drivers and other jobs needed to support the plant during construction and after completion, Fournier said.

The Corpus Christi Regional Economic Development Corp., estimates M&G's expected \$900 million investment will mean \$4.8 billion in economic impact during the first 10 years, including direct and indirect payroll tied to the plants of \$780 million.

M&G Group's holding company, M&G International, is the world's third-largest producer of PET, a thermoplastic resin used to package soft drinks, pharmaceuticals, fresh and frozen foods and personal care products.

The company produced about 1.6 million tons of the resin in 2010, company figures show.

One of the two plants planned for Corpus Christi will make about 1.1 million tons of PET. The second facility will produce about 1.3 million tons of PTA, the primary raw material used to make PET.

Corpus Christi competed with cities in Texas, Louisiana and Mississippi for the project, Fournier said. The company must now choose a specific location in town and seek permits ahead of the anticipated 2014 completion date.

"All engineering work and preparation of permit applications is processing along as planned and we expect no holdups regarding this subject," Fournier said.

The facilities will join a plant in Apple Grove, W.Va., and plants in Brazil and Mexico as part of the company's presence in the Americas.

The 250 mostly manufacturing permanent jobs are a significant bump to the region's manufacturing job sector.

The sector has held steady with no net losses for the 12-county Coastal Bend region during the past year, said Monika De La Garza, spokeswoman for Workforce Solutions of the Coastal Bend.

M&G Group plans to provide training initiatives, with details of those programs to be released near the end of construction when hiring begins, Fournier said.

Workforce Solutions President and CEO Ken Treviño said the agency is preparing to assist with securing skilled labor for the project.

"In the last 18 months, we've invested over \$1 million to meet the training demands of our local workforce," Treviño said. "This includes tuition, books and supplies for proprietary schools, community colleges and universities specifically to meet the occupations in demand."

Gov. Rick Perry today announced that M&G Group, an international PET resin manufacturer, has chosen to locate its third North American plant in Corpus Christi. This expansion is expected to create at least 250 direct jobs at the facility, and generate hundreds of millions of dollars in capital investment.

"I'm pleased M&G Group has chosen Corpus Christi as the location of its new North American plant, creating hundreds of jobs for Texans and further strengthening our state economy, and wish them continued success at this new facility," Gov. Perry said. "This announcement is great news for South Texas and for the Lone Star State as we continue to attract companies from around the world to create jobs in Texas thanks to our low taxes, reasonable and predictable regulatory climate, fair legal system and skilled workforce."

M&G Group is a family owned chemical engineering and manufacturing group headquartered in Tortona, Italy. The company operates in the PET resin industry through its wholly-owned holding company Mossi & Ghisolfi International S.A. (M&G International). M&G International is the largest producer of PET resin for packaging applications in the

Americas, with a production capacity in 2010 of approximately 1.6 million tons per annum.

"It was not only the Corpus Christi Regional Economic Development Corp. and the Governor's Economic Development and Tourism Division's aggressive business-friendly approach in attracting M&G to Texas that weighed heavily in making the location decision, but also the service and supply efficiencies present, including six refineries and paraxylene production in the area, as well as the excellent port infrastructure that allows marine access to most of the PTA/PET facility's key raw materials," M&G Polymers Business Unit CEO Marco Ghisolfi said.

In May, M&G Group announced plans to expand in the U.S. with two plants that will manufacture 1 million tons of PET and 1.2 million tons of PTA. The company also considered a location in Louisiana.

"Corpus Christi is overwhelmed that M&G Polymers has selected Corpus Christi as the location of their new industrial facility," Corpus Christi Mayor Joe Adame said. "It brings new investment, new jobs and new opportunities for growth both upstream and downstream in our local industry."

"Corpus Christi Regional Economic Development Corp. is pleased to welcome M&G Polymer to the Coastal Bend Region," Corpus Christi Regional Economic Development Corp. CEO Roland Mower said. "They are a world class company that will be an excellent addition to our region, and will be able to leverage superior logistics optionality and the many benefits of our industrial infrastructure."

M&G Group is working with state and local economic development officials to pursue available resources and incentives, including an enterprise designation through the Texas Enterprise Zone Program, and training funds through the Texas Workforce Commission, among others.

Texas' economy continues to receive national recognition. The state's unemployment rate is more than a full point below the national average at 8.0 percent, compared to the nation's 9.2 percent rate. Additionally, Texas is the top exporting state in the nation for the ninth year in a row.

For the seventh year in a row, CEOs ranked Texas the top state for business in a survey by Chief Executive Magazine. Site Selection Magazine recently awarded Texas the 2010 Governor's Cup for the most new and expanded corporate facilities announced over the year. Additionally, according to a USA Today examination of data released by the Bureau of Economic Analysis, Texas moved past New York over the past decade to become the nation's second-largest economy.

For more information about Texas' economic accolades, please visit http://governor.state.tx.us/texas_brags/.

01268-EPA-1230

Shawn Garvin/R3/USEPA/US
07/12/2011 06:20 PM

To Richard Windsor, "Bob Perciasepe", Seth Oster, Nancy Stoner, Cynthia Giles-AA, Bob Sussman, Arvin Ganesan, Sarah Pallone, Mathy Stanislaus, "Diane Thompson", Betsaida Alcantara

cc

bcc

Subject Fw: 07-12-11 Governor Announces Marcellus Shale Regulation

FYI...

Sent by EPA Wireless E-Mail Services
Jessica Greathouse

----- Original Message -----

From: Jessica Greathouse

Sent: 07/12/2011 02:37 PM EDT

To: Shawn Garvin; William Early; Jon Capacasa; John Pomponio; Samantha Beers; Ron Borsellino; Abe Ferdas; Diana Esher; Linda Boornazian; Michael Kulik; Stacie Driscoll; Angela McFadden; Troy Jordan; Marcia Mulkey

Subject: FW: 07-12-11 Governor Announces Marcellus Shale Regulation

The press conference is still under way. The governor kicked things off by bashing EPA for its bias against coal and dampening West Virginia's work to make the U.S energy independent. Later in the presser, he responded to a question by stating that this emergency work on Marcellus rules was necessary so that EPA wouldn't veto the state's natural gas industry like it did the Spruce mine.

Sent with Good (www.good.com)

----- Forwarded by Jessica Greathouse/R3/USEPA/US on 07/12/2011 02:37:05 PM-----

----- Original Message -----

From : "Communications Office - Gov. Earl Ray Tomblin" <govofficecomm@wv.gov>

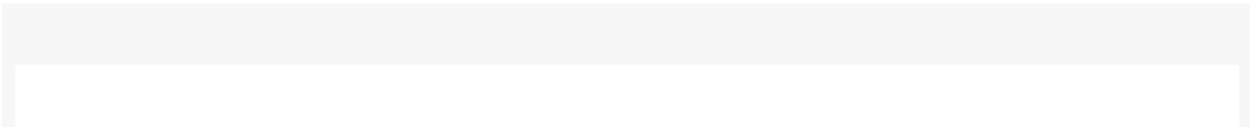
To : Jessica Greathouse/R3/USEPA/US@EPA

Cc :

Sent on : 07/12/2011 02:26:00 PM

Subject : 07-12-11 Governor Announces Marcellus Shale Regulation

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For Immediate Release

Contact: Jacqueline Proctor

July 12, 2011

304-558-2000

GOVERNOR ANNOUNCES

MARCELLUS SHALE REGULATION

Executive Order Mandates WV DEP Regulatory Action

CHARLESTON, W.Va. - Gov. Earl Ray Tomblin, joined by West Virginia Department of Environmental Protection (DEP) Cabinet Secretary Randy Huffman, Legislators, and natural gas industry representatives today announced the filing of an executive order that directs the DEP to promulgate additional environmental regulations governing Marcellus Shale drilling activities.

"This executive order is the first step in my long-term plan to ensure responsible development of Marcellus Shale," Gov. Tomblin said. "The good-paying jobs predicted with this development must include the protection of our public's health and safety as well as that of our environment. I want to thank our citizens who have voiced their concerns about Marcellus Shale drilling and want to assure them that I recognize this emerging segment of the natural gas industry warrants my immediate attention to ensure responsible development."

By directing Secretary Huffman to use his existing emergency rule making authority, Gov. Tomblin is calling for additional regulations concerning: water withdrawals, stream and groundwater protection, and public notice.

Executive Order 4-11 outlines several requirements of natural gas companies including but not limited to:

- Marcellus Shale drilling applicants seeking to drill within the boundaries of a municipality must file a public notice of intent to drill.

- Surface land use that will disturb 3 or more acres must be certified by and constructed in accordance with plans certified by a registered professional engineer.
- Companies withdrawing over 210,000 gallons of water a month must file a water management plan with the DEP and adhere to certain specified standards.
 - o Before fracking begins, such companies must also provide a list of additives that will be used in the frack fluid, and after fracking is complete, the additives actually used.
- When using water from a public stream, a company must identify the designated and existing uses of that stream.

"I am pleased that the natural gas industry supports my decision to pursue reasonable environmental regulations to ensure responsible development of the Marcellus Shale," Gov. Tomblin said. "Regulatory certainty is important not only to the industry, but also to our great citizens."

The executive order also instructs the DEP to further review the agency's overall authority over drilling activities related to horizontal wells.

###



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01268-EPA-1231

Scott Fulton/DC/USEPA/US
07/13/2011 10:34 AM

To Windsor.Richard, "Seth Oster", "Arvin Ganesan", Gina
McCarthy, "Janet McCabe", "Bob Sussman", "Bob
Perciasepe", "Diane Thompson"

cc

bcc

Subject Heads up: Sierra Club plans to file contempt motion in Boiler
MACT case

See below. [REDACTED] (b)(5) deliberative, (b) (5) Attorney-client privilege

[REDACTED]
Patricia Embrey

----- Original Message -----

From: Patricia Embrey

Sent: 07/13/2011 10:10 AM EDT

To: Scott Fulton; Avi Garbow; Joel Beauvais

Cc: Richard Ossias

Subject: Impending contempt motion from Sierra Club in Boiler MACT case
Earth Justice (representing Sierra Club) has told DOJ that they are going to file the following tomorrow:

[REDACTED] (b)(5) deliberative, (b) (5) Attorney-client privilege

01268-EPA-1232

Scott Fulton/DC/USEPA/US
07/13/2011 10:44 AM

To Gina McCarthy, Richard Windsor
cc "Scott Fulton"
bcc

Subject Re: Heads up: Sierra Club plans to file contempt motion in Boiler MACT case

(b)(5) deliberative, (b) (5) Attorney-client privilege
Gina McCarthy

----- Original Message -----

From: Gina McCarthy
Sent: 07/13/2011 10:39 AM EDT
To: Richard Windsor
Cc: "Scott Fulton" <Fulton.Scott@EPA.GOV>
Subject: Fw: Heads up: Sierra Club plans to file contempt motion in Boiler

MACT case

(b)(5) deliberative, (b) (5) Attorney-client privilege

Scott Fulton

----- Original Message -----

From: Scott Fulton
Sent: 07/13/2011 10:34 AM EDT
To: Richard Windsor; Seth Oster; Arvin Ganesan; Gina McCarthy; Janet McCabe; Bob Sussman; Bob Perciasepe; "Diane Thompson" <thompson.diane@epa.gov>
Subject: Heads up: Sierra Club plans to file contempt motion in Boiler MACT case

See below. **(b)(5) deliberative, (b) (5) Attorney-client privilege**

Patricia Embrey

----- Original Message -----

From: Patricia Embrey
Sent: 07/13/2011 10:10 AM EDT
To: Scott Fulton; Avi Garbow; Joel Beauvais
Cc: Richard Ossias
Subject: Impending contempt motion from Sierra Club in Boiler MACT case
Earth Justice (representing Sierra Club) has told DOJ that they are going to file the following tomorrow:

(b)(5) deliberative

01268-EPA-1233

Ryan Robison/DC/USEPA/US

To

07/13/2011 10:52 AM

cc

bcc

Subject Meeting with Congressman G.K. Butterfield (NC)

Meeting

Date 07/15/2011

Time 12:05:00 PM to 12:30:00 PM

Chair Ryan Robison

Invitees

Required

Optional

FYI

Location 2305 Rayburn Office Building

Ct: Darnise - (b) (6)

Staff:

Laura Vaught (OCIR)

01268-EPA-1235

Scott Fulton/DC/USEPA/US
07/13/2011 11:58 AM

To: Gina McCarthy, Richard Windsor
cc: "Scott Fulton"
bcc:
Subject: Re: Heads up: Sierra Club plans to file contempt motion in Boiler MACT case

(b)(5) deliberative

From: Gina McCarthy
Sent: 07/13/2011 11:20 AM EDT
To: Richard Windsor
Cc: "Scott Fulton" <Fulton.Scott@epa.gov>
Subject: Re: Heads up: Sierra Club plans to file contempt motion in Boiler MACT case

(b)(5) deliberative

From: Richard Windsor/DC/USEPA/US
To: Gina McCarthy/DC/USEPA/US@EPA
Cc: "Scott Fulton" <Fulton.Scott@epa.gov>
Date: 07/13/2011 11:12 AM
Subject: Re: Heads up: Sierra Club plans to file contempt motion in Boiler MACT case

(b)(5) deliberative Tx.

