

01268-EPA-3983

**Bob Perciasepe/DC/USEPA/US**  
07/10/2010 05:22 AM

To Richard Windsor, Adora Andy, Sarah Pallone, Dana Tulis, Mathy Stanislaus, "Lisa Jackson", Diane Thompson, "Bob Sussman", David McIntosh, "Seth Oster", "Allyn Brooks-Lasure", "Arvin Ganesan", Stephanie Owens  
cc "Brendan Gilfillan", "Betsaida Alcantara", Alisha Johnson, Michael Moats, Vicki Ekstrom  
bcc  
Subject Re: HEADS UP #2: HUFF PO

Lisa and Adora.

The federal government working with LSU hosted a Science symposium on dispersants over a month ago and they produced a report on research needs and questions. They also concluded that the use of dispersants was warranted.

I will look for to send to you.  
There were many scientist involved.

Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c) (b)(6) Privacy  
Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 07/10/2010 12:11 AM EDT  
**To:** Adora Andy; Sarah Pallone; Dana Tulis; Mathy Stanislaus; "Lisa Jackson" <windsor.richard@epa.gov>; Bob Perciasepe; Diane Thompson; "Bob Sussman" <Sussman.bob@epa.gov>; David McIntosh; "Seth Oster" <oster.seth@epa.gov>; "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>; "Arvin Ganesan" <ganesan.arvin@epa.gov>; Stephanie Owens  
**Cc:** "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "Betsaida Alcantara" <Alcantara.Betsaida@epa.gov>; Alisha Johnson; Michael Moats; Vicki Ekstrom  
**Subject:** Re: HEADS UP #2: HUFF PO

(b)(5) Deliberative  
[Redacted]

[Redacted]  
Andy

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

**From:** Adora Andy  
**Sent:** 07/09/2010 10:53 PM EDT  
**To:** Sarah Pallone; Dana Tulis; Mathy Stanislaus; "Richard Windsor" <windsor.richard@epa.gov>; Bob Perciasepe; Diane Thompson; "Bob Sussman" <sussman.bob@epa.gov>; David McIntosh; "Seth Oster" <oster.seth@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; "Arvin Ganesan" <ganesan.arvin@epa.gov>; Stephanie Owens  
**Cc:** "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; Alisha Johnson; Michael Moats; Vicki Ekstrom

**Subject:** HEADS UP #2: HUFF PO

Administrator,

Early next week, Dan Froomkin (formerly of the Washington Post, now at Huffington Post) will publish parts 2 and 3 of the story below (b)(5) Deliberative

Thanks,  
Adora

HUFFINGTON POST: Despite Obama's Lofty Words, Scientific Integrity Rules Are Lagging

[http://www.huffingtonpost.com/2010/07/09/despite-obamas-lofty-word\\_n\\_641082.html](http://www.huffingtonpost.com/2010/07/09/despite-obamas-lofty-word_n_641082.html)

Despite Obama's Lofty Words, Scientific Integrity Rules Are Lagging

First Posted: 07- 9-10 02:32 PM | Updated: 07- 9-10 02:45 PM

Dan Froomkin

Last March, President Obama promised he'd have a strategy for restoring scientific integrity to the federal government on hand by July 29. A full year later, federal agencies still have not received any new directives and some government scientists say that conditions have not improved noticeably since Obama took power.

Obama made scientific integrity an issue in his presidential campaign, and his March 9, 2009 memo outlined a series of high-minded principles -- advocating, for instance, for "transparency in the preparation, identification, and use of scientific and technological information in policymaking."

The memo also ordered John Holdren, the director of the White House's Office of Science and Technology Policy (OSTP) to develop guidelines "designed to guarantee scientific integrity throughout the executive branch." Obama gave Holdren 120 days. That deadline came and went. And Friday is its one-year anniversary.

The White House won't explain what's holding things up. In a June 18 posting on the White House website, Holdren simply said that "the process has been more laborious and time-consuming than expected at the outset." He set a new deadline, saying he would deliver "a high-quality product" to Obama "in the next few weeks." (That was three weeks ago.)

Holdren, however, also tried to argue that the directives weren't really a big deal. "There should not be any doubt that these principles have been in effect -- that is, binding on all Executive departments and agencies -- from the date of issue of the Memorandum on March 9, 2009," he wrote. The hold-up, he insisted, only affected "recommendations to the President on what further instructions he might issue in augmentation of these principles in order to advance the goal of achieving the highest level of scientific integrity across the Executive Branch." (Holdren's italics.)

But that, people who follow the issue closely tell the Huffington Post, is baloney.

"You can't enforce a principle, without a rule," said Jeff Ruch, executive director of Public Employees for Environmental Responsibility, a whistleblower group that he describes as "sort of a shelter for battered staff." Ruch's group is calling attention to the one-year anniversary of the blown deadline in hopes of spurring action.

"The reason that the Bush people were able to manipulate science is because there are no rules against it. And there still aren't," Ruch said.

"For changes to be meaningful and lasting, the White House must provide specific guidelines, they must provide a timeline and they must present benchmarks for agency performance, so we can measure the agencies and assure accountability," said Francesca Grifo, director of the scientific integrity project at the

Union of Concerned Scientists.

"That's actually how the work gets done," said Susan F. Wood, a professor involved in George Washington University's Scientists in Government program. Obama's memo was a "first step," she said. "Following through on that is really important."

A March report by Wood found that most government scientists interviewed did not view conditions at their agencies as having improved noticeably since the change in administration. That's an amazing conclusion, considering how President Bush and Vice President Cheney took political interference with science to entirely unprecedented levels.

In many cases, explained Ruch, scientists are still working for the same managers they were in the Bush administration. And, he said, "if you're going to have the same people operating with the same rules, you're going to have the same results."

The extraordinary delay in formulating new rules for the agencies is perplexing to some observers outside government. "I really don't get what's taking them so long," said Danielle Brian, executive director of the Project on Government Oversight.

Grifo has a suspicion: "I think different agencies and different parts of our government have differing amounts of power, and what I suspect is that one of those parts that has a lot of power is probably not happy with parts of it," she said.

Ruch has a theory: "One of the central tensions in the Obama administration is a rhetorical commitment to transparency and a fanatical devotion to message control. And the two don't go together."

"Who has the most to lose from an order like this being released? That's where I'd put my money on the hold ups," said Grifo.

If Ruch's theory is correct, the answer to Grifo's question would seem to be those elements in the administration that most fervently advocate for centralized command and control, namely Obama's top political advisers and his Office of Management and Budget. But nobody's talking, so we just don't know.

Rick Weiss, a spokesman for the OSTP, declined to explain the delay, though he did write in an e-mail to the Huffington Post: "Meanwhile it is important to appreciate that this administration has made scientific integrity a priority from day one -- in the people we've appointed, the policies we've adopted, the budgets we've proposed, and the processes we follow. It is reflected in the dozens of extraordinarily high-caliber and internationally renowned scientists that the President has brought into his administration (including [Energy Secretary] Steve Chu, [National Oceanographic and Atmospheric Administration director] Jane Lubchenco, John Holdren, and [Holdren's associate director for science] Carl Wieman).