----- Original Message -----

From: Gina McCarthy
Sent: 07/13/2011 10:39 AM EDT
To: Richard Windsor
Cc: "Scott Fulton" <Fulton.Scott@EPA.GOV>
Subject: Fw: Heads up: Sierra Club plans to file contempt motion in Boiler MACT case

(b)(5) deliberative, (b) (5) Attorney-client privilege

----- Original Message -----

From: Scott Fulton
Sent: 07/13/2011 10:34 AM EDT
To: Richard Windsor; Seth Oster; Arvin Ganesan; Gina McCarthy; Janet McCabe; Bob Sussman; Bob Perciasepe; "Diane Thompson"
<thompson.diane@epa.gov>
Subject: Heads up: Sierra Club plans to file contempt motion in Boiler

MACT case

See below. (b)(5) deliberative, (b) (5) Attorney-client privilege

[REDACTED]

----- Original Message -----

From: Patricia Embrey
Sent: 07/13/2011 10:10 AM EDT
To: Scott Fulton; Avi Garbow; Joel Beauvais
Cc: Richard Ossias
Subject: Impending contempt motion from Sierra Club in Boiler MACT case

(b)(5) deliberative, (b) (5) Attorney-client privilege

[REDACTED]

[REDACTED]

01268-EPA-1237

Scott Fulton/DC/USEPA/US
07/13/2011 03:58 PM

To Richard Windsor, Bob Sussman
cc Avi Garbow, Michael Goo, Diane Thompson, Seth Oster
bcc
Subject Re: MTM Guidance

(b)(5)

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 07/13/2011 03:56 PM EDT
To: Bob Sussman
Cc: Scott Fulton; Avi Garbow; Michael Goo; Diane Thompson; Seth Oster
Subject: Re: MTM Guidance

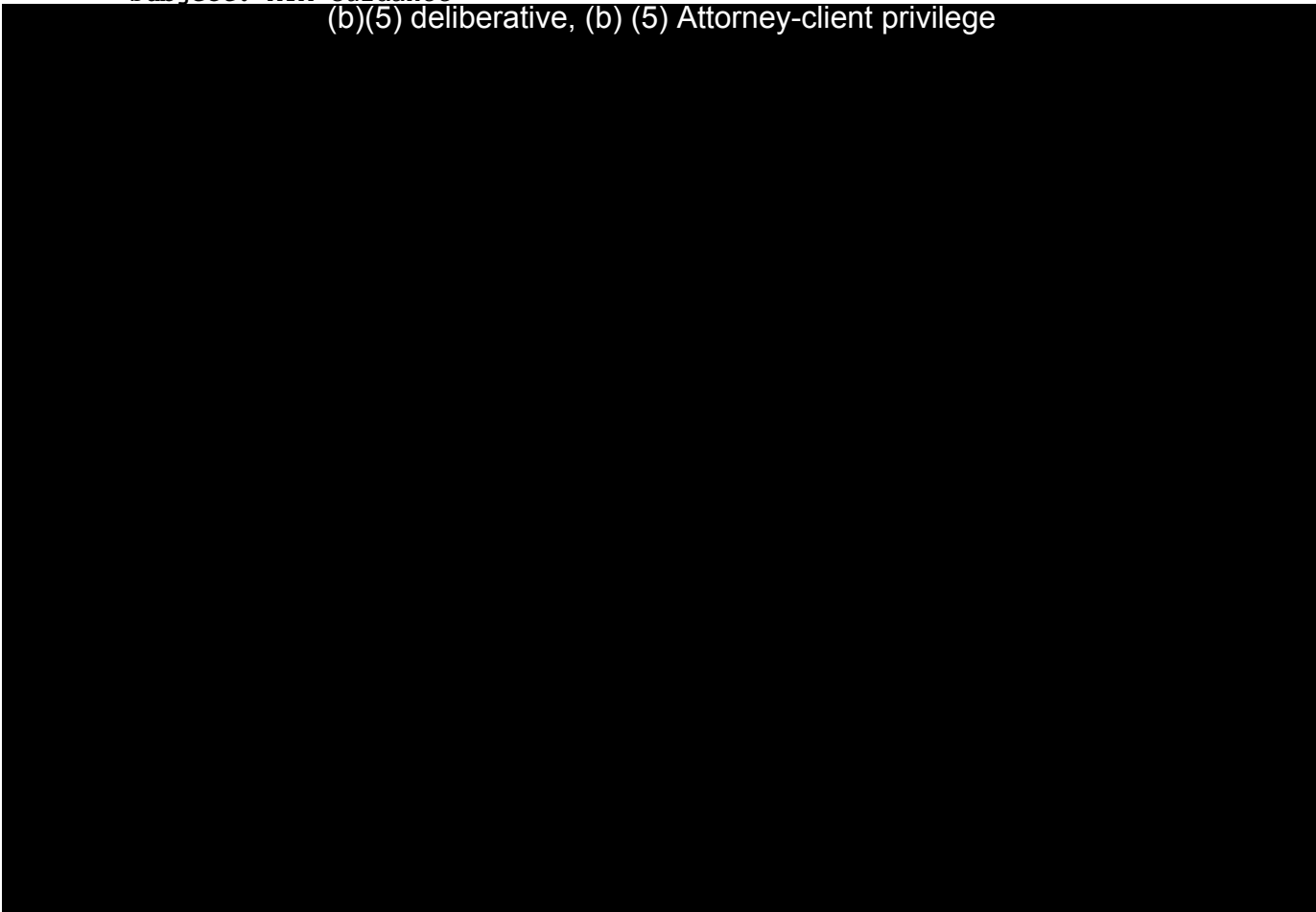
(b)(5) deliberative . Tx.

Bob Sussman

----- Original Message -----

From: Bob Sussman
Sent: 07/13/2011 03:41 PM EDT
To: Richard Windsor
Cc: Scott Fulton; Avi Garbow; Michael Goo; Diane Thompson; Seth Oster
Subject: MTM Guidance

(b)(5) deliberative, (b) (5) Attorney-client privilege



(b)(5) deliberative, (b) (5) Attorney-client privilege

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
(202)-564-7397
US Environmental Protection Agency

01268-EPA-1239

Scott Fulton/DC/USEPA/US

07/13/2011 09:57 PM

To "Richard Windsor", Gina McCarthy, "Bob Sussman", "Bob Perciasepe", "Diane Thompson", "Seth Oster", "Arvin Ganesan"

cc

bcc

Subject Threatened contempt action - Boiler MACT

Here's the latest

(b)(5) deliberative, (b) (5) Attorney-client privilege

[Redacted content]

01268-EPA-1241

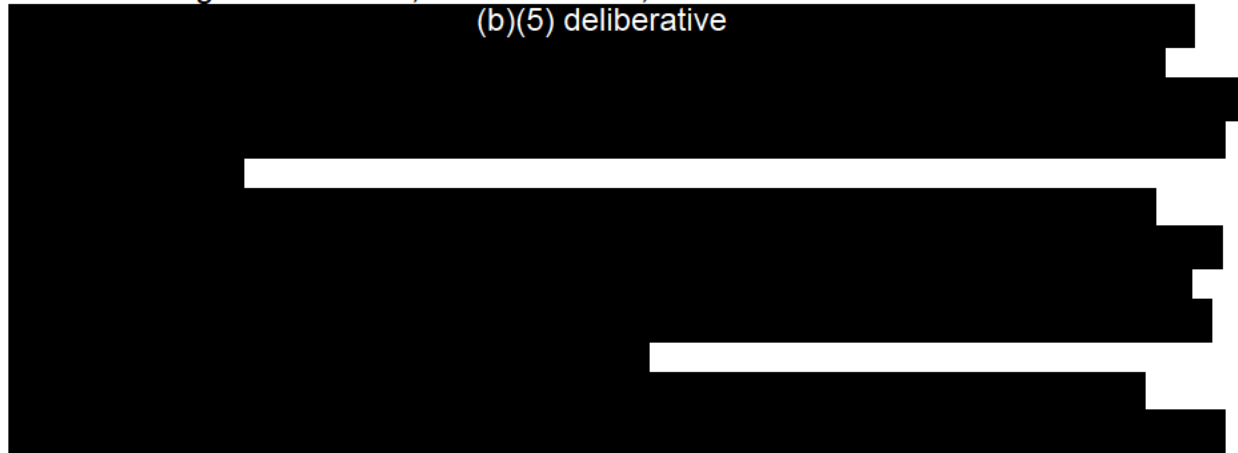
Adora Andy/DC/USEPA/US
07/15/2011 07:28 PM

To Richard Windsor, Diane Thompson, Bob Perciasepe
cc Seth Oster
bcc

Subject HEADS UP: LEAD CLEARANCE

Good Evening Administrator, Bob and Diane,

(b)(5) deliberative



Have a good night,
Adora

Waxman's Statement on Final Supplemental Rule on EPA's Lead Paint Renovation Program

Committee on Energy and Commerce
Rep. Henry A. Waxman, Ranking Member

For Immediate Release: July 15, 2011
Karen Lightfoot/Lindsay Vidal: (202) 225-5735

Rep. Waxman's Statement on Final Supplemental Rule on EPA's Lead Paint Renovation Program

WASHINGTON, DC — Today Rep. Henry A. Waxman issued the following statement in response to the Environmental Protection Agency finalizing its supplemental Lead Renovation, Repair, and Painting rule:

“Today EPA is taking final action on a remaining element of the program to require lead-safe work practices for renovation and repair jobs in houses that are likely to contain lead paint. EPA's lead paint renovation program provides critical protections for children and pregnant women against harm from toxic lead dust, which damages brain development in children. Now, we must work to preserve funding to implement and enforce these common-sense public health protections.”

NAHB Applauds EPA Rejection Of Renovation Clearance Testing Requirements

July 15, 2011 - The National Association of Home Builders commends the U.S. Environmental Protection Agency for rejecting a proposal to add third-party clearance testing to the Lead: Renovation, Repair and Painting Rule (RRP).

“We’re pleased that the EPA listened to the concerns of remodelers about the extreme costs the proposed clearance testing would have imposed,” said Bob Peterson, NAHB Remodelers chair and a remodeler from Fort Collins, Colo. “Home owners are saved from spending a great deal of money on lead testing. If remodeling is more affordable, home owners will be able to hire an EPA-certified renovator to keep them safe from lead dust hazards during renovation.”

At NAHB’s request this regulation was selected for review by the EPA under the Presidential Executive Order for Regulatory Review (*Improving Regulation and Regulatory Review*, 76 FR 3821 issued on Jan. 21) concerning the impact of federal rules on small businesses and job creation.

The lead rule applies to homes built before 1978 and requires renovator training and certification, following lead-safe work practices, containing and cleaning dust, and record keeping.

Under the lead paint rule contractors have been required to wipe down the project area after completing remodeling or renovation work and match the result to an EPA-approved card to determine whether lead paint dust is still present – a process that EPA says is “effective at reducing dust lead levels below the dust-lead hazard standard.”

The proposal would have required contractors to hire EPA-accredited dust samplers to collect several samples after a renovation and send them to an EPA-accredited lab for lead testing. Because of the cost of this as well as the waiting period for test results and the limited number of accredited labs nationwide, professional remodelers were very concerned about home owners’ willingness to undergo the process.

“The EPA has maintained its common sense approach to keeping families safe during renovation,” said Peterson. “Hiring trained professional remodelers to contain dust, use lead-safe work practices, and clean up has been shown to successfully minimize lead hazards and protect individuals from lead exposure.”

Several problems with the rule still remain. The EPA has yet to recognize an efficient, low-cost lead test kit that meets the requirements of the regulation. And last year the agency removed a key consumer choice measure – the opt-out provision – which allowed home owners with no children or pregnant women in residence to waive the rule’s requirement. In this down economy, consumers are still balking at the extra costs of the rule and often choose to reduce the amount of work done on their homes, hire uncertified contractors, or endanger themselves by attempting the work themselves.

Adora Andy
Deputy Associate Administrator
U.S. Environmental Protection Agency
Office of External Affairs and Environmental Education
202-564-2715
andy.adora@epa.gov

01268-EPA-1243

**Betsaida
Alcantara/DC/USEPA/US**
07/18/2011 06:42 PM

To Richard Windsor
cc Seth Oster, Alisha Johnson
bcc

Subject TIME Magazine quote

Administrator,

Bryan Walsh with TIME Magazine is doing a short piece for print publication on our recent air regs (specifically CSAP and Air Toxics), upcoming actions and what they mean for human health and the economy in the U.S. This morning, he spoke to Gina on background and she reinforced that we are required to enforce these regs by law, that these have been due for 20 years and that they don't come as a surprise to companies. She also discussed how we don't expect to see a tremendous number of power plant retirements, and that any we do see may have already happened due to the continuous shift from coal to natural gas.

(b)(5) deliberative

Thank you

(b)(5) deliberative

01268-EPA-1244

Janet McCabe/DC/USEPA/US
07/19/2011 12:17 PM

To Gina McCarthy, Richard Windsor, "Gina McCarthy", "Scott
Fulton", Avi Garbow, "Mathy Stanislaus", Lisa Feldt, "Bob
Sussman", "Diane Thompson"
cc "Arvin Ganesan", "Bob Perciasepe"
bcc

Subject Re: Boiler MACT/NHSM delay bills

(b)(5) deliberative
Gina McCarthy

----- Original Message -----

From: Gina McCarthy
Sent: 07/19/2011 12:13 PM EDT
To: Richard Windsor; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>;
"Scott Fulton" <Fulton.Scott@EPA.GOV>; Avi Garbow; Janet McCabe; "Mathy
Stanislaus" <stanislaus.mathy@epa.gov>; Lisa Feldt; "Bob Sussman"
<Sussman.bob@EPA.GOV>; "Diane Thompson" <Thompson.Diane@EPA.GOV>
Cc: "Arvin Ganesan" <Ganesan.Arvin@EPA.GOV>; "Bob Perciasepe"
<perciasepe.bob@epa.gov>
Subject: Re: Boiler MACT/NHSM delay bills

I am in car mtgs. Janets heading down and Peter T is here **(b)(5) deliberative**

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 07/19/2011 12:05 PM EDT
To: "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>; "Scott Fulton"
<Fulton.Scott@epa.gov>; Avi Garbow; Janet McCabe; "Mathy Stanislaus"
<stanislaus.mathy@epa.gov>; Lisa Feldt; "Bob Sussman" <Sussman.bob@epa.gov>;
"Diane Thompson" <thompson.diane@epa.gov>
Cc: "Arvin Ganesan" <ganesan.arvin@epa.gov>; "Bob Perciasepe"
<perciasepe.bob@epa.gov>
Subject: Re: Boiler MACT/NHSM delay bills

Huddling in my office at 1215 if any of you are available.

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 07/19/2011 11:16 AM EDT
To: "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>; "Scott Fulton"
<Fulton.Scott@epa.gov>; Avi Garbow; Janet McCabe; "Mathy Stanislaus"
<stanislaus.mathy@epa.gov>; Lisa Feldt; "Bob Sussman" <Sussman.bob@epa.gov>;
"Diane Thompson" <thompson.diane@epa.gov>
Cc: "Arvin Ganesan" <ganesan.arvin@epa.gov>; "Bob Perciasepe"
<perciasepe.bob@epa.gov>
Subject: Boiler MACT/NHSM delay bills

Collins et al are about to introduce the Senate version of the Boiler Mact bill.

(b)(5) deliberative

Tx. Lisa

01268-EPA-1247

Scott Fulton/DC/USEPA/US
07/20/2011 06:52 PM

To "Seth Oster", "Bob Sussman", "Bob Perciasepe", "Diane Thompson", "Richard Windsor", ganesan.arvin
cc
bcc

Subject Fw: NYLPI Releases List of Schools Contaminated by PCBs and New LawsUIT

Fyi -- if you haven't picked this up already.
Leslye Fraser

----- Original Message -----

From: Leslye Fraser

Sent: 07/20/2011 06:08 PM EDT

To: OGC Front Office MGMT; Marna McDermott

Subject: NYLPI Releases List of Schools Contaminated by PCBs and New LawsUIT

fyi - in case it comes up in the 8:30

New York Lawyers for the Public Interest filed a federal lawsuit today against the New York City Department of Education (DOE) and the School Construction Authority (SCA) under TSCA. The lawsuit was filed on behalf of New York Communities for Change (NYCC), an organization whose membership includes thousands of parents across the city. The suit alleges that thousands of light fixtures across New York City are leaking highly toxic PCBs in violation of federal law and are thereby endangering the health of NYC schoolchildren. The suit also takes issue with the 10 year time frame the City has established for remedying the problem. More info can be found at:

<http://www.nylpi.org/main.cfm?actionId=globalShowStaticContent&screenKey=cmpTemplate&htmlKey=912010&s=NYLPI>

01268-EPA-1258

Arvin Ganesan/DC/USEPA/US

To "Richard Windsor"

07/29/2011 02:53 PM

cc

bcc

Subject Fw: Dems ask GOP moms to help strike mercury rider

Great messaging.

Sent from my Blackberry Wireless Device

From: POLITICO Pro [politicoemail@politicopro.com]
Sent: 07/29/2011 02:52 PM AST
To: Arvin Ganesan
Subject: Dems ask GOP moms to help strike mercury rider

Dems ask GOP moms to help strike mercury rider

By Robin Bravender
7/29/11 2:51 PM EDT

Democratic congresswomen are appealing to Republican moms as they try to eliminate a GOP spending bill rider that blocks mercury limits for power plants.

California Democratic Rep. Lois Capps and several other congresswomen will lead the effort on the House floor as early as this weekend to repeal the controversial language on the Interior-EPA 2012 spending bill.

“We’ve been talking with mothers and parents on the other side of the aisle, and we will continue to do that,” Capps said. “We’re going to work our tails off to get this amendment passed and get this rider out.”

The House Appropriations Committee adopted the rider, proposed by Rep. Cynthia Lummis (R-Wyo.), that would block EPA from finalizing draft rules to limit mercury and other air toxics from the utility sector for at least six months after the agency completes a comprehensive study of the economic impact of the regulations.

Power plants are responsible for about 50 percent of annual U.S. emissions. The EPA's draft rule sets a target of keeping 91 percent of the mercury in coal from being emitted into the air.

Mercury is a toxic heavy metal that can harm children's developing brains, including effects on memory and attention, according to EPA. Other toxic metals targeted by the rule — such as arsenic, chromium and nickel — can cause cancer.

Rep. Debbie Wasserman Schultz, chairwoman of the Democratic National Committee, said she

and her colleagues will be talking to parents on both sides of the aisle as the vote approaches.

“I’d like to hope that it’s just that the parents that are members of Congress — no matter what side of the aisle they’re on — don’t realize that this language is in there, and hopefully we’ll try to shake some sense into them.”

Opponents of EPA’s draft mercury rule have argued that it could threaten the reliability of the electric grid by forcing the early retirement of older coal-fired plants. They also say the rule would force electricity costs up for consumers.

To read and comment online:

<https://www.politicopro.com/go/?id=4958>

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01268-EPA-1261

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

cc

07/30/2011 09:03 AM

bcc

Subject boiler mact and sierra club

Morning,

(b)(5) deliberative



How does that sound?

Arvin

01268-EPA-1264

Bicky Corman/DC/USEPA/US
08/02/2011 09:16 AM

To Richard Windsor, Diane Thompson, Bob Perciasepe, Seth Oster, Paul Anastas, Steve Owens
cc
bcc

Subject Fw: News release - NAS Report

Here is an embargoed copy of the press release. (b)(5) deliberative, (b) (5) Attorney-client privilege

Bicky Corman
Deputy Associate Administrator
Office of Policy
U.S. Environmental Protection Agency
desk: 202-564-2202
cell: 202-465-5966
Corman.Bicky@epamail.epa.gov.

----- Forwarded by Bicky Corman/DC/USEPA/US on 08/02/2011 09:13 AM -----

From: "Frueh, Sara" <SFrueh@nas.edu>
To: Bicky Corman/DC/USEPA/US@EPA
Cc: "Moses, Marina" <MMoses@nas.edu>
Date: 08/02/2011 08:58 AM
Subject: News release

Hi Bicky – Below is the news release, which went out to reporters under embargo along with the report and which we'll distribute more widely at 11.

Best,
Sara

Sara Frueh
Media Relations Officer
National Academy of Sciences
National Research Council
202-334-3740

Date: Aug. 2, 2011

EMBARGOED: NOT FOR PUBLIC RELEASE BEFORE 11 A.M. EDT TUESDAY, AUG. 2

Report Offers Framework to Guide EPA on Incorporating Sustainability in its Decision Making

WASHINGTON – A new report from the National Research Council presents a framework for incorporating sustainability into the U.S. Environmental Protection Agency's principles and decision making. The framework, which was requested by EPA, is intended to help the agency better assess the social, environmental, and economic impacts of various options as it makes decisions.

The committee that developed the framework used the definition of sustainability based on a declaration of federal policy in the 1969 National Environmental Policy Act and included in a 2009 Executive Order: "to create and maintain conditions under which humans and nature can exist in productive harmony, that

permit fulfilling the social, economic, and other requirements of present and future generations.”

“EPA is already engaged in many projects that further sustainability aims, but the adoption of this framework -- implemented in stages -- will lead to a growing body of experiences and successes with sustainability,” said Bernard Goldstein, chair of the committee that wrote the report and professor of environmental and occupational health at the University of Pittsburgh Graduate School of Public Health.

The recommended sustainability approach both incorporates and goes beyond an approach based on assessing and managing the risks posed by pollutants that has largely shaped environmental policy since the 1980s. Although risk-based methods have led to many successes and remain important tools, the committee said, they are not adequate to address many of the complex problems that put current and future generations at risk, such as depletion of natural resources, climate change, and loss of biodiversity. Moreover, sophisticated tools are increasingly available to address cross-cutting, complex, and challenging issues that go beyond risk management.

The report recommends that EPA formally adopt as its sustainability paradigm the widely used "three pillars" approach, which means considering the environmental, social, and economic impacts of an action or decision. Health should be expressly included in the “social” pillar. EPA should also articulate its vision for sustainability and develop a set of sustainability principles that would underlie all agency policies and programs.

In addition, the report describes a more intensive process called “sustainability assessment and management” that EPA can use to incorporate sustainability in specifically chosen activities and decisions. For example, the agency might decide to apply this process to new rules, programs, and policies, or to complex and important emerging issues, such as the impacts of biofuels. EPA should develop a screening process that can guide agency managers in deciding whether a particular activity should undergo this assessment.

For those selected, EPA would then use analytical tools to assess the potential consequences of alternative decisions on a full range of social, environmental, and economic indicators. To conduct these analyses, the agency should develop a suite of tools including methods such as life-cycle assessment, which is a “cradle to grave” analysis of a product’s environmental impacts; benefit-cost analysis; and sustainability impact assessments, which analyze a project’s likely social, environmental, and economic effects. Risk assessment should be an important tool in informing decisions in the sustainability assessment and management approach, the report says. The major results of these analyses should then be summarized and presented to decision makers. Finally, once decisions are made and implemented, there should be a follow-up evaluation of outcomes on important dimensions of sustainability.

Although incorporating sustainability into EPA’s culture and process will take time, it will offer wide-ranging benefits, the committee said. “Assuming that EPA adopts the goal of sustainability, there will be benefits for the United States as a whole,” said Goldstein. “There is likely to be a closer meshing of economic and environmental policies, and the result should be both a cleaner environment and a stronger economy.”

A public meeting to discuss the report will be held at 3 p.m. EDT on Thursday, Sept. 15 at the National Academies’ Keck Center, 500 Fifth St., N.W., Washington, D.C. Reporters who wish to attend should contact the Office of News and Public Information at tel. 202-334-2138 or e-mail news@nas.edu.

The study was sponsored by the U.S. Environmental Protection Agency. The National Academy of Sciences, National Academy of Engineering, Institute of Medicine, and National Research Council make up the National Academies. They are private, nonprofit institutions that provide science, technology, and health policy advice under a congressional charter. The Research Council is the principal operating agency of the National Academy of Sciences and the National Academy of Engineering. For more information, visit <http://national-academies.org>. A committee roster follows.

Contacts:

Sara Frueh, Media Relations Officer
Lorin Hancock, Media Relations Associate
Office of News and Public Information
202-334-2138; e-mail news@nas.edu

Pre-publication copies of Sustainability and the U.S. EPA are available from the National Academies Press; tel. 202-334-3313 or 1-800-624-6242 or on the Internet at <http://www.nap.edu>. Reporters may obtain a copy from the Office of News and Public Information (contacts listed above).

#

NATIONAL RESEARCH COUNCIL
Division on Policy and Global Affairs
Science and Technology for Sustainability Program

Committee on Incorporating Sustainability in the U.S. Environmental Protection Agency

Bernard D. Goldstein (chair)¹
Professor
Department of Environmental and Occupational Health
Graduate School of Public Health
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Pittsburgh

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Lauren Zeise
Chief
Reproductive and Cancer Hazard Assessment Section
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
Oakland

RESEARCH COUNCIL STAFF

Marina Moses
Study Director

-
- 1 Member, Institute of Medicine
 - 2 Member, National Academy of Engineering
 - 3 Member, National Academy of Sciences

01268-EPA-1277

**Brendan
Gilfillan/DC/USEPA/US**
08/11/2011 06:08 PM

To Richard Windsor, Bob Perciasepe, Diane Thompson, Laura Vaught, Gina McCarthy, Janet McCabe, Michael Goo, Bicky Corman

cc

bcc

Subject Update on NYT story re: reliability

The reporter is expecting to file his story tonight - I will forward as soon as it runs. I spoke to the reporter on background at length and then Bob pushed back very hard on the record, driving a few main points:

1. Our reliability analysis takes all of the factors he's hearing about into account, and the estimates he's hearing from other folks about other future closures are largely based on projections about future rules (316(b) and coal ash) that use extreme assumptions. Bob pointed him to the BPC reliability study as a more reasonable alternative.
2. Our analysis indicates there will not be any regional or national reliability issues, and there are flexibilities in the CAA that will ensure we can address any potential local reliability issue.
3. What we're trying to do is provide utilities with certainty, which they have not had, by getting these standards done so they know what they'll have to comply with - instead of having to deal with speculations about what a given rule may or may not do, we're trying to get them done and end the uncertainty. Further, none of these rules are a surprise to anyone.
4. EPA's been doing this for 40 years, and reliability has not been an issue.