"Science is now at the heart of key Presidential decisions such as the President's Executive Order removing barriers to responsible research involving stem cells, and is back at the heart of our policymaking processes to help us solve some of our most challenging problems. It is also a priority in our budget process, as reflected by the largest investment in science and innovation in our Nation's history. We have returned to evidence-based decision-making in energy, agriculture, climate, resource management, national security, and other areas, proving that in this White House science and technology once again have the respect they deserve."

Advocates of scientific integrity wonder what will eventually emerge from Holdren's office. Will it be watered-down rules, or will time have worn down the opposition?

Grifo said she is hoping that the long delay reflects that the OSTP is "holding fast to a line and not giving in."

Last May, Grifo's organization weighed in with some suggested guidelines. Comparing them to what Holdren delivers should be telling. Among the suggestions:

\* That "the director of OSTP should appoint an assistant administrator to oversee the integrity of science in the executive branch. The president should instruct the heads of scientific and regulatory agencies that scientific integrity is crucial to achieving their missions and should require agency heads to monitor their agencies' efforts to improve scientific integrity, reporting annually to the OSTP regarding their progress. OSTP should also regularly seek and release information to the public regarding potential instances of political interference in science."

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"Our expectations were really raised by the March 2009 memo, and then there was no follow through," Ruch said. Recalling how the last administration publicly espoused the virtues of "sound science," Ruch said that simply expressing lofty goals isn't enough.

"You had those under Bush," he said.

So what is the state of scientific integrity in the Obama administration? We'll have more about this next week. Readers: Do you have any personal experience related to the relationship between science and politics in federal agencies -- and how that has or hasn't changed since the Bush era? E-mail Dan Fromkin at [froomkin@huffingtonpost.com](mailto:froomkin@huffingtonpost.com).

01268-EPA-3985

Michael Moats/DC/USEPA/US  
07/10/2010 10:05 AM

To Adora Andy, Bob Perciasepe, Richard Windsor, Sarah Pallone, Dana Tulis, Mathy Stanislaus, "Richard Windsor", Diane Thompson, "Bob Sussman", David McIntosh, "Seth Oster", "Allyn Brooks-LaSure", "Arvin Ganesan", Stephanie Owens  
cc "Brendan Gilfillan", "Betsaida Alcantara", Alisha Johnson, Vicki Ekstrom  
bcc

Subject Re: HEADS UP #2: HUFF PO

(b)(5) Deliberative  
[Redacted]

[Redacted]

Adora Andy

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

**From:** Adora Andy  
**Sent:** 07/10/2010 09:51 AM EDT  
**To:** Bob Perciasepe; Richard Windsor; Sarah Pallone; Dana Tulis; Mathy Stanislaus; "Richard Windsor" <windsor.richard@epa.gov>; Diane Thompson; "Bob Sussman" <sussman.bob@epa.gov>; David McIntosh; "Seth Oster" <oster.seth@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; "Arvin Ganesan" <ganesan.arvin@epa.gov>; Stephanie Owens  
**Cc:** "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; Alisha Johnson; Michael Moats; Vicki Ekstrom  
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Bob Perciasepe

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01268-EPA-3986

**Paul Anastas/DC/USEPA/US**

07/11/2010 07:36 AM

To windsor.richard, perciasepe.bob

cc oster.seth, thompson.diane

bcc

Subject Fw: LAT: Obama not living up to promise to protect scientific integrity, some scientists say

(b)(5) Deliberative

-----Forwarded by Paul Anastas/DC/USEPA/US on 07/11/2010 07:34AM -----

To: "Paul Anastas" <Anastas.Paul@epamail.epa.gov>, "Mathy Stanislaus" <Stanislaus.Mathy@epamail.epa.gov>, "Dana Tulis" <Tulis.Dana@epamail.epa.gov>, "Richard Windsor" <windsor.richard@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Bob Sussman" <sussman.bob@epa.gov>, "David McIntosh" <McIntosh.David@epamail.epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>, "Arvin Ganesan" <ganesan.arvin@epa.gov>, "Stephanie Owens" <Owens.Stephanie@epamail.epa.gov>

From: Adora Andy/DC/USEPA/US

Date: 07/11/2010 01:16AM

cc: "Brendan Gilfillan" <gilfillan.brendan@epa.gov>, "Betsaida Alcantara" <alcantara.betsaida@epa.gov>, "Alisha Johnson" <Johnson.Alisha@epamail.epa.gov>, "Vicki Ekstrom" <Ekstrom.Vicki@epamail.epa.gov>, "Michael Moats" <Moats.Michael@epamail.epa.gov>, Sarah Pallone/DC/USEPA/US@EPA

Subject: LAT: Obama not living up to promise to protect scientific integrity, some scientists say

Obama not living up to promise to protect scientific integrity, some scientists say

By TOM HAMBURGER AND KIM GEIGER  
Tribune Washington Bureau

When he ran for president, Barack Obama attacked the George W. Bush administration for putting political concerns ahead of science on such issues as climate change and public health. And during his first weeks in the White House, Obama ordered his advisers to develop rules to "guarantee scientific integrity throughout the executive branch."

Many government scientists hailed the president's pronouncement. But a year and a half later, no such rules have been issued. Now scientists charge that the Obama administration is not doing enough to reverse a culture that they contend allowed officials to interfere with their work and limit their ability to speak out.

"We are getting complaints from government scientists now at the same rate we were

during the Bush administration," said Jeffrey Ruch, an activist lawyer who heads an organization representing scientific whistle-blowers.

White House officials, however, said they remained committed to protecting science from interference and that proposed guidelines would be forwarded to Obama in the near future.

But interviews with several scientists - most of whom requested anonymity because they fear retaliation in their jobs - as well as reviews of e-mails provided by Ruch and others show a wide range of complaints during the Obama presidency:

-In Florida, water-quality experts reported government interference with efforts to assess damage to the Everglades stemming from development projects.

-In the Pacific Northwest, federal scientists said they were pressured to minimize the effects they had documented of dams on struggling salmon populations.

-In several Western states, biologists reported being pushed to ignore the effects of overgrazing on federal lands.

-In Alaska, some oil and gas exploration decisions given preliminary approval under Bush moved forward under Obama, critics said, despite previously presented evidence of environmental harm.

The most immediate case of politics allegedly trumping science is what some government and outside environmental experts said was the decision to fight the Gulf of Mexico oil spill with huge quantities of potentially toxic chemical dispersants despite advice to examine the dangers more thoroughly.

And the Union of Concerned Scientists, a Washington-based organization, said it has received complaints from scientists in key agencies about the difficulty of speaking out publicly.