(b)(5) deliberative

- Brendan

01268-EPA-1278

**Brendan
Gilfillan/DC/USEPA/US**
08/12/2011 07:04 AM

To: Brendan Gilfillan, Richard Windsor, Bob Perciasepe, Diane Thompson, Laura Vaught, Gina McCarthy, Janet McCabe, Michael Goo, Bicky Corman

cc

bcc

Subject: Re: Update on NYT story re: reliability

New Rules and Old Plants May Strain Summer Energy Supplies
NY Times

WASHINGTON - As 58 million people across 13 states sweated through the third day of a heat wave last month, power demand in North America's largest regional grid jurisdiction hit a record high. And yet there was no shortage, no rolling blackout and no brownout in an area that stretches from Maryland to Chicago. But that may not be the case in the future as stricter air quality rules are put in place. Eastern utilities satisfied demand that day - July 21 - with hefty output from dozens of 1950s and 1960s coal-burning power plants that dump prodigious amounts of acid gases, soot, mercury and arsenic into the air. Because of new Environmental Protection Agency rules, and some yet to be written, many of those plants are expected to close in coming years.

No one is sure yet how many or which ones will be shuttered or what the total lost output would be. And there is little agreement over how peak demand will be met in future summers.

The E.P.A. estimates that a rule on air toxins and mercury that it expects to complete in November will result in a loss of 10,000 megawatts - or almost 1 percent of the generating capacity in the United States. Electricity experts, however, say that rule, combined with forthcoming ones on coal ash and cooling water, will have a much greater effect - from 48,000 megawatts to 80,000 megawatts, or 3.5 to 7 percent.

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Robert W. Perciasepe, the deputy administrator of the E.P.A., said his agency had not estimated all the retirements that would be set off by rules it was still preparing. His agency, he said, was trying to move promptly through rulemaking and "provide the rational basis for utility planning, instead of this continually rolling ball of uncertainty, which allows people to speculate, and creates a situation where it's very difficult for competent utility planners to do the work they need to do."

He said the E.P.A. had been regulating power plant emissions for 40 years, and where necessary to keep the grid stable, had granted delays and exemptions.

The industry is concerned. PJM Interconnection, the regional unit that set the demand record on July 21, has suggested that the E.P.A. rules would put the grid's reliability at risk. "E.P.A.'s analysis of the impact of the proposed rule may understate the level of expected generation of plant retirements and does not provide sufficient flexibility or time to address potential localized reliability concerns," it wrote in a statement filed with the agency.

The most likely replacement for the coal plants is new natural gas-powered generators. But PJM and others are complaining that if the E.P.A. follows its intended schedule, utilities will not have much time to decide whether to close or upgrade their old plants, and no one will have time to build new ones.

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"You always manage toward the peak, and have a reserve margin based on your latest peak," said Tom Williams, a spokesman for Duke Energy, which does business in areas that experienced a new peak. Peak supply is also becoming a vexing problem because so much of the generating capacity added around the country lately is wind power, which is almost useless on the hot, still days when air-conditioning drives up demand.

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That can help, but if plants close before a replacement is found, local demand can exceed supply, creating scattered shortages. "There's a lot of trepidation, and rightfully so," said Paul M. Sotkiewicz, the senior economist at PJM.

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"This heat wave shows that you can't rely on a massive amount of wind generation to fill the void," Pat Hemlepp, a spokesman for American Electric Power, wrote in an e-mail. "That's why we are extremely concerned about reliability."

Others say that A.E.P. has been slower than its competitors to upgrade its plants and is now seeking delays in new E.P.A. rules to keep its competitive advantage.

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Senator Murkowski said in a statement that E.P.A. rules were coming at a "breakneck pace," too fast for government reliability experts to keep up. She predicted "an avalanche of waivers."

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan

Sent: 08/11/2011 06:08 PM EDT

To: Richard Windsor; Bob Perciasepe; Diane Thompson; Laura Vaught; Gina McCarthy; Janet McCabe; Michael Goo; Bicky Corman

Subject: Update on NYT story re: reliability

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1. Our reliability analysis takes all of the factors he's hearing about into account, and the estimates he's hearing from other folks about other future closures are largely based on projections about future rules (316(b) and coal ash) that use extreme assumptions. Bob pointed him to the BPC reliability study as a

more reasonable alternative.

2. Our analysis indicates there will not be any regional or national reliability issues, and there are flexibilities in the CAA that will ensure we can address any potential local reliability issue.

3. What we're trying to do is provide utilities with certainty, which they have not had, by getting these standards done so they know what they'll have to comply with - instead of having to deal with speculations about what a given rule may or may not do, we're trying to get them done and end the uncertainty. Further, none of these rules are a surprise to anyone.

4. EPA's been doing this for 40 years, and reliability has not been an issue.

(b)(5) deliberative

- Brendan

01268-EPA-1279

**Brendan
Gilfillan/DC/USEPA/US**
08/12/2011 07:19 AM

To Richard Windsor, "Bob Perciasepe"
cc
bcc

Subject Re: Update on NYT story re: reliability

[REDACTED] (b)(5) deliberative

[REDACTED]

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 08/12/2011 04:56 AM EDT
To: Bob Perciasepe; Brendan Gilfillan; Diane Thompson; Laura Vaught; Gina McCarthy; Janet McCabe; Michael Goo; Bicky Corman
Subject: Re: Update on NYT story re: reliability
Brendan,

[REDACTED] (b)(5) deliberative

Lisa

Bob Perciasepe

----- Original Message -----

From: Bob Perciasepe
Sent: 08/12/2011 04:51 AM EDT
To: Brendan Gilfillan; Richard Windsor; Diane Thompson; Laura Vaught; Gina McCarthy; Janet McCabe; Michael Goo; Bicky Corman
Subject: Re: Update on NYT story re: reliability

We pushed but his story was written and he gave us small adds which didn't reiterate our strong statements on our own analysis and didn't include mention of other third parties analysis in contrary.

Bob Perciasepe
Deputy Administrator
(o)202 564 4711
(c) (b) (6)
Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan
Sent: 08/11/2011 06:08 PM EDT
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01268-EPA-1280

Richard Windsor/DC/USEPA/US
08/12/2011 08:13 AM

To: Brendan Gilfillan
cc
bcc

Subject: Re: Update on NYT story re: reliability

Having read it, its pretty balanced.
Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan
Sent: 08/12/2011 07:04 AM EDT
To: Brendan Gilfillan; Richard Windsor; Bob Perciasepe; Diane Thompson; Laura Vaught; Gina McCarthy; Janet McCabe; Michael Goo; Bicky Corman
Subject: Re: Update on NYT story re: reliability
New Rules and Old Plants May Strain Summer Energy Supplies
NY Times

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(b)(5) deliberative

- Brendan

01268-EPA-1286

**Bob
Sussman/DC/USEPA/US@EP
A**

08/16/2011 07:36 PM

To Richard Windsor, Bob Perciasepe, Diane Thompson, Seth Oster, gilillan.brendan, Arvin Ganesan, Lisa Garcia, stoner.nancy

cc

bcc

Subject From Greenwire -- COAL: Poll finds Appalachian voters oppose mountaintop mining

This Greenwire story was sent to you by: sussman.bob@epa.gov

Personal message: A good news story on public concern about mountaintop mining and support for stronger water quality protections among voters (D&R) in Appalachian states. We got a briefing today from the pollsters and have the detailed findings if any of you would like follow up.

An E&E Publishing Service

COAL: Poll finds Appalachian voters oppose mountaintop mining

(Tuesday, August 16, 2011)

Manuel Quinones, E&E reporter

A new poll in several Appalachian states finds significant opposition to mountaintop removal mining, despite strong support from many of their politicians.

The poll conducted for the Sierra Club, Earthjustice and Appalachian Mountain Advocates found most voters in Kentucky, West Virginia, Tennessee and Virginia support strong enforcement of the federal Clean Water Act when dealing with mountaintop removal projects.

"Voters in Appalachia would also use this issue as a criterion in electoral choices, and are far less likely to support public officials who would weaken environmental protections on mountaintop removal mining and more likely to support those who would strengthen those protections," said a [memo](#) from the pollsters, Lake Research Partners and Bellwether Research & Consulting.

Outside the context of the Clean Water Act, the memo said, 38 percent of voters oppose mountaintop removal compared to 24 percent who support it, with another 38 percent undecided. But given a short explanation of mountaintop removal, 57 percent of voters oppose the practice compared to 20 percent who support it. And many of the opponents, pollsters say, are strong in their opinion.

Pollsters described mountaintop mining as "a process ... where the top of a mountain is removed to extract the coal and waste is disposed in nearby valleys and streams."

Another poll released last week by CNN and ORC International found 57 percent of people nationwide oppose mountaintop removal mining.

Bill Raney, president of the West Virginia Coal Association, questioned that poll. "I think you have to spend some time explaining that mountaintop mining is authorized by federal law," he told CNN, "and has been for years."

Pollsters described the survey released today as an effort to gauge how the practice is perceived in Appalachian communities.

"So much of this poll was contrary to conventional wisdom," said Celinda Lake, Lake Research president, in a conference call with reporters. "We have a solid plurality of voters in these states who believe environmental protections are good for the economy."

The results appear to fly in the face of arguments from many Appalachian politicians who oppose the Obama administration's increased oversight of mountaintop removal mining, saying it is killing jobs. Support for the coal industry and opposition to federal agencies like U.S. EPA is often used as a vote-getting tool throughout Appalachia.

"This poll shows that [politicians] are clearly out of step with the region's likely voters," said Ed Hopkins, environmental quality program director at the Sierra Club.

Carol Raulston, spokeswoman with the National Mining Association, said a 2008 poll of 21

Appalachian counties found 30 percent of residents oppose mountaintop mining (MTM). "What we have seen, based on travel throughout Appalachia is the closer you get to MTM communities, the higher level of support there is," she said in an emailed statement.

[Click here](#) to read the polling memo.

[Click here](#) to read the survey.

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01268-EPA-1298

**Brendan
Gilfillan/DC/USEPA/US**
08/25/2011 03:34 PM

To Richard Windsor
cc Betsaida Alcantara, Seth Oster
bcc

Subject Re: Fw: WSJ: SEC Bears Down on Fracking

(b)(5) deliberative

Richard Windsor

(b)(5) deliberative

08/25/2011 02:58:26 PM

From: Richard Windsor/DC/USEPA/US
To: Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA
Date: 08/25/2011 02:58 PM
Subject: Fw: WSJ: SEC Bears Down on Fracking

(b)(5) deliberative ?

----- Forwarded by Richard Windsor/DC/USEPA/US on 08/25/2011 02:58 PM -----

From: Betsaida Alcantara/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA, Al Armendariz/R6/USEPA/US@EPA, Jim Martin/R8/USEPA/US@EPA, Nancy Stoner/DC/USEPA/US@EPA, Paul Anastas/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Alisha Johnson/DC/USEPA/US@EPA, Andra Belknap/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA, Michael Goo/DC/USEPA/US@EPA, Daniel Kanninen/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bicky Corman/DC/USEPA/US@EPA
Date: 08/25/2011 02:47 PM
Subject: WSJ: SEC Bears Down on Fracking

SEC Bears Down on Fracking
Wall Street Journal
By DEBORAH SOLOMON

WASHINGTON—The Securities and Exchange Commission is asking oil and gas companies to provide it with detailed information—including chemicals used and efforts to minimize environmental impact—about their use of a controversial drilling process used to crack open natural gas trapped in rocks.

The federal government's investor-and-markets watchdog is stepping into the heated environmental debate surrounding hydraulic fracturing, or "fracking," according to government and industry officials, even as state and federal environmental officials have begun to bring greater pressure on the industry. The process, which involves pumping water, chemicals and sand underground to free difficult-to-reach natural gas in shale basins, has come under criticism from environmental groups and some lawmakers over concerns toxins in the mix may contaminate air and water.

The SEC move shows the broad interest among Washington regulators in taking a closer look at fracking and suggests companies that are betting billions of dollars on the technology will increasingly need to weigh disclosing techniques they often consider proprietary. Battles over disclosure have already broken out at the state level, including in states such as New York and Pennsylvania that sit on the giant Marcellus Shale, an underground formation that has become a fracking hotbed because of the large quantities of natural gas there. Just last week, Noble Energy Inc. paid \$3.4 billion for a stake in developing 663,350 acres there.

Regulators in several states have identified cases in which drilling—although not necessarily the fracturing

process in particular—has allowed natural gas to seep into residential water wells, and at least one scientific study has linked drilling and gas contamination more broadly. But there have been few if any documented cases of contamination by the chemicals used in hydraulic fracturing. The industry acknowledges that improperly constructed wells can allow gas to escape, but says such cases are rare and aren't directly tied to fracturing itself.

In the past, the SEC has trained its attention on other areas of concern, such as subprime mortgages and credit-default swaps, and has asked companies to provide additional information to investors. Government officials said the SEC's interest in fracking is in ensuring investors are being told about risks a company may face related to its operations, such as lawsuits, compliance costs or other uncertainties. Other federal agencies like the Environmental Protection Agency are collecting information about fracking, but those efforts are separate from the SEC.

For the moment, the SEC isn't requiring broad, standardized disclosure of fracking information to the public. Instead, oil and gas companies are being asked by the agency's office that oversees corporate disclosure to supply information confidentially to the SEC, and the agency, in turn, will likely require them to publicly disclose some of that information, according to government officials.

"If there's something in [a company's] field of operation that creates uncertainty, that's something they may want to talk about" with investors, said a government official.

The SEC's requests drew criticism from some in the industry about potential regulatory overkill.

"While our industry absolutely supports common sense disclosure and transparency measures, such duplicative inquiries that may fall outside of an agency's core mission, are troubling and counter to what our nation needs at this time," said Kathryn Klaber, president of Marcellus Shale Coalition, an industry group.

An SEC spokesman said "in the course of our filing reviews staff will ask questions related to the areas disclosed in the company's filings." The EPA didn't respond to requests for comment.

The SEC's foray into the issue comes as the Obama administration is trying to find a middle ground between environmental concerns over fracking and an industry that is creating jobs and increasing domestic supplies of an alternative energy source to coal. Natural gas currently provides about 25% of total U.S. energy and is projected to increase to 45% by 2035, according to the U.S. Energy Information Administration. In addition to a fracking study being conducted by the EPA, the Department of Energy and the Interior Department have also been examining the practice. Some states have fined drilling companies for environmental problems.

For securities regulators, two recent energy-related disasters are fresh in their minds: the crippling of Tokyo Electric Power Co.'s Fukushima Daiichi nuclear-power plant in March and last year's BP PLC oil spill in the Gulf of Mexico. In both cases, some investors were surprised at the risk to which the companies were exposed, and their share prices fell sharply.

The SEC's questions in recent letters include which chemicals are being injected into the ground, what companies are doing to minimize water usage and what steps they are taking to minimize environmental impact, according to copies reviewed by The Wall Street Journal.

The questions are already prompting some companies to disclose more. SandRidge Energy, a small, Oklahoma company, beefed up disclosure related to fracking operations after the SEC asked a series of questions in connection with a public offering of a trust SandRidge completed last week. For instance, the company said in a recent financial filing that its fracking fluid contains 99% fresh water, and the remainder includes the food additive guar, enzymes and other chemicals, which it didn't name.

Fracking fluids include some toxic chemicals, based on company disclosures of chemicals such as benzene and formaldehyde for congressional reports and at voluntary disclosure sites.

Kevin White, senior vice president of SandRidge, said "responding to those comments would be easier than what other companies might face" because the firm doesn't use many chemicals in its fracking fluid.

Industry representatives said much depends on how specific the SEC wants companies to be and cautioned they would resist revealing proprietary information.

"While we support disclosing our ingredients, it is critical to our business that we protect our proprietary information, including the recipes of our products," said spokeswoman Tara Mullee Agard of Halliburton Co., one of the largest providers of hydraulic-fracturing services to the energy industry.

Already some companies have said they will voluntarily publicize their chemicals online at FracFocus.org, and several states, including Wyoming, Texas and Arkansas, have recently passed mandatory disclosure rules. The companies will make the information public through state registries.

Fracking is primarily regulated by states and is largely exempt from some federal statutes, such as the Safe Water Drinking Act. The EPA's study on whether fracking affects drinking water is to be released at the end of 2012. For the study, nine companies provided information on the chemicals they use after an agency request last year.

The SEC has also been investigating whether companies are overstating the long-term productivity of their natural-gas wells and has issued subpoenas to at least two firms, according to company financial disclosures earlier this month. The agency subpoenaed Quicksilver Resources Inc. and ExCo Resources Inc. The New York attorney general's office, meanwhile, has also issued subpoenas this month to various companies, including Range Resources Corp., Goodrich Petroleum Corp. and Cabot Oil & Gas Corp., over their estimates.

Jim Smith, a partner at Houston law firm Porter Hedges LLP specializing in environmental law, questioned whether the type of fracking information the SEC is requesting is material to a company. "I have not heard of companies in relatively recent times having significant environmental liabilities associated with hydraulic fracturing that in any way affected their reported worth," he said.

Investors, including the \$129.4 billion New York State Common Retirement Fund, have begun agitating for enhanced disclosure of fracking operations over the past few years and have successfully included shareholder proposals at 16 companies. Though none have passed, proponents at Chevron Corp. got 41% support, backers at Exxon Mobil Corp. got 28% and Williams Cos. holders got 42%. Some companies, such as Williams and Cabot, have increased disclosure of their fracking operations as a result of the proposals.

New York State Comptroller Thomas P. DiNapoli, who runs the New York State Common Retirement Fund, said some companies drilling in the Marcellus Shale in Pennsylvania have had to pay large fines and suffered reputational damage over fracking problems. Chesapeake Energy and Cabot have paid fines there. "Only through appropriate disclosure do you get the information you need to make informed and sound investment decisions," he said.

01268-EPA-1303

Scott Fulton/DC/USEPA/US
08/29/2011 07:36 AM

To Bob Perciasepe, Richard Windsor, "Scott Fulton", "Gina (Sheila) McCarthy", "Bob Perciasepe", "Seth Oster", Brendan Gilfillan, Janet McCabe, Laura Vaught, "Michael Goo"
cc
bcc

Subject Re: Fw: Google Alert - lisa jackson epa

(b)(5) deliberative, (b) (5) Attorney-client privilege

Bob Perciasepe

----- Original Message -----

From: Bob Perciasepe

Sent: 08/29/2011 06:05 AM EDT

To: Richard Windsor; "Scott Fulton" <Fulton.Scott@epa.gov>; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; Brendan Gilfillan; Janet McCabe; Laura Vaught; "Michael Goo" <goo.michael@epa.gov>

Subject: RE: Fw: Google Alert - lisa jackson epa

All

(b)(5) deliberative, (b) (5) Attorney-client privilege

[Redacted]

[Redacted]

Bob Perciasepe
Deputy Administrator
US EPA
202 564 4711

----- Original Message -----

From : Richard Windsor/DC/USEPA/US

To : "Scott Fulton" <Fulton.Scott@epa.gov>, "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>, "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>, "Janet McCabe" <McCabe.Janet@epamail.epa.gov>, "Laura Vaught" <Vaught.Laura@epamail.epa.gov>, "Michael Goo" <goo.michael@epa.gov>

Cc :

Sent on : 08/28/2011 06:47:37 PM

Subject : Fw: Google Alert - lisa jackson epa

Heads up. Can't read the whole article cause I'm not a subscriber. (b)(5) deliberative, .

From: Google Alerts [googlealerts-noreply@google.com]
Sent: 08/28/2011 10:38 PM GMT
To: Richard Windsor
Subject: Google Alert - lisa jackson epa

News

1 new result for lisa jackson epa

[An EPA Moratorium](#)

Wall Street Journal

As it happens, those 1990 amendments contain an overlooked proviso that would let Mr. Obama overrule **EPA** Administrator **Lisa Jackson's** agenda. With an executive order, he could exempt all power plants "from compliance with any standard or limitation" ...

[See all stories on this topic »](#)

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01268-EPA-1307

Seth Oster/DC/USEPA/US

To Richard Windsor, Bob Perciasepe

08/30/2011 01:41 PM

cc

bcc

Subject Politico: "Obama Outlines Costly EPA Rules"

This is how Politico is initially playing the White House letter responding to Boehner. Granted, this is Politico -- the ultimate inside-the-beltway trade publication with little outside-the-beltway reach -- and it's their email update that is typically followed by a story (one has not yet run).

(b)(5) deliberative

[Redacted]

Seth

8/30/11 1:25 PM EDT

President Barack Obama has responded to House Speaker John Boehner's request to detail pending federal rules with estimated costs more than \$1 billion a year. Four regulations on the list are pending EPA rules on ozone, air toxics from utilities, air toxics from boilers and coal ash.

=====
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=====

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Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

01268-EPA-1308

Seth Oster/DC/USEPA/US
08/30/2011 03:09 PM

To Richard Windsor
cc "Bob Perciasepe"
bcc
Subject Re: Blog

(b)(5) deliberative

[Redacted]

[Redacted]

Seth

Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

Richard Windsor (b)(5) deliberative -----... 08/30/2011 03:05:20 PM

From: Richard Windsor/DC/USEPA/US
To: "Seth Oster" <oster.seth@epa.gov>, "Bob Perciasepe" <perciasepe.bob@epa.gov>
Date: 08/30/2011 03:05 PM
Subject: Re: Blog

(b)(5) deliberative

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 08/30/2011 02:59 PM EDT
To: "Seth Oster" <oster.seth@epa.gov>; "Bob Perciasepe" <perciasepe.bob@epa.gov>
Subject: Blog

Will send the below to Cutter in 10 minutes...

Stephanie,

I hope you enjoyed your vacation. Welcome back.

I just read the President's letter to Speaker Boehner. (b)(5) deliberative

[Redacted]

Thanks, Lisa

(b)(5) deliberative



(b)(5) deliberative



01268-EPA-1309

Betsaida Alcantara/DC/USEPA/US
08/30/2011 04:10 PM

To Daniel Kanninen, Bob Perciasepe
cc Alisha Johnson, Arvin Ganesan, Bicky Corman, Bob Sussman, Gina McCarthy, Janet Woodka, Laura Vaught, Michael Goo, Richard Windsor, Sarah Pallone, Seth Oster, Diane Thompson, "Brendan Gilfillan"

bcc

Subject Re: Letter from the President to the Speaker of the House of Representatives.

(b)(5) deliberative

Daniel Kanninen

----- Original Message -----

From: Daniel Kanninen
Sent: 08/30/2011 04:00 PM EDT
To: Bob Perciasepe
Cc: Alisha Johnson; Arvin Ganesan; Betsaida Alcantara; Bicky Corman; Bob Sussman; Gina McCarthy; Janet Woodka; Laura Vaught; Michael Goo; Richard Windsor; Sarah Pallone; Seth Oster; Diane Thompson
Subject: Re: Letter from the President to the Speaker of the House of Representatives.

(b)(5) deliberative

[Redacted]

[Redacted]

dk

Dan Kanninen
White House Liaison
U.S. Environmental Protection Agency
202.564.7960
kanninen.daniel@epa.gov

Bob Perciasepe (b)(5) deliberative Bob Perciasepe 08/30/2011 02:53:07 PM

From: Bob Perciasepe/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA, Daniel Kanninen/DC/USEPA/US@EPA, Janet Woodka/DC/USEPA/US@EPA, Sarah Pallone/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Alisha Johnson/DC/USEPA/US@EPA, Michael Goo/DC/USEPA/US@EPA, Bicky Corman/DC/USEPA/US@EPA
Date: 08/30/2011 02:53 PM
Subject: Re: Letter from the President to the Speaker of the House of Representatives.

(b)(5) deliberative

Bob Perciasepe
Deputy Administrator
(o)202 564 4711
(c) **(b) (6)**

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 08/30/2011 02:05 PM EDT
To: Betsaida Alcantara; Bob Sussman; Bob Perciasepe; Gina McCarthy; Arvin Ganesan; Laura Vaught; Daniel Kanninen; Janet Woodka; Sarah Pallone; Seth Oster; Alisha Johnson; Michael Goo; Bicky Corman
Subject: Re: Letter from the President to the Speaker of the House of Representatives.

(b)(5) deliberative
Betsaida Alcantara

----- Original Message -----

From: Betsaida Alcantara
Sent: 08/30/2011 12:47 PM EDT
To: Richard Windsor; Bob Sussman; Bob Perciasepe; Gina McCarthy; Arvin Ganesan; Laura Vaught; Daniel Kanninen; Janet Woodka; Sarah Pallone; Seth Oster; Alisha Johnson; David Bloomgren; Michael Goo; Bicky Corman
Subject: Fw: Letter from the President to the Speaker of the House of Representatives.

This just went out, it focuses heavily on the executive order to reduce burdens of regulation.

----- Forwarded by Betsaida Alcantara/DC/USEPA/US on 08/30/2011 12:45 PM -----

From: White House Press Office <noreply@messages.whitehouse.gov>
To: Betsaida Alcantara/DC/USEPA/US@EPA
Date: 08/30/2011 12:28 PM
Subject: Letter from the President to the Speaker of the House of Representatives.

THE WHITE HOUSE
Office of the Press Secretary

FOR IMMEDIATE RELEASE
August 30, 2011

Attached is the text of a letter from the President to the Speaker of the House of Representatives.