"Many of the frustrations scientists had with the last administration continue currently," said Francesca Grifo, the organization's director of scientific integrity.

For example, Grifo said, one biologist with a federal agency in Maryland complained that his study of public health data was purposefully disregarded by a manager who is not a scientist. The biologist, Grifo said, feared expressing his concerns inside and outside the agency.

Most of the examples provided by Ruch, Grifo and others come from scientists who insist on anonymity, making it difficult for agencies to respond specifically to the complaints. Officials at those agencies maintain that scientists are allowed and encouraged to speak out if they believe a policy is at odds with their findings.

The director of the White House Office of Science and Technology Policy, John P. Holdren, said in a statement last month that the president effectively set policy in his March 2009 memorandum calling for administration-wide scientific integrity standards.

"There should not be any doubt that these principles have been in effect - that is, binding on all executive departments and agencies," Holdren said, and that "augmentation of these principles" will be coming soon.

Still, Grifo said, the volume of complaints indicates a real problem and makes it "vital" that the Obama administration issue additional instructions. While overall respect for science may have improved under Obama, several scientists said in interviews that they were still subject to interference.

Ruch, referring to reports from government scientists in Alaska, said that under Bush, the agency that issues oil and gas drilling leases "routinely prevented scientists from raising ecological concerns about the effects of oil spills, introduction of invasive species and any other issue that might trigger the need for fuller environmental review."

In keeping the Bush Interior Department managers and policies in place, Ruch said, Obama appointees have "turned a blind eye toward federal court rulings that said Bush-era lease reviews were environmentally deficient, as well as a GAO report documenting how agency scientists were routinely stifled and ignored."

Kendra Barkoff, a spokeswoman at Interior, disagreed with Ruch's assertion, saying that Interior Secretary Ken Salazar "has made it very clear that decisions will be made based on a cautious, science-based approach."

Ruch's organization, Public Employees for Environmental Responsibility, said it had also been contacted by an EPA toxicologist who said a request for review of the toxicity of oil dispersants in the Gulf of Mexico was rebuffed.

The 39-year EPA veteran, Hugh B. Kaufman, said he has heard similar complaints from colleagues. Kaufman believes that his agency "gave the green light to using dispersants without doing the necessary studies."

A past EPA administrator, William Reilly, said in an interview with CBS last month that he refused to allow the toxic chemicals' use after the 1989 Exxon Valdez disaster off the coast of Alaska because of the potential effect on salmon.

Democratic Rep. Jerry Nadler of New York, who has proposed legislation to prohibit dispersant use until further scientific studies are completed, said the EPA "has been entirely irresponsible," in its review of dispersants.

In May, EPA Administrator Lisa Jackson acknowledged that dispersants could be problematic, but that "they are used to move us toward the lesser of two difficult environmental outcomes."

EPA press secretary Adora Andy said, "The data we have seen to date indicate that dispersant is less toxic than oil."

"If the science indicates dispersant are causing more damage than they're preventing, (Jackson) will be the first to sound the alarm," Andy said.

Despite the complaints from scientists at EPA and elsewhere, White House officials say the administration's commitment to science has not wavered.

"It is important to appreciate that this administration has made scientific integrity a priority from Day 1 - in the people we've appointed, the policies we've adopted, the budgets we've proposed, and the processes we follow," says Rick Weiss, an analyst and spokesman for the Office of Science and Technology Policy.

White House science adviser Holdren told the House Science and Technology Committee in February that his office had been delayed in releasing its guidelines on scientific integrity

due to "the difficulties of constructing a set of guidelines that would be applicable to all agencies and accepted by all concerned."

Scientists and environmental groups have lauded Obama for appointing highly regarded scientists to top posts within the administration. But so far, critics said, those appointments have not eliminated the problems faced by lower-level government scientists.

For example, Ruch said, he has been contacted by two federal scientists who charged that their efforts to implement stricter water quality rules had been suppressed.

In the Pacific Northwest, Ruch said, his organization has heard in the past 16 months from multiple federal fisheries biologists who report that they are under pressure not to overstate the impact of dams on wild salmon.

And in Western states, federal biologists report that they are under pressure not to disclose the full impact of cattle grazing on federal lands, according to Ruch's and other groups.

Katie Fite of the Western Watersheds Project, a group that monitors grazing, backs those allegations. Fite said that scientists had complained to her that "all of the incentives are geared to support grazing and energy development," which could adversely affect plants and other animals.

"Basically, science is still being scuttled," Fite said. "We are heartbroken."

Most critics said they were disappointed that protection of science and scientists did not become more of a priority after the election.

Eric Glitzenstein, a Washington attorney who has filed suit to block projects approved by the Army Corps of Engineers, the Fish and Wildlife Service and other agencies, said he had expected the culture to change under Obama.

"The administration's been in long enough that if that was going to happen, we should have seen it by now," he said. "We simply haven't."

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01268-EPA-3987

**Richard Windsor/DC/USEPA/US**  
07/11/2010 08:09 AM

To Paul Anastas, "Lisa Jackson", "Bob Perciasepe"  
cc "Seth Oster", "Diane Thompson"  
bcc

Subject Re: LAT: Obama not living up to promise to protect scientific integrity, some scientists say

(b)(5) Deliberative

**From:** Paul Anastas  
**Sent:** 07/11/2010 07:36 AM EDT  
**To:** windsor.richard@epa.gov; perciasepe.bob@epa.gov  
**Cc:** oster.seth@epa.gov; thompson.diane@epa.gov  
**Subject:** Fw: LAT: Obama not living up to promise to protect scientific integrity, some scientists say

(b)(5) Deliberative

-----Forwarded by Paul Anastas/DC/USEPA/US on 07/11/2010 07:34AM -----

To: "Paul Anastas" <Anastas.Paul@epamail.epa.gov>, "Mathy Stanislaus" <Stanislaus.Mathy@epamail.epa.gov>, "Dana Tulis" <Tulis.Dana@epamail.epa.gov>, "Richard Windsor" <windsor.richard@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Bob Sussman" <sussman.bob@epa.gov>, "David McIntosh" <McIntosh.David@epamail.epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>, "Arvin Ganesan" <ganesan.arvin@epa.gov>, "Stephanie Owens" <Owens.Stephanie@epamail.epa.gov>  
From: Adora Andy/DC/USEPA/US  
Date: 07/11/2010 01:16AM  
cc: "Brendan Gilfillan" <gilfillan.brendan@epa.gov>, "Betsaida Alcantara" <alcantara.betsaida@epa.gov>, "Alisha Johnson" <Johnson.Alisha@epamail.epa.gov>, "Vicki Ekstrom" <Ekstrom.Vicki@epamail.epa.gov>, "Michael Moats" <Moats.Michael@epamail.epa.gov>, Sarah Pallone/DC/USEPA/US@EPA  
Subject: LAT: Obama not living up to promise to protect scientific integrity, some scientists say

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By TOM HAMBURGER AND KIM GEIGER  
Tribune Washington Bureau

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Many government scientists hailed the president's pronouncement. But a year and a half later, no such



rules have been issued. Now scientists charge that the Obama administration is not doing enough to reverse a culture that they contend allowed officials to interfere with their work and limit their ability to speak out.