###

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[attachment "2011reg.boehner.ltr.rel.pdf" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-1311

Scott Fulton/DC/USEPA/US
08/30/2011 05:19 PM

To Gina McCarthy, Richard Windsor, "Bob Perciasepe", "Scott
Fulton", "Seth Oster", "Diane Thompson", "Bob Sussman"
cc Joseph Goffman, "Avi Garbow"

bcc

Subject Re: Luminant

(b)(5) deliberative, (b) (5) Attorney-client privilege

Gina McCarthy

----- Original Message -----

From: Gina McCarthy
Sent: 08/30/2011 04:40 PM EDT
To: Richard Windsor; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Scott
Fulton" <Fulton.Scott@EPA.GOV>; "Seth Oster" <oster.seth@epa.gov>; "Diane
Thompson" <Thompson.Diane@EPA.GOV>; "Bob Sussman" <Sussman.bob@EPA.GOV>
Cc: Joseph Goffman
Subject: Re: Luminant

FYI. (b)(5) deliberative
Joseph Goffman

----- Original Message -----

From: Joseph Goffman
Sent: 08/30/2011 04:34 PM EDT
To: Gina McCarthy; Sam Napolitano; Jeb Stenhouse; John Millett; Kevin
McClean; Sonja Rodman
Subject: Luminant

(b)(5) deliberative, (b) (5) Attorney-client privilege

Joseph Goffman
Senior Counsel to the Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency
202 564 3201

(b)(5) deliberative

(b)(5) deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

01268-EPA-1312

Scott Fulton/DC/USEPA/US
08/30/2011 05:47 PM

To Bob Sussman, Richard Windsor
cc "Scott Fulton", Gina McCarthy, Joseph Goffman, "Seth Oster", "Bob Perciasepe", "Bob Sussman", "Diane Thompson", "Avi Garbow"
bcc

Subject Re: Luminant

(b)(5) deliberative, (b) (5) Attorney-client
Bob Sussman

----- Original Message -----

From: Bob Sussman
Sent: 08/30/2011 05:15 PM EDT
To: Richard Windsor
Cc: "Scott Fulton" <Fulton.Scott@epa.gov>; Gina McCarthy; Joseph Goffman; "Seth Oster" <oster.seth@epa.gov>; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Bob Sussman" <Sussman.bob@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>
Subject: Re: Luminant

(b)(5) deliberative, (b) (5) Attorney-client privilege

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

Richard Windsor (b)(5) deliberative 08/30/2011 05:06:09 PM

From: Richard Windsor/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA
Cc: "Scott Fulton" <Fulton.Scott@epa.gov>, Joseph Goffman/DC/USEPA/US@EPA, "Seth Oster" <oster.seth@epa.gov>, "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>
Date: 08/30/2011 05:06 PM
Subject: Re: Luminant

(b)(5) deliberative, (b) (5) Attorney-client privilege

Bob Sussman

----- Original Message -----

From: Bob Sussman
Sent: 08/30/2011 04:57 PM EDT
To: Gina McCarthy
Cc: "Scott Fulton" <Fulton.Scott@EPA.GOV>; Joseph Goffman; "Seth Oster" <oster.seth@epa.gov>; "Bob Perciasepe" <perciasepe.bob@epa.gov>; Richard Windsor; "Bob Sussman" <Sussman.bob@EPA.GOV>; "Diane Thompson" <Thompson.Diane@EPA.GOV>
Subject: Re: Luminant

(b)(5) deliberative, (b) (5) Attorney-client privilege

(b)(5) deliberative, (b) (5) Attorney-client privilege

. Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

Gina McCarthy FYI. (b)(5) deliberative 08/30/2011 04:40:14 PM

From: Gina McCarthy/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Scott Fulton" <Fulton.Scott@EPA.GOV>, "Seth Oster" <oster.seth@epa.gov>, "Diane Thompson" <Thompson.Diane@EPA.GOV>, "Bob Sussman" <Sussman.bob@EPA.GOV>
Cc: Joseph Goffman/DC/USEPA/US
Date: 08/30/2011 04:40 PM
Subject: Re: Luminant

FYI. (b)(5) deliberative

Joseph Goffman

----- Original Message -----

From: Joseph Goffman
Sent: 08/30/2011 04:34 PM EDT
To: Gina McCarthy; Sam Napolitano; Jeb Stenhouse; John Millett; Kevin Mclean; Sonja Rodman
Subject: Luminant

(b)(5) deliberative, (b) (5) Attorney-client privilege

Joseph Goffman
Senior Counsel to the Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency
202 564 3201

(b)(5) deliberative

(b)(5) deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

01268-EPA-1313

Scott Fulton/DC/USEPA/US

08/30/2011 06:03 PM

To Bob Sussman, Richard Windsor

cc "Scott Fulton", Gina McCarthy, Joseph Goffman, "Seth Oster", "Bob Perciasepe", "Bob Sussman", "Diane Thompson", "Avi Garbow"

bcc

Subject Re: Luminant

Moore confirms that there will be no filing before the meeting.

-----Original Message-----

To: Bob Sussman

To: Richard Windsor

Cc: Scott Fulton

Cc: Gina McCarthy

Cc: Joseph Goffman

Cc: Seth Oster

Cc: Bob Perciasepe

Cc: Bob Sussman

Cc: Diane Thompson

Cc: Avi Garbow

Subject: Re: Luminant

Sent: Aug 30, 2011 5:47 PM

(b)(5) deliberative

-----Original Message-----

From: Bob Sussman

To: Richard Windsor

Cc: Scott Fulton

Cc: Gina McCarthy

Cc: Joseph Goffman

Cc: Seth Oster

Cc: Bob Perciasepe

Cc: Bob Sussman

Cc: Diane Thompson

Subject: Re: Luminant

Sent: Aug 30, 2011 5:15 PM

(b)(5) deliberative

Robert M. Sussman

Senior Policy Counsel to the Administrator

Office of the Administrator

US Environmental Protection Agency

From: Richard Windsor/DC/USEPA/US

To: Bob Sussman/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA

Cc: "Scott Fulton" <Fulton.Scott@epa.gov>, Joseph Goffman/DC/USEPA/US@EPA, "Seth Oster" <oster.seth@epa.gov>, "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>

Date: 08/30/2011 05:06 PM

Subject: Re: Luminant

(b)(5) deliberative, (b) (5) Attorney-client privilege

----- Original Message -----

From: Bob Sussman
Sent: 08/30/2011 04:57 PM EDT
To: Gina McCarthy
Cc: "Scott Fulton" <Fulton.Scott@EPA.GOV>; Joseph Goffman; "Seth Oster" <oster.seth@epa.gov>; "Bob Perciasepe" <perciasepe.bob@epa.gov>; Richard Windsor; "Bob Sussman" <Sussman.bob@EPA.GOV>; "Diane Thompson" <Thompson.Diane@EPA.GOV>
Subject: Re: Luminant

(b)(5) deliberative, (b) (5) Attorney-client privilege

. Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: Gina McCarthy/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Scott Fulton" <Fulton.Scott@EPA.GOV>, "Seth Oster" <oster.seth@epa.gov>, "Diane Thompson" <Thompson.Diane@EPA.GOV>, "Bob Sussman" <Sussman.bob@EPA.GOV>
Cc: Joseph Goffman/DC/USEPA/US
Date: 08/30/2011 04:40 PM
Subject: Re: Luminant

FYI. (b)(5) deliberative

----- Original Message -----

From: Joseph Goffman
Sent: 08/30/2011 04:34 PM EDT
To: Gina McCarthy; Sam Napolitano; Jeb Stenhouse; John Millett; Kevin Mclean; Sonja Rodman
Subject: Luminant

(b)(5) deliberative, (b) (5) Attorney-client privilege

Joseph Goffman
Senior Counsel to the Assistant Administrator
Office of Air and Radiation

US Environmental Protection Agency
202 564 3201

(b)(5) deliberative



01268-EPA-1316

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

cc

08/31/2011 12:40 PM

bcc

Subject NHSM rule

Administrator:

(b)(5) deliberative, (b) (6)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Thanks.

Arvin

Sent with Good (www.good.com)

01268-EPA-1317

Arvin Ganesan/DC/USEPA/US To Richard Windsor
08/31/2011 01:49 PM cc
bcc
Subject RE: NHSM rule

(b) (6)

Sent with Good (www.good.com)

----- Original Message -----

From : Richard Windsor/DC/USEPA/US
To : Arvin Ganesan/DC/USEPA/US@EPA
Cc :
Sent on : 08/31/2011 01:42:50 PM
Subject : Re: NHSM rule

(b)(5) deliberative, (b) (6)

Arvin Ganesan Administrator: (b)(5) deliberative 08/31/2011 12:40:16 PM

From: Arvin Ganesan/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US
Date: 08/31/2011 12:40 PM
Subject: NHSM rule

Administrator:
(b)(5) deliberative, (b) (6)

Thanks.

Arvin

Sent with Good (www.good.com)

01268-EPA-1318

Arvin Ganesan/DC/USEPA/US To Richard Windsor
08/31/2011 01:58 PM cc
bcc
Subject RE: NHSM rule

(b) (6)

Sent with Good (www.good.com)

----- Original Message -----

From : Richard Windsor/DC/USEPA/US
To : Arvin Ganesan/DC/USEPA/US@EPA
Cc :
Sent on : 08/31/2011 01:50:31 PM
Subject : RE: NHSM rule

(b) (6)

Arvin Ganesan (b) (6) 08/31/2011 01:49:20 PM

From: Arvin Ganesan/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US
Date: 08/31/2011 01:49 PM
Subject: RE: NHSM rule

(b) (6)

Sent with Good (www.good.com)

----- Original Message -----

From : Richard Windsor/DC/USEPA/US
To : Arvin Ganesan/DC/USEPA/US@EPA
Cc :
Sent on : 08/31/2011 01:42:50 PM
Subject : Re: NHSM rule

(b)(5) deliberative, (b) (6)

Arvin Ganesan

Administrator: (b)(5) deliberative

08/31/2011 12:40:16 PM

01268-EPA-1320

Arvin Ganesan/DC/USEPA/US To Richard Windsor
08/31/2011 04:18 PM cc
bcc
Subject RE: NHSM rule

Personal (b) (6)

And btw...I am working, just not from dc!

Sent with Good (www.good.com)

----- Original Message -----

From : Richard Windsor/DC/USEPA/US
To : Arvin Ganesan/DC/USEPA/US@EPA
Cc :
Sent on : 08/31/2011 04:08:45 PM
Subject : Re: NHSM rule

(b) (6)
Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan
Sent: 08/31/2011 01:58 PM EDT
To: Richard Windsor
Subject: RE: NHSM rule

(b) (6)

(b) (6)

Sent with Good (www.good.com)

----- Original Message -----

From : Richard Windsor/DC/USEPA/US
To : Arvin Ganesan/DC/USEPA/US@EPA
Cc :
Sent on : 08/31/2011 01:50:31 PM
Subject : RE: NHSM rule

(b) (6)

Arvin Ganesan

(b) (6)

08/31/2011 01:49:20 PM

From: Arvin Ganesan/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US
Date: 08/31/2011 01:49 PM
Subject: RE: NHSM rule

(b) (6)

Sent with Good (www.good.com)

----- Original Message -----

From : Richard Windsor/DC/USEPA/US
To : Arvin Ganesan/DC/USEPA/US@EPA
Cc :
Sent on : 08/31/2011 01:42:50 PM
Subject : Re: NHSM rule

(b) (6)

Arvin Ganesan

Administrator: (b)(5) deliberative

08/31/2011 12:40:16 PM

01268-EPA-1325

Eric Wachter/DC/USEPA/US

To Richard Windsor

09/09/2011 05:08 PM

cc

bcc

Subject Fw: Dear Lisa Jackson, Please Don't Go!

(b)(5) deliberative You've received a bunch of these in your public account. We'll send them nice letters in response.

----- Forwarded by Eric Wachter/DC/USEPA/US on 09/09/2011 05:06 PM -----

From: Howard Schwartz <hschwartz@comcast.net>
To: LisaP Jackson/DC/USEPA/US@EPA
Date: 09/09/2011 04:59 PM
Subject: Dear Lisa Jackson, Please Don't Go!
Sent by: New Jersey Sierra Club <njsierra1@verizon.net>

Sep 9, 2011

Administrator Lisa Jackson

Dear Administrator Jackson,

Thank you for being a true environmental champion who has worked relentlessly to protect our environment and our health. Given the political climate that we are in now it is more important than ever that you continue your amazing work at the Environmental Protection Agency. You have fought for what you believe is right and stood by it.

The Sierra Club has worked tirelessly on the Air Toxic Rule, CAIR Rule, and Mercury Rule with your support. You never caved to big business or special interest, but instead protected the lungs of all Americans and we thank you for that. Given all that is happening in Washington DC we need you now more than ever.

There is no one who would bring the expertise, passion, and leadership to the Environmental Protection Agency like you do you are irreplaceable. Thank you for all that you have done and hopefully all that you will continue to do.

Sincerely,

Mr. Howard Schwartz

(b) (6)

01268-EPA-1331

Noah Dubin/DC/USEPA/US

To

09/12/2011 07:00 PM

cc

bcc Richard Windsor

Subject 09/14/2011 thru 09/27/2011 Schedule for Lisa P. Jackson

*** Do not copy or forward this information ***

**EPA Administrator
Lisa P. Jackson
Schedule**

09/12/2011 05:46:37 PM

Wednesday, 9/14/2011

Note: All times are shown in Eastern Daylight Time (EDT)

08:45 AM-09:15 AM FYI Daily Briefing
Location: Administrator's Office

08:54 AM-02:39 PM En Route to San Francisco, CA
United flight # 340

Departs DC (IAD) at 8:54 AM EDT

Arrives in San Francisco (SFO) at 2:39 PM EDT/11:39 AM PDT

Location: En Route to San Francisco, CA

03:00 PM-03:40 PM Depart for Solaria
Location: San Francisco Airport

03:30 PM-05:00 PM FYI Senior Policy Meeting
Location: Bullet Room

04:00 PM-05:00 PM Tour of Solaria
Ct: Susan DeVico - (b) (6)
Location: 6200 Paseo Padre Parkway, Fremont, CA 94555

05:00 PM-05:45 PM Depart for Project Open Hand
Location: Solaria

06:00 PM-07:20 PM Commercial Solar Installation Ribbon Cutting with Luminalt
Ct: Claire Hill - (b) (6)
Location: Project Open Hand,
730 Polk Street, San Francisco, CA 94109

10:00 PM-11:00 PM Asian Pacific Economic Cooperation (APEC) Dinner
Location: San Francisco City Hall
1 Dr Carlton B Goodlett Place, San Francisco, CA

Thursday, 9/15/2011

Note: All times are shown in Eastern Daylight Time (EDT)

08:45 AM-09:15 AM FYI Daily Briefing

Location: Administrator's Office

10:00 AM-10:15 AM FYI: Hispanic Heritage Month Program

Location: Green Room

01:00 PM-02:00 PM Tour of Method

Ct: Katie Molinari - (b) (6)

Attendees:

- The Administrator
- San Francisco Mayor Ed Lee

Method Attendees:

- Adam Lowry and Eric Ryan, Co-Founders
- Drummond Lawson, Director of Sustainability
- Ryan Williams, Director of Toxicology & Government Affairs
- Andrea Freedman, CFO
- Katie Molinari, Director of Public Relations and Advocacy

Location: Method,
637 Commercial Street, Suite 300, San Francisco, CA

02:00 PM-02:30 PM Method Press Event

Ct: Katie Molinari - (b) (6)

Method Attendees:

- Adam Lowry and Eric Ryan, Co-Founders
- Drummond Lawson, Director of Sustainability
- Ryan Williams, Director of Toxicology & Government Affairs
- Andrea Freedman, CFO
- Katie Molinari, Director of Public Relations and Advocacy

Location: Method,
637 Commercial Street, Suite 300, San Francisco, CA

02:45 PM-04:15 PM Lunch Meeting with CEOs and Tour of Sustainable Agriculture Marketplace

Location: Boulevard,
1 Mission Street, San Francisco, CA 94105

04:45 PM-06:00 PM Meeting with San Francisco Conservation Corps

Ct: Ann Cochran - (b) (6) 0

Location: Building 102, Fort Mason, San Francisco, CA 94124

07:00 PM-08:00 PM Ed Board with San Francisco Chronicle

Ct: John Diaz - (b) (6)
Location: 901 Mission Street, San Francisco, CA 94103

Friday, 9/16/2011

Note: All times are shown in Eastern Daylight Time (EDT)

08:45 AM-09:15 AM FYI Daily Briefing
Location: Administrator's Office

12:05 PM-04:15 PM En Route to Chicago, IL
American Airlines flight #1442

Departs San Francisco (SFO) at 12:05 PM EDT/9:05 AM PDT

Arrives in Chicago (ORD) at 4:15 PM EDT/3:15 PM CDT

Location: En Route to Chicago, IL

04:30 PM-05:00 PM Depart for Hotel
Location: Ohare Int. Airport

Saturday, 9/17/2011

Sunday, 9/18/2011

Monday, 9/19/2011

Note: All times are shown in Eastern Daylight Time (EDT)

08:45 AM-09:15 AM FYI Daily Briefing
Location: Administrator's Office

11:00 AM-11:05 AM Depart for Region 5 Offices
Location: Hotel

11:15 AM-11:45 AM EPA Region 5 Merit Awards Ceremony
Format: Closed Press
Location: EPA Region 5 Offices,
77 West Jackson Blvd.
Chicago, IL 60604

11:45 AM-12:00 PM Depart for TBD
Location: EPA Region 5 Offices

12:00 PM-12:30 PM One on One with Mayor Emanuel
Location: TBD

12:30 PM-01:15 PM Announcement with Mayor Emanuel
Ct: Shannon (b) (6)

Format: Open Press

Location: TBD, Chicago, IL

01:00 PM-02:00 PM FYI Senior Staff

Location: Bullet Room

01:15 PM-01:30 PM Depart for Henry Ford Academy

Location: TBD

01:50 PM-02:15 PM Informal Tour of Henry Ford Academy

Format: Closed Press

Location: Henry Ford Academy,
3415 West Arthington St, Chicago, IL

02:15 PM-03:30 PM White House Business Council & Environmental Law & Policy Center Roundtable Discussion

Format: Closed Press

Agenda: The Administrator will participate in a roundtable discussion coordinated by ELPC with local business owners.

Location: Henry Ford Academy,
3415 West Arthington St, Chicago, IL

03:30 PM-05:30 PM En Route to Milwaukee, WI

Location: En Route to Milwaukee, WI

08:00 PM-09:00 PM Dinner with Milwaukee CEOs

Location: TBD

Tuesday, 9/20/2011

Note: All times are shown in Eastern Daylight Time (EDT)

08:45 AM-09:15 AM FYI Daily Briefing

Location: Administrator's Office

08:50 AM-09:00 AM Depart for Milwaukee Water Council

Location: Hotel

09:00 AM-09:30 AM Remarks at Milwaukee Water Council Water Summit V

Format: Open Press

Location: 710 N. Plankinton Ave., Milwaukee, WI 53203

02:00 PM-02:45 PM Depart for Milwaukee Airport

Location: TBD

03:31 PM-05:20 PM En Route to DC

Frontier Airlines flight #322

Departs Milwaukee (MKE) at 3:31 PM EDT/2:31 PM CDT

Arrives in DC (DCA) at 5:20 PM EDT

Location: En Route to DC

Wednesday, 9/21/2011

08:45 AM-09:15 AM Daily Briefing

Location: Administrator's Office

10:00 AM-10:45 AM Early Guidance Briefing for Chesapeake Bay Concentrated Animal Feeding Operations Proposed Rule Revisions

Ct: Martha Workman 564-3774

Staff:

- Larry Elworth +1 (OA)
- Nancy Stoner, Jim Hanlon, Deborah Nagle, Allison Wiedeman (OW)
- Gina McCarthy +1 (OAR)
- Cynthia Giles (OECA)
- Scott Fulton +1 (OGC)
- Michael Goo +1 (OP)
- Paul Anastas +1 (ORD)
- Mathy Stanislaus +1 (OSWER)
- Curt Spalding +1 (R1)
- Judith Enck +1 (R2)
- Shawn Garvin +1 (R3)
- Gwen Keyes-Fleming +1 (R4)
- Susan Hedman +1 (R5)
- Al Armendariz +1 (R6)
- Karl Brooks +1 (R7)
- Jim Martin +1 (R8)
- Jared Blumenfeld +1 (R9)
- Dennis McLerran +1 (R10)
- Jeff Corbin, Jim Edward +1 (Ches. Bay)
- Heidi Ellis (OEAE)

Optional:

- Lisa Garcia, Janet Woodka, Dan Kanninen, Bob Sussman (OA)
- Sandy Evalenko, Macara Lousberg (OW)
- Arvin Ganesan, Laura Vaught (OCIR)

**Teleconferencing is required for this meeting

Location: Bullet Room

11:00 AM-11:45 AM Options Selection for Tier 3 Vehicle Emissions and Fuel Standards Rule

Ct: Cindy Huang 564-1850

Staff:

- Dan Kanninen (OA)
- Gina McCarthy, Janet McCabe, Joseph Goffman, Jim Jones, Don Zinger, Margo Oge, Lori Stewart, Karen Orehowsky, Chet France, Kathryn Sargeant, Paul Machiele, Glenn Passavant, John Koupal, Mike Olechiw (OAR)
- Scott Fulton, Avi Garbow (OGC)
- Michael Goo (OP)
- Paul Anastas (ORD)
- Cynthia Giles (OECA)
- Judith Enck (R2)
- Shawn Garvin (R3)

Jared Blumenfeld (R9)
Arvin Ganesan, Laura Vaught (OCIR)

Optional:

Diane Thompson, Bob Sussman, Bob Perciasepe, Janet Woodka (OA)
Bill Nickerson, Elizabeth Kopits, Peter Nagelhuout (OP)
Lester Facey (OA)
Matthew Davis (OHCP)
Anne Wick, Jeff Kodish (OECA)
John Hannon, Michael Horowitz, Mark Kataoka, Winifred Okoye (OGC)
Larke Williams, Sarah Mazur, Tim Benner,
Gene Stroup, John Cowden, Will Boyes, Deb Luecken (ORD)
Dan Birkett (R2)
Brian Rehn (R3)
Jeffrey Buss (R9)
Peter Grevatt (OCHP)

*Teleconferencing is required for this meeting

Location: Bullet Room

12:00 PM-01:00 PM No Meetings

Location: Administrator's Office

01:00 PM-01:45 PM Meeting with Siemens Executives

Ct: Rich Reisig richard.reisig@siemens.com

Topic: Utilities toxic rule

Attendees:

- Randy Zwirn, CEO of Siemens Energy Americas
- Barry Nicholls Sr. VP, Marketing
- Rich Reisig, VP, Government Affairs

Staff:

Bob Perciasepe (OA)
Gina McCarthy (OAR)
Arvin Ganesan (OCIR)
Scott Fulton (OGC)

Optional:

Bob Sussman, Diane Thompson (OA)
Janet McCabe (OAR)
Location: Bullet Room

02:00 PM-03:00 PM HOLD for HEC Prep

03:30 PM-04:30 PM Senior Policy Meeting

Location: Bullet Room

08:00 AM-01:00 PM HOLD for HEC

08:45 AM-09:15 AM FYI Daily Briefing

Location: Administrator's Office

01:00 PM-02:00 PM No Meetings

Location: Administrator's Office

02:30 PM-03:00 PM Update on Pavillion

Ct: Shelly Dawson 202-564-2440

Staff:

Bob Sussman (OA)

Cynthia Giles (OECA)

Nancy Stoner (OW)

Paul Anastas (By Phone)(ORD)

Jim Martin (By Phone) (R8)

Optional:

Diane Thompson (OA)

****Teleconferencing is required for this briefing**

Location: Administrator's Office

02:30 PM-05:30 PM HOLD: MOU Signing Ceremony with AKA and Alpha Phi Alpha

Ct: Dru Ealons

04:00 PM-04:45 PM Options Selection: National Emission Standards for Hazardous Air Pollutants for Solid Waste Incinerators and Boiler MACT

Ct: Cindy Huang - 202-564-7314

Staff:

Bob Perciasepe, Bob Sussman, Dan Kanninen (OA)

Lisa Garcia (OEJ)

Gina McCarthy, Janet McCabe, Joseph Goffman, Lorie Schmidt, Don Zinger (OAR)

Scott Fulton, Avi Garbow (OGC)

Michael Goo (OP)

Cynthia Giles (OECA)

Mathy Stanislaus (OSWER)

Paul Anastas (ORD)

Dennis McLerran (R10)

Arvin Ganesan, Laura Vaught (OCIR)

Optional:

Diane Thompson (OA)

Janet Woodka (Reg. Ops)

Robert Wayland, David Cozzie, Brian Shrager, Jim Eddinger, Toni Jones, Wanda

Farrar, Tom Eagles (OAR)

Marilyn Kuray, Wendy Blake, Paul Versace (OGC)

Lesley Schaaff, OP ADP Calendar, Nicole Owens, Tom Gillis, Peter Nagelhout (OP)

Gerard Kraus, Gregory Fried, Sally Harmon (OECA)

Gerain Perry, George Faison (OSWER)

Bob Fegley, Stan Durkee, Andy Miller, Brian Gullett (ORD)

Heather Valdez, Andrea Schrock (R10)

****Teleconferencing is required for this briefing**

Location: Bullet Room

Friday, 9/23/2011

08:45 AM-09:15 AM Daily Briefing

Location: Administrator's Office

10:00 AM-12:00 PM Congressional Black Caucus Annual Legislative Conference

Ct: Dru Ealons 202.564.7818

Location: Washington Convention Center, Room 143 - A

12:00 PM-01:00 PM No Meetings

02:00 PM-02:45 PM Meeting on School Siting Guidelines

Ct: Khesha Reed 566-0594

Staff:

Peter Grevatt, Margot Brown (OCHP)

Cynthia Giles (OECA)

Scott Fulton (OGC)

Barbara Bennett (OCFO)

Gina McCarthy (OAR)

Nancy Stoner (OW)

Mathy Stanislaus (OSWER)

Steve Owens (OCSPP)

Malcolm Jackson (OEI)

Paul Anastas (ORD)

Michelle DePass (OITA)

Michael Goo (OP)

Arvin Ganesan (OCIR)

Stephanie Owens (OEAE)

Optional:

Diane Thompson, Bob Sussman, Bob Perciasepe (OA)

Curt Spalding (R1)

Susan Hedman (R5)

Jared Blumenfeld (R9)

Location: Bullet Room

Saturday, 9/24/2011

05:00 PM-10:00 PM ALC Phoenix Award Dinner

Sunday, 9/25/2011

Monday, 9/26/2011

08:45 AM-09:15 AM Daily Briefing

Location: Administrator's Office

12:00 PM-01:00 PM No Meetings

Location: Administrator's Office

01:00 PM-02:00 PM Senior Staff

Location: Bullet Room

03:00 PM-07:00 PM HOLD for Travel

Tuesday, 9/27/2011

05:00 AM-08:00 PM HOLD for Travel

Location: New York, NY

08:45 AM-09:05 AM FYI Daily Briefing

Location: Administrator's Office

***** END *****

01268-EPA-1334

Seth Oster/DC/USEPA/US

09/14/2011 08:51 AM

To Richard Windsor, Bob Perciasepe, "Lisa Jackson"

cc "Diane Thompson"

bcc

Subject Re: AP - Luminant

Will follow up. But this is a very good piece for us.
Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 09/14/2011 08:41 AM EDT

To: Seth Oster; Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>

Cc: "Diane Thompson" <thompson.diane@epa.gov>

Subject: Re: AP - Luminant

(b)(5) deliberative

Seth Oster

----- Original Message -----

From: Seth Oster

Sent: 09/14/2011 08:36 AM EDT

To: Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>

Cc: "Diane Thompson" <thompson.diane@epa.gov>

Subject: Fw: AP - Luminant

David Gray

----- Original Message -----

From: David Gray

Sent: 09/14/2011 07:33 AM CDT

To: David Gray

Cc: Brendan Gilfillan; Al Armendariz; Andra Belknap; Bob Sussman; David Bloomgren; David Cohen; John Millett; Joseph Goffman; Laura Vaught; Michael Moats; Seth Oster

Subject: AP - Luminant

Lawmakers defiant over federal clean air rule

By APRIL CASTRO

AUSTIN, Texas

A threat by one of the state's largest energy companies to shut down generators and layoff hundreds of workers over stricter pollution standards came one day after the EPA issued a letter assuring the company a plan could be worked out to help it comply with the standards.