"We are getting complaints from government scientists now at the same rate we were during the Bush administration," said Jeffrey Ruch, an activist lawyer who heads an organization representing scientific whistle-blowers.

White House officials, however, said they remained committed to protecting science from interference and that proposed guidelines would be forwarded to Obama in the near future.

But interviews with several scientists - most of whom requested anonymity because they fear retaliation in their jobs - as well as reviews of e-mails provided by Ruch and others show a wide range of complaints during the Obama presidency:

-In Florida, water-quality experts reported government interference with efforts to assess damage to the Everglades stemming from development projects.

-In the Pacific Northwest, federal scientists said they were pressured to minimize the effects they had documented of dams on struggling salmon populations.

-In several Western states, biologists reported being pushed to ignore the effects of overgrazing on federal lands.

-In Alaska, some oil and gas exploration decisions given preliminary approval under Bush moved forward under Obama, critics said, despite previously presented evidence of environmental harm.

The most immediate case of politics allegedly trumping science is what some government and outside environmental experts said was the decision to fight the Gulf of Mexico oil spill with huge quantities of potentially toxic chemical dispersants despite advice to examine the dangers more thoroughly.

And the Union of Concerned Scientists, a Washington-based organization, said it has received complaints from scientists in key agencies about the difficulty of speaking out publicly.

"Many of the frustrations scientists had with the last administration continue currently," said Francesca Grifo, the organization's director of scientific integrity.

For example, Grifo said, one biologist with a federal agency in Maryland complained that his study of public health data was purposefully disregarded by a manager who is not a scientist. The biologist, Grifo said, feared expressing his concerns inside and outside the agency.

Most of the examples provided by Ruch, Grifo and others come from scientists who insist on anonymity, making it difficult for agencies to respond specifically to the complaints. Officials at those agencies maintain that scientists are allowed and encouraged to speak out if they believe a policy is at odds with their findings.

The director of the White House Office of Science and Technology Policy, John P. Holdren, said in a statement last month that the president effectively set policy in his March 2009 memorandum calling for administration-wide scientific integrity standards.

"There should not be any doubt that these principles have been in effect - that is, binding on all executive departments and agencies," Holdren said, and that "augmentation of these principles" will be coming soon.

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A past EPA administrator, William Reilly, said in an interview with CBS last month that he refused to allow the toxic chemicals' use after the 1989 Exxon Valdez disaster off the coast of Alaska because of the potential effect on salmon.

Democratic Rep. Jerry Nadler of New York, who has proposed legislation to prohibit dispersant use until further scientific studies are completed, said the EPA "has been entirely irresponsible," in its review of dispersants.

In May, EPA Administrator Lisa Jackson acknowledged that dispersants could be problematic, but that "they are used to move us toward the lesser of two difficult environmental outcomes."

EPA press secretary Adora Andy said, "The data we have seen to date indicate that dispersant is less toxic than oil."

"If the science indicates dispersant are causing more damage than they're preventing, (Jackson) will be the first to sound the alarm," Andy said.

Despite the complaints from scientists at EPA and elsewhere, White House officials say the administration's commitment to science has not wavered.

"It is important to appreciate that this administration has made scientific integrity a priority from Day 1 - in the people we've appointed, the policies we've adopted, the budgets we've proposed, and the processes we follow," says Rick Weiss, an analyst and spokesman for the Office of Science and Technology Policy.

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Katie Fite of the Western Watersheds Project, a group that monitors grazing, backs those allegations. Fite said that scientists had complained to her that "all of the incentives are geared to support grazing and energy development," which could adversely affect plants and other animals.

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01268-EPA-3988

**Paul Anastas/DC/USEPA/US**

07/11/2010 08:16 AM

To Richard Windsor

cc "Lisa Jackson", "Bob Perciasepe", "Seth Oster", "Diane Thompson"

bcc

Subject Re: LAT: Obama not living up to promise to protect scientific integrity, some scientists say

(b)(5) Deliberative

-----Richard Windsor/DC/USEPA/US wrote: -----

To: Paul Anastas/DC/USEPA/US@EPA, "Lisa Jackson" <windsor.richard@epa.gov>, "Bob Perciasepe" <perciasepe.bob@epa.gov>  
From: Richard Windsor/DC/USEPA/US  
Date: 07/11/2010 08:09AM  
cc: "Seth Oster" <oster.seth@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>  
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01268-EPA-4001

David McIntosh/DC/USEPA/US  
07/13/2010 05:43 PM

To Richard Windsor  
cc  
bcc

Subject Fw: From E&ENews PM -- ENERGY POLICY: Reid promises 4-part energy, climate bill


(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 07/13/2010 05:43 PM -----

From: David McIntosh/DC/USEPA/US@EPA  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 07/13/2010 05:42 PM  
Subject: From E&ENews PM -- ENERGY POLICY: Reid promises 4-part energy, climate bill

This E&ENews PM story was sent to you by: mcintosh.david@epa.gov

Personal message:



An E&E Publishing Service

**ENERGY POLICY: Reid promises 4-part energy, climate bill**  
(Tuesday, July 13, 2010)

**Josh Voorhees and Robin Bravender, E&E reporters**

The top Senate Democrat today vowed to unveil a four-part energy bill this month that will directly address greenhouse gas emissions from power plants. Majority Leader Harry Reid (D-Nev.) told reporters the bill will also respond to the Gulf of Mexico oil spill, boost U.S. energy efficiency and ramp up clean energy production. Floor debate could begin the week of July 26, Reid said.

"There's no actual bill," he said. "I hope to be able to have a bill introduced week after next." Reid's announcement comes as staff-level talks are continuing throughout the Capitol on the final details of the energy and climate package. Several key senators are now focused on a plan to limit carbon dioxide emissions from power plants, rather than an economywide bill, and Reid seemed to endorse that approach.

"At this stage, we haven't completed it, but we're looking at a way of making sure that when we talk about pollution, we're focused just on the utility sector," Reid said.

Reid sidestepped a question about whether his bill would impose a "cap" on utilities' carbon emissions. "Those words are not in my vocabulary," he said. "We're going to work on pollution." Reid added that he was working with the Finance Committee on the utilities title. But Finance Chairman Max Baucus (D-Mont.) told reporters just before Reid's comments that he was unsure if the bill would limit carbon emissions.

"I don't know," Baucus said. "Senator Reid has to make that decision." Baucus said he expected the bill to contain energy efficiency provisions and incentives for clean energy production. He also said he was working on package of energy tax provisions that he hoped to attach to the package.

Other key Democrats, likewise, appeared to remain in the dark in terms of exactly what Reid's pollution-reducing plans are.

"I don't think a final decision has been made," Energy and Natural Resources Chairman Jeff

Bingaman (D-N.M.) said of plans to limit greenhouse gas emissions. "It's going to be up to Reid."

### Utilities only

Several lawmakers are in talks with the majority leader's office over the structure of the final bill. Sen. Joe Lieberman (I-Conn.) said that he has sent a variety of draft bills to Reid's office, including a utilities-focused option and a nuclear title. He said that he was also working with Republican Sen. Olympia Snowe of Maine on the utilities-only approach.

"If you do a utilities only, and this is disappointing to me, but if you do utilities only, it's a significant step forward, but it probably doesn't achieve the same cut in dependence on foreign oil or the same reduction in carbon pollution, and it doesn't create the same number of jobs," Lieberman said. "But it would be a significant start."

Lieberman said he still thinks that the sweeping energy and climate bill he authored with Sen. John Kerry (D-Mass.) remains the best option but said that the final decision will be Reid's. "Senator Reid has to make a judgment about what he thinks can pass, so we're trying to supply him with the details of alternatives," he said.

Kerry and Lieberman are planning to circulate a bill capping greenhouse gas emissions from just the utility sector, according to a Kerry spokeswoman. "We will circulate a bill as soon as it's ready -- hopefully soon," she said. "Details are still being finalized."

A draft utilities-only **bill** from Bingaman is also circulating among senators. That draft, which surfaced today, would begin capping utilities' emissions in 2012 and would allow manufacturers to opt into the program if they chose to ([Greenwire](#), July 13).

With the exception of Snowe, most moderate Republicans remain cool to the idea of a utilities-only approach.

Sen. Judd Gregg (R-N.H.) said a "pure energy bill" without a price on carbon is the only thing that could pass in the next few months.

"I don't think [a utilities-only cap-and-trade bill] is viable before the election, and I think we need an energy package before the election," Gregg said.

"I don't like or dislike it," Gregg said of a utilities-only approach. "I just don't think it is practical in this climate to think you are going to do a cap-and-trade bill in what do we have, four weeks left, maybe? Heck, they can't even cap the oil well in the Gulf -- that's taken them three months. So I don't think we can practically do it. But we could pass a very aggressive energy bill ... we could do that."

### Still talking

Neither Lieberman nor Kerry attended a White House meeting today with Democratic leaders. According to the White House and several Democrats, the morning talks focused on the general legislative schedule but did not delve deep into the energy issue.

"We actually didn't talk a whole lot about that at the White House meeting," said Sen. Tom Carper (D-Del.).

Reid and Senate Democrats are holding a host of additional meetings to discuss the bill with key administration officials and stakeholders as they scramble to cobble together the final pieces. Reid said he was meeting with White House energy czar Carol Browner and Energy Secretary Steven Chu.

"I have met with strategic senators, committee chairs, and I now have a rough draft of what we're going to do," Reid said.

Kerry is slated to meet this afternoon with environmental groups and with the National Rural Electric Cooperative Association.

The meeting with the co-ops is expected to be "an exchange of ideas and concerns on climate change," said Tracy Warren, a spokeswoman for the association. The representatives from the association will include managers of generation and transmission cooperatives, she said.

### Democrats aim to push bill to the left

Several left-leaning senators are urging Reid to include more aggressive measures in the bill than the Kerry-Lieberman cap-and-trade proposal would have, according to a Senate Democratic aide. The senators -- including Sens. Sheldon Whitehouse (D-R.I.), Ben Cardin (D-Md.), Bernie Sanders (I-Vt.) and Jeff Merkley (D-Ore.) -- will push for a "significant" investment in energy efficiency and renewable energy deployment.

On a renewable electricity standard, the senators ideally want to see a standard above 20 percent, and ideally in the 25 percent range. The energy-only bill that passed the Energy and Natural Resources Committee last summer would require utilities to provide 15 percent of their power from renewable sources by 2021, with slightly over a fourth of the requirement that could be met through

energy efficiency measures. The climate and energy bill that passed the House last summer sets a combined 20 percent renewable electricity and efficiency standard by 2020. "We're not necessarily putting out a new bill *per se*, but I think there's an effort to put together some principles ... that could guide what a truly progressive climate and energy proposal would look like," the aide said.

*Reporters Katherine Ling, Noelle Straub and Allison Winter contributed.*

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01268-EPA-4002

**Bob Sussman/DC/USEPA/US**

07/14/2010 09:29 AM

To "Lisa P. Jackson", "Bob Perciasepe"

cc "Lisa Heinzerling", "Scott Fulton"

bcc

Subject Fw: GHG BACT

(b)(5) Deliberative



Gina McCarthy

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

**From:** Gina McCarthy

**Sent:** 07/14/2010 12:30 AM EDT

**To:** Bob Sussman; Lisa Heinzerling; Scott Fulton

**Cc:** Joseph Goffman; Janet McCabe

**Subject:** Fw: GHG BACT

(b)(5) Deliberative



----- Forwarded by Gina McCarthy/DC/USEPA/US on 07/14/2010 12:21 AM -----

From: David McIntosh/DC/USEPA/US

To: Gina McCarthy/DC/USEPA/US@EPA

Cc: Joseph Goffman/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA

Date: 07/13/2010 11:45 PM

Subject: Re: GHG BACT

(b)(5) Deliberative



(b)(5) Deliberative



Gina McCarthy

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

**From:** Gina McCarthy

**Sent:** 07/13/2010 08:24 PM EDT

**To:** "David McIntosh" <McIntosh.David@EPA.GOV>

**Cc:** Joseph Goffman; Janet McCabe

**Subject:** GHG BACT

11

(b)(5) Deliberative



Policy deliberative. Not for distribution.

(b)(5) Deliberative



(b)(5) Deliberative





(b)(5) Deliberative





01268-EPA-4004

**Richard Windsor/DC/USEPA/US**  
07/14/2010 04:51 PM

To Adora Andy, Susan Hedman  
cc Al Armendariz, Arvin Ganesan, Betsaida Alcantara, Bob Perciasepe, Bob Sussman, David McIntosh, Diane Thompson, Mathy Stanislaus, Peter Silva, Stephanie Owens  
bcc  
Subject Re: BUSINESS WEEK: Army Corps considering coal ash to fix levees

(b)(5) Deliberative

Adora Andy

A MUST READ. We'll work on a statem...

07/14/2010 04:16:18 PM

From: Adora Andy/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, Stephanie Owens/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Al Armendariz/R6/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA  
Cc: Betsaida Alcantara/DC/USEPA/US@EPA  
Date: 07/14/2010 04:16 PM  
Subject: BUSINESS WEEK: Army Corps considering coal ash to fix levees

A MUST READ. We'll work on a statement in case we get calls.

<http://www.businessweek.com/ap/financialnews/D9GUSVJ80.htm>

Army Corps considering coal ash to fix levees  
By JIM SUHR

ST. LOUIS

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01268-EPA-4007

**Bob Sussman/DC/USEPA/US**  
07/14/2010 05:33 PM

To Richard Windsor, Bob Perciasepe  
cc Lisa Heinzerling, Scott Fulton  
bcc

Subject Re: GHG BACT

(b)(5) Deliberative

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 07/14/2010 10:32 AM EDT  
**To:** Bob Sussman; Bob Perciasepe  
**Cc:** Lisa Heinzerling; Scott Fulton  
**Subject:** Re: GHG BACT

Bob,

(b)(5) Deliberative

Lisa

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 07/14/2010 09:29 AM EDT  
**To:** Richard Windsor; Bob Perciasepe  
**Cc:** Lisa Heinzerling; Scott Fulton  
**Subject:** Fw: GHG BACT

(b)(5) Deliberative

(b)(5) Deliberative

Gina McCarthy

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

**From:** Gina McCarthy  
**Sent:** 07/14/2010 12:30 AM EDT  
**To:** Bob Sussman; Lisa Heinzerling; Scott Fulton  
**Cc:** Joseph Goffman; Janet McCabe  
**Subject:** Fw: GHG BACT

(b)(5) Deliberative

----- Forwarded by Gina McCarthy/DC/USEPA/US on 07/14/2010 12:21 AM -----

From: David McIntosh/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Cc: Joseph Goffman/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA  
Date: 07/13/2010 11:45 PM  
Subject: Re: GHG BACT

---

(b)(5) Deliberative



Gina McCarthy

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

**From:** Gina McCarthy

**Sent:** 07/13/2010 08:24 PM EDT  
**To:** "David McIntosh" <McIntosh.David@EPA.GOV>  
**Cc:** Joseph Goffman; Janet McCabe  
**Subject:** GHG BACT

(b)(5) Deliberative

A solid black rectangular redaction box covering the main body of the email.

Policy deliberative. Not for distribution.

(b)(5) Deliberative

A large solid black rectangular redaction box covering the entire main body of the email below the distribution notice.

(b)(5) Deliberative





(b)(5) Deliberative



01268-EPA-4009

**Susan Hedman/R5/USEPA/US**

To Richard Windsor, Adora Andy

07/14/2010 06:54 PM

cc Al Armendariz, Arvin Ganesan, Betsaida Alcantara, Bob Perciasepe, Bob Sussman, David McIntosh, Diane Thompson, Mathy Stanislaus, Peter Silva, Stephanie Owens  
bcc

Subject Re: BUSINESS WEEK: Army Corps considering coal ash to fix levees

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**(b)(5) Deliberative**

Please let me know if you need any further information.  
Richard Windsor

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

**From:** Richard Windsor**Sent:** 07/14/2010 04:51 PM EDT

**To:** Adora Andy; Susan Hedman

**Cc:** Al Armendariz; Arvin Ganesan; Betsaida Alcantara; Bob Perciasepe; Bob Sussman; David McIntosh; Diane Thompson; Mathy Stanislaus; Peter Silva; Stephanie Owens

**Subject:** Re: BUSINESS WEEK: Army Corps considering coal ash to fix levees 1st question - has Region 5 had any role in this issue. Susan?

(b)(5) Deliberative

Adora Andy

A MUST READ. We'll work on a statem...

07/14/2010 04:16:18 PM

From: Adora Andy/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, Stephanie Owens/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Al Armendariz/R6/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA  
 Cc: Betsaida Alcantara/DC/USEPA/US@EPA  
 Date: 07/14/2010 04:16 PM  
 Subject: BUSINESS WEEK: Army Corps considering coal ash to fix levees

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<http://www.businessweek.com/ap/financialnews/D9GUSVJ80.htm>

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01268-EPA-4013

**Bob Sussman/DC/USEPA/US**

07/15/2010 08:02 AM

To Susan Hedman, Richard Windsor, Adora Andy, "Lisa Feldt"

cc Al Armendariz, Arvin Ganesan, Betsaida Alcantara, Bob Perciasepe, David McIntosh, Diane Thompson, Mathy Stanislaus, Peter Silva, Stephanie Owens

bcc

Subject Re: BUSINESS WEEK: Army Corps considering coal ash to fix levees

(b)(5) Deliberative

Susan Hedman

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

**From:** Susan Hedman**Sent:** 07/14/2010 06:54 PM EDT**To:** Richard Windsor; Adora Andy**Cc:** Al Armendariz; Arvin Ganesan; Betsaida Alcantara; Bob Perciasepe; Bob Sussman; David McIntosh; Diane Thompson; Mathy Stanislaus; Peter Silva; Stephanie Owens**Subject:** Re: BUSINESS WEEK: Army Corps considering coal ash to fix levees

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**Sent:** 07/14/2010 04:51 PM EDT  
**To:** Adora Andy; Susan Hedman  
**Cc:** Al Armendariz; Arvin Ganesan; Betsaida Alcantara; Bob Perciasepe; Bob Sussman; David McIntosh; Diane Thompson; Mathy Stanislaus; Peter Silva; Stephanie Owens  
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**Cc:** Betsaida Alcantara/DC/USEPA/US@EPA  
**Date:** 07/14/2010 04:16 PM  
**Subject:** BUSINESS WEEK: Army Corps considering coal ash to fix levees

A MUST READ. We'll work on a statement in case we get calls.

<http://www.businessweek.com/ap/financialnews/D9GUSVJ80.htm>

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By JIM SUHR

ST. LOUIS

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01268-EPA-4016

**Richard Windsor/DC/USEPA/US**  
07/15/2010 08:54 AM

To Bob Sussman, Susan Hedman, Adora Andy, Lisa Feldt  
cc Al Armendariz, Arvin Ganesan, Betsaida Alcantara, Bob Perciasepe, David McIntosh, Diane Thompson, Mathy Stanislaus, Peter Silva, Stephanie Owens  
bcc

Subject Re: BUSINESS WEEK: Army Corps considering coal ash to fix levees

[Redacted] (b)(5) Deliberative

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 07/15/2010 08:02 AM EDT  
**To:** Susan Hedman; Richard Windsor; Adora Andy; Lisa Feldt  
**Cc:** Al Armendariz; Arvin Ganesan; Betsaida Alcantara; Bob Perciasepe; David McIntosh; Diane Thompson; Mathy Stanislaus; Peter Silva; Stephanie Owens  
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"The whole thing is an absurd idea," said Kathy Andria, president of the American Bottom Conservancy and chairwoman of the Illinois Sierra Club's Floodplain Task Force.

Andria said engineers and a geologist she consulted panned the idea as a gambit that could further pollute a river system that supplies drinking water to many communities near the affected levees and provides recreation such as swimming, boating and fishing.

"With enough toxins there are (in the river), we don't need the federal government putting more in," she said.

Concerns about coal ash were revived in December 2008, when 5.4 million cubic yards of it breached an earthen dike and spilled into and around the Emory River from the Tennessee Valley Authority's Kingston plant near Knoxville. The TVA -- the nation's biggest public utility -- is in the midst of a projected \$1.2 billion cleanup of the mess.

The Environmental Protection Agency in May first proposed federal regulation of coal ash, perhaps as a hazardous waste form. The plan would allow coal byproducts to be used in concrete, wallboard and other building materials.

An EPA statement said one option would have EPA enforce compliance with waste management and disposal regulations, and another would set performance guidelines to be "enforced primarily through

citizen suits."

01268-EPA-4019

**Richard Windsor/DC/USEPA/US**  
07/15/2010 06:16 PM

To Mathy Stanislaus, Bob Sussman, Stephanie Owens  
cc Lisa Feldt  
bcc  
Subject Re: Request to meet with you regarding coal ash public hearings

[Redacted] (b)(5) Deliberative

Mathy Stanislaus

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

**From:** Mathy Stanislaus  
**Sent:** 07/15/2010 06:13 PM EDT  
**To:** Richard Windsor; Bob Sussman; Stephanie Owens  
**Cc:** Lisa Feldt  
**Subject:** Fw: Request to meet with you regarding coal ash public hearings

See attached requests for numerous meetings [Redacted] (b)(5) Deliberative

Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response  
----- Forwarded by Mathy Stanislaus/DC/USEPA/US on 07/15/2010 05:11 PM -----

From: "Lisa N. Widawsky" <lwidawsky@environmentalintegrity.org>  
To: Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 07/15/2010 04:43 PM  
Subject: Request to meet with you regarding coal ash public hearings

July 15, 2010

Assistant Administrator Stanislaus,

Attached please find a letter requesting a meeting with you from the Environmental Justice Resource Center, Earthjustice, Appalachian Voices, Sierra Club, Physicians for Social Responsibility, the Southern Environmental Law Center, and the Environmental Integrity Project. We look forward to discussing the public hearings scheduled for the proposed coal ash rule with you. Please let me know if you have any questions.

Thank you,

Lisa Widawsky  
Attorney  
Environmental Integrity Project  
1920 L Street NW, Suite 800  
Washington, DC 20036  
202.263.4452 (direct)  
202.294.3282 (cell)

202.296.8822 (fax)

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

[attachment "Stanislaus Meeting Request 20100715\_final.pdf" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-4022

**Richard Windsor/DC/USEPA/US**  
07/16/2010 02:13 PM

To David McIntosh, Gina McCarthy  
cc  
bcc

Subject Re: From Greenwire -- CLIMATE: Economywide carbon cap reduces GDP by 0.2% -- EIA

(b)(5) Deliberative

David McIntosh

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

**From:** David McIntosh

**Sent:** 07/16/2010 02:10 PM EDT

**To:** Richard Windsor; Gina McCarthy

**Subject:** Fw: From Greenwire -- CLIMATE: Economywide carbon cap reduces GDP by 0.2% -- EIA

Hi Administrator and Gina. Today, DOE's Energy Information Administration released the results of its economic computer modeling of the draft Kerry-Lieberman climate bill (the economy-wide version).

(b)(5) Deliberative

[Redacted]

01268-EPA-4026

**Gina McCarthy/DC/USEPA/US**

To Richard Windsor

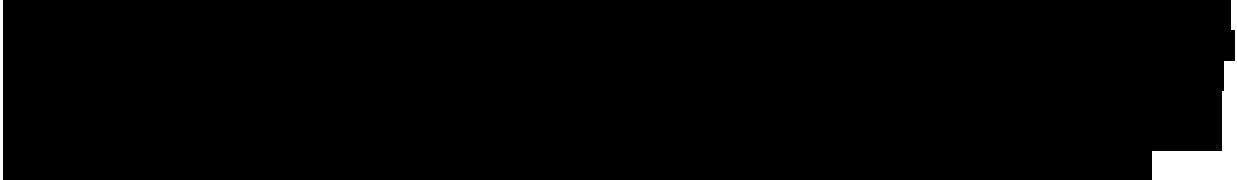
cc Fulton.Scott

07/20/2010 09:21 AM

bcc

Subject Petitions re: GHG endangerment from additional mobile sources (aircraft, marine and off-road)

(b)(5) Deliberative



This is just an FYI. Will talk to Scott and he or I can circle back to you when we have both spend more time with this.

01268-EPA-4028

**Bob Sussman/DC/USEPA/US**  
07/20/2010 03:25 PM

To "Lisa P. Jackson", "Bob Perciasepe", "Seth Oster", "Betsaida Alcantara", "Arvin Ganesan"  
cc  
bcc

Subject Fw: NMA Files Suit Challenging the ECP, the MIRA Assessment, and the April 1 Guidance

Kevin Minoli

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

**From:** Kevin Minoli

**Sent:** 07/20/2010 02:38 PM EDT

**To:** Bob Sussman; Peter Silva; Cynthia Giles-AA; Scott Fulton; Nancy Stoner; Avi Garbow; Shawn Garvin; Stan Meiburg; Susan Hedman; Denise Keehner; Jim Hanlon; Susan Bromm; Nanci Gelb; Randy Hill; Linda Boornazian; David Evans; Jim Giattina; Tinka Hyde; Jon Capacasa; Randy Pomponio <pomponio.john@epa.gov>; Wendy Melgin; Kevin Pierard; Jeffrey Lapp; John Forren; Marcia Mulkey; Stephen Field; Stefania Shamet; Nina Rivera; Mary Wilkes; Suzanne Rubini; Philip Mancusi-Ungaro; Paul Schwartz; Brian Frazer; Matthew Klasen; Gregory Peck; Marcus Zobrist; Tom Laverty; Timothy Landers; Brian Topping; Michael Slimak; Deborah Nagle

**Cc:** Steven Neugeboren; Karyn Wendelowski; Lee Schroer; Heidi Karp

**Subject:** NMA Files Suit Challenging the ECP, the MIRA Assessment, and the April 1 Guidance

(b)(5) A/C and AWP

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



(b)(5) A/C and AWP  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Thanks, Kevin

01268-EPA-4029

**Richard Windsor/DC/USEPA/US**  
07/20/2010 03:36 PM

To Bob Sussman  
cc  
bcc

Subject Re: NMA Files Suit Challenging the ECP, the MIRA Assessment, and the April 1 Guidance

Tx  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 07/20/2010 03:25 PM EDT  
**To:** Richard Windsor; Bob Perciasepe; Seth Oster; Betsaida Alcantara; Arvin Ganesan  
**Subject:** Fw: NMA Files Suit Challenging the ECP, the MIRA Assessment, and the April 1 Guidance

Kevin Minoli

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

**From:** Kevin Minoli  
**Sent:** 07/20/2010 02:38 PM EDT  
**To:** Bob Sussman; Peter Silva; Cynthia Giles-AA; Scott Fulton; Nancy Stoner; Avi Garbow; Shawn Garvin; Stan Meiburg; Susan Hedman; Denise Keehner; Jim Hanlon; Susan Bromm; Nanci Gelb; Randy Hill; Linda Boornazian; David Evans; Jim Giattina; Tinka Hyde; Jon Capacasa; Randy Pomponio <pomponio.john@epa.gov>; Wendy Melgin; Kevin Pierard; Jeffrey Lapp; John Forren; Marcia Mulkey; Stephen Field; Stefania Shamet; Nina Rivera; Mary Wilkes; Suzanne Rubini; Philip Mancusi-Ungaro; Paul Schwartz; Brian Frazer; Matthew Klasen; Gregory Peck; Marcus Zobrist; Tom Laverty; Timothy Landers; Brian Topping; Michael Slimak; Deborah Nagle  
**Cc:** Steven Neugeboren; Karyn Wendelowski; Lee Schroer; Heidi Karp  
**Subject:** NMA Files Suit Challenging the ECP, the MIRA Assessment, and the April 1 Guidance

(b)(5) A/C and AWP  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) A/C and AWP

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Thanks, Kevin

01268-EPA-4034

**Richard Windsor/DC/USEPA/US**  
07/21/2010 10:54 PM

To Bob Sussman, Bob Perciasepe  
cc Arvin Ganesan, Seth Oster  
bcc  
Subject Re: Coal Mac Decision

(b)(5) Deliberative

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 07/21/2010 08:11 PM EDT  
**To:** Richard Windsor; Bob Perciasepe  
**Cc:** Arvin Ganesan; Seth Oster  
**Subject:** Fw: Coal Mac Decision

(b)(5) Deliberative

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 07/21/2010 08:01 PM -----

From: Shawn Garvin/R3/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: William Early/R3/USEPA/US, Michael DAndrea/R3/USEPA/US@EPA, John Pomponio/R3/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Date: 07/21/2010 11:03 AM  
Subject: Coal Mac Decision

(b)(5) Deliberative

Thank you - Shawn

[attachment "CoalMac PermitCondition Briefing 7-13.doc" deleted by Richard Windsor/DC/USEPA/US]



01268-EPA-4035

**Bob Sussman/DC/USEPA/US**

To Richard Windsor, Bob Perciasepe

07/22/2010 06:47 AM

cc Arvin Ganesan, Seth Oster

bcc

Subject Re: Coal Mac Decision

(b)(5) Deliberative  
Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 07/21/2010 10:54 PM EDT  
**To:** Bob Sussman; Bob Perciasepe  
**Cc:** Arvin Ganesan; Seth Oster  
**Subject:** Re: Coal Mac Decision

(b)(5) Deliberative

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 07/21/2010 08:11 PM EDT  
**To:** Richard Windsor; Bob Perciasepe  
**Cc:** Arvin Ganesan; Seth Oster  
**Subject:** Fw: Coal Mac Decision

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 07/21/2010 08:01 PM -----

From: Shawn Garvin/R3/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: William Early/R3/USEPA/US, Michael DAndrea/R3/USEPA/US@EPA, John Pomponio/R3/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Date: 07/21/2010 11:03 AM  
Subject: Coal Mac Decision

(b)(5) Deliberative

(b)(5) Deliberative



Thank you - Shawn

[attachment "CoalMac PermitCondition Briefing 7-13.doc" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-4037

David  
McIntosh/DC/USEPA/US  
07/23/2010 12:40 PM

To Richard Windsor  
cc Barbara Bennett, Heidi Ellis, Aaron Dickerson  
bcc

Subject TPs for your thank-you call with Chairman Moran

Hi Administrator,  
I think that Heidi is working to get you on the phone with Chairman Moran today. Ed Walsh in Barb's shop prepared the talking points pasted immediately below. They look good to me.  
-David

**Phone call to Congressman Jim Moran  
July 23, 2010  
Talking points**

- (b)(5) Deliberative [Redacted]
- █ [Redacted]
- █ [Redacted]
- █ [Redacted]
- █ [Redacted]
- █ [Redacted]



01268-EPA-4038

Bob Sussman/DC/USEPA/US

07/23/2010 05:57 PM

To Richard Windsor, Bob Perciasepe

cc Seth Oster, Arvin Ganesan, Betsaida Alcantara, Adora Andy, Paul Anastas

bcc

Subject Fw: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams

Some good press on the just concluded SAB meeting reviewing the ORD reports supporting our MTM guidance (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 07/23/2010 05:53 PM -----

From: Matthew Klasen/DC/USEPA/US  
To: Gregory Peck/DC/USEPA/US@EPA, Denise Keehner/DC/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US@EPA, Michael Slimak/DC/USEPA/US@EPA, Susan Norton/DC/USEPA/US@EPA, Susan Cormier/CI/USEPA/US@EPA, Glenn Suter/CI/USEPA/US@EPA, Jeff Frithsen/DC/USEPA/US@EPA, Sharmin Syed/DC/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US@EPA, Nancy Stoner/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Kevin Minoli/DC/USEPA/US@EPA, Karyn Wendelowski/DC/USEPA/US@EPA, Margaret Passmore/R3/USEPA/US@EPA, John Forren/R3/USEPA/US@EPA  
Date: 07/23/2010 08:26 AM  
Subject: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams

### *Mining*

## **Science Panel Sees Strength in New Method To Gauge Surface Mines' Impact on Streams**

**An Environmental Protection Agency science advisory panel said July 22 that a new approach to assessing water quality appeared to be based on sound science, could serve as a powerful tool for measuring environmental harm from surface coal mines, and could be adapted for gauging other pollutants in other regions.**

But the new assessment method should not stand alone in assessing ecosystem impacts, the members of the Mountain Mining Panel of the EPA Science Advisory Board said in a preliminary assessment. The method uses electrical conductivity to measure dissolved solids in stream water and sets a critical benchmark derived from field evidence of harm to wildlife.

During a three-day public meeting, the panel members reviewed two EPA science reports that were issued in draft form for external review. The reports have since drawn hundreds of public comments, especially critical reactions from the mining industry but also from other industries that engage in much earth-moving work affecting streams.

Written by EPA's Office of Research and Development, the reports are *A Field-Based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams* and *The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems in the Central Appalachian Coalfields*.

The reports were released in support of guidance issued April 1 by EPA that provided conductivity benchmarks for use in assessing permit applications for surface coal mines, especially mountaintop removal mines, in central Appalachia (62 FR 4210, 1/24/97).

In their comments, the scientists on the 19-member advisory panel were offering initial, tentative reactions, not their final word. Their discussion, chaired by ecologist Duncan Patten of Montana State University, was to be followed by further discussion, writing, and rewriting before being released in final form.

### Conductivity Approach Praised

Susan Cormier of the EPA Office of Research and Development