The new rules are designed to significantly reduce smog and soot pollution by requiring 27

states, including Texas, to decrease smokestack emissions, mostly at coal-fired power plants.

But Luminant and other agencies insist it is logistically impossible to comply with the new regulation by January without decreasing production.

"We continue to believe there are options to explore that would bring your company into compliance with this rule -- a rule that EPA was under court order to finalize and that will have significant public health benefits in Texas and numerous downwind states," wrote Bob Perciasepe, deputy administrator for the EPA, in a letter to Luminant CEO David Campbell.

"We stand ready to continue working with you to ensure that you have explored all the available options to achieve the necessary pollution reductions under the Clean Air Act without having to idle or shut down these operations and put these jobs at risk."

Cambell said that while discussions with the EPA are ongoing, "the reality is that there are no easy paths for reducing emissions by 64 percent this fast."

The letter was delivered to a panel of lawmakers who slammed the EPA Tuesday over a new pollution rule they say will cause electricity shortages and cost hundreds of jobs, including 500 layoffs announced this week, despite the federal agency's attempts to work closely with energy providers to prevent problems.

The legislative hearing came a day after Luminant, Texas' largest energy provider, announced it would shut down generators and lay off 500 jobs to comply with the new set of rules that goes into effect in January.

Reiterating accusations made by Gov. Rick Perry, a leading GOP presidential candidate, Republican Sen. Troy Fraser called the rule a job killer and suggested the Obama Administration is unfairly targeting Texas because it is heavily Republican.

"We are in an election season and surely an agency wouldn't be political in this, but the seven most affected states were all very red states," said Fraser, chairman of the Senate Natural Resources Committee.

"One does question the motive behind some of the actions," said chairman of the Texas Commission on Environmental Quality Bryan Shaw, a Perry appointee.

Perry has used the Cross-State Air Pollution Rule as fodder in his long-standing accusation that the EPA under President Barack Obama meddles in state affairs, lays down expensive regulations during tough economic times and is forcing companies to cut jobs to offset the cost of complying with environmental rules. Texas has requested a delay in the requirement.

The defiant panel of lawmakers also scoffed at a list of options presented by environmentalists, who say the federal requirement can be met without causing power shortages.

"There are a bunch of rules that are pending, protocols, executive orders that could be issued, we

think would really help," said Tom "Smitty" Smith, Texas director for the watchdog organization Public Citizen.

He said energy efficiency programs, new building codes and more solar and wind power could help the state comply with the federal regulation and "keep the lights on."

"If we put as much energy into getting these rule-making packages out the door as we have complaining about the EPA, we might actually be able to keep the lights on," he said.

"'Might' be able to?" Fraser asked. "That's not very encouraging ... that's a pretty strong statement coming from an environmental group."

Texas, faced with a growing population, few new energy sources and hot summers, has been vocal in its opposition to the regulation since it was announced in July. Texas has 19 coal-fired power plants, more than any other state, and plans to build nine more.

Nearly all of Texas' Congressional representatives have signed letters expressing concern about the impact the rule will have on jobs.

01268-EPA-1335

Seth Oster/DC/USEPA/US
09/14/2011 09:03 AM

To Richard Windsor, Bob Perciasepe, "Lisa Jackson"
cc "Diane Thompson"
bcc

Subject Re: AP - Luminant

(b)(5) deliberative

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 09/14/2011 08:52 AM EDT
To: Seth Oster; Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>
Cc: "Diane Thompson" <thompson.diane@epa.gov>
Subject: Re: AP - Luminant

(b)(5) deliberative

Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 09/14/2011 08:51 AM EDT
To: Richard Windsor; Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>
Cc: "Diane Thompson" <thompson.diane@epa.gov>
Subject: Re: AP - Luminant

Will follow up. But this is a very good piece for us.
Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 09/14/2011 08:41 AM EDT
To: Seth Oster; Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>
Cc: "Diane Thompson" <thompson.diane@epa.gov>
Subject: Re: AP - Luminant

(b)(5) deliberative

Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 09/14/2011 08:36 AM EDT
To: Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>
Cc: "Diane Thompson" <thompson.diane@epa.gov>
Subject: Fw: AP - Luminant

David Gray

----- Original Message -----

From: David Gray
Sent: 09/14/2011 07:33 AM CDT

To: David Gray
Cc: Brendan Gilfillan; Al Armendariz; Andra Belknap; Bob Sussman; David Bloomgren; David Cohen; John Millett; Joseph Goffman; Laura Vaught; Michael Moats; Seth Oster
Subject: AP - Luminant

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By APRIL CASTRO

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But Luminant and other agencies insist it is logistically impossible to comply with the new regulation by January without decreasing production.

"We continue to believe there are options to explore that would bring your company into compliance with this rule -- a rule that EPA was under court order to finalize and that will have significant public health benefits in Texas and numerous downwind states," wrote Bob Perciasepe, deputy administrator for the EPA, in a letter to Luminant CEO David Campbell.

"We stand ready to continue working with you to ensure that you have explored all the available options to achieve the necessary pollution reductions under the Clean Air Act without having to idle or shut down these operations and put these jobs at risk."

Cambell said that while discussions with the EPA are ongoing, "the reality is that there are no easy paths for reducing emissions by 64 percent this fast."

The letter was delivered to a panel of lawmakers who slammed the EPA Tuesday over a new pollution rule they say will cause electricity shortages and cost hundreds of jobs, including 500 layoffs announced this week, despite the federal agency's attempts to work closely with energy providers to prevent problems.

The legislative hearing came a day after Luminant, Texas' largest energy provider, announced it would shut down generators and lay off 500 jobs to comply with the new set of rules that goes into effect in January.

Reiterating accusations made by Gov. Rick Perry, a leading GOP presidential candidate, Republican Sen. Troy Fraser called the rule a job killer and suggested the Obama Administration

is unfairly targeting Texas because it is heavily Republican.

"We are in an election season and surely an agency wouldn't be political in this, but the seven most affected states were all very red states," said Fraser, chairman of the Senate Natural Resources Committee.

"One does question the motive behind some of the actions," said chairman of the Texas Commission on Environmental Quality Bryan Shaw, a Perry appointee.

Perry has used the Cross-State Air Pollution Rule as fodder in his long-standing accusation that the EPA under President Barack Obama meddles in state affairs, lays down expensive regulations during tough economic times and is forcing companies to cut jobs to offset the cost of complying with environmental rules. Texas has requested a delay in the requirement.

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Nearly all of Texas' Congressional representatives have signed letters expressing concern about the impact the rule will have on jobs.

01268-EPA-1337

Seth Oster/DC/USEPA/US
09/14/2011 09:12 AM

To Richard Windsor, Bob Perciasepe, "Lisa Jackson"
cc "Diane Thompson"
bcc

Subject Re: AP - Luminant

(b)(5) deliberative

Richard Windsor

----- Original Message -----

From: Richard Windsor
Sent: 09/14/2011 08:53 AM EDT
To: Seth Oster; Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>
Cc: "Diane Thompson" <thompson.diane@epa.gov>
Subject: Re: AP - Luminant

I'm on the plabe. They r closing the door now. **(b)(5) deliberative**
Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 09/14/2011 08:51 AM EDT
To: Richard Windsor; Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>
Cc: "Diane Thompson" <thompson.diane@epa.gov>
Subject: Re: AP - Luminant

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----- Original Message -----

From: Richard Windsor
Sent: 09/14/2011 08:41 AM EDT
To: Seth Oster; Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>
Cc: "Diane Thompson" <thompson.diane@epa.gov>
Subject: Re: AP - Luminant

(b)(5) deliberative

Seth Oster

----- Original Message -----

From: Seth Oster
Sent: 09/14/2011 08:36 AM EDT
To: Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>
Cc: "Diane Thompson" <thompson.diane@epa.gov>
Subject: Fw: AP - Luminant

David Gray

----- Original Message -----

From: David Gray
Sent: 09/14/2011 07:33 AM CDT
To: David Gray
Cc: Brendan Gilfillan; Al Armendariz; Andra Belknap; Bob Sussman; David Bloomgren; David Cohen; John Millett; Joseph Goffman; Laura Vaught; Michael

Moats; Seth Oster

Subject: AP - Luminant

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01268-EPA-1340

Seth Oster/DC/USEPA/US

09/15/2011 08:12 AM

To Gina McCarthy

cc Richard Windsor, Bob Perciasepe, Brendan Gilfillan, Joseph Goffman, Arvin Ganesan, Laura Vaught, Scott Fulton

bcc

Subject READ THIS: Houston Chronicle Biz columnist: Don't Blame EPA Over Luminant Woes

Gina -- read this as soon as you can.

(b)(5) deliberative



Seth Oster
Associate Administrator
Office of External Affairs and Environmental Education
Environmental Protection Agency
(202) 564-191
oster.seth@epa.gov

-----Forwarded by Seth Oster/DC/USEPA/US on 09/15/2011 07:54AM -----
To: Perciasepe.Bob@epamail.epa.gov, Oster.Seth@epamail.epa.gov,
Sussman.Bob@epamail.epa.gov, Armendariz.AI@epamail.epa.gov, "Gina McCarthy"
<McCarthy.Gina@epamail.epa.gov>, "Joseph Goffman"

<Goffman.Joseph@epamail.epa.gov>, "Laura Vaught" <Vaught.Laura@epamail.epa.gov>, "Betsaida Alcantara" <Alcantara.Betsaida@epamail.epa.gov>, "David Bloomgren" <Bloomgren.David@epamail.epa.gov>
From: Brendan Gilfillan/DC/USEPA/US
Date: 09/15/2011 06:22AM
Subject: Chronicle Biz columnist: Don't Blame EPA Over Luminant Woes

Don't Blame EPA Over Luminant Woes

Loren Steffy, Houston Chronicle Business Columnist

Make no mistake, the 500 Luminant employees who will lose their jobs later this year are victims, but not of federal over-regulation.

They are pawns in the ongoing charade of Texas' deregulated electricity market, which already has left generators financially weakened and consumers worrying about blackouts.

Luminant, Texas' largest power plant operator, said it will fire the workers and close two large coal-fired power units to comply with stricter air quality standards mandated by the U.S. Environmental Protection Agency.

Dallas-based Luminant is asking a court to delay the EPA rules, issued in June, so it will have more time to comply.

Luminant joins a chorus that includes Gov. Rick Perry and that loving lapdog of polluters, the Texas Commission on Environmental Quality, in lambasting the EPA rule changes.

Meanwhile, NRG, the second-biggest generator in the state, said it expects to comply with the EPA regulations without any jobs cuts, plants closing or material financial impact.

Funny how much difference good financing and a little planning can make. After all, power generators knew that, sooner or later, stricter air standards were coming. While it does seem that six months is a short time to enact the sort of pollution controls the EPA is requiring, it's a moot point.

Buyout debt

It's unlikely Luminant has the cash to make the sort of investments it needs to reduce its coal-fired pollution. Its parent company, Energy Future Holdings, is struggling with mountains of high-priced debt from its ill-timed \$43 billion buyout by two private equity firms in 2007.

That deal resulted from an unintended consequence of deregulation that made coal a profit machine. Electricity rates are tied to natural gas, and for most of the past decade, coal enabled companies to generate more cheaply, fattening their margins.

That's why we have 19 coal-fired generating units already operating and nine more than have been granted permits by the Texas Commission on Environmental Quality.

Now, with an abundance of shale gas, prices have fallen below \$4 per million British thermal units, making coal a less profitable generating source.

But don't expect generators to switch fuels.

"They couldn't afford to switch," said Ed Hirs, a professor of energy economics at the

University of Houston. "A coal plant is a sunk cost."

Hirs and a group of researchers affiliated with Yale University recently studied whether stricter pollution standards would cause generators to change from coal to natural gas. At most, the study found, 20 percent of the coal-generating capacity in the U.S. might convert.

"You're not going to see a big change over time," he said. "Clearly, there's an issue of inertia in the market."

That will disappoint environmentalists, and it will disappoint natural gas proponents, who have argued that gas is a cleaner, more economical generating fuel.

More of the same

In Texas, though, it means more of the same. Having created a system of misplaced incentives, deregulation has left us with higher prices, lower reliability and, now, more expensive and dirtier coal generation.

It's easy - and politically feasible - to blame the EPA, but the 500 jobs Luminant is cutting aren't being lost to higher air quality standards. They're simply the latest victims of deregulation's failed legacy.

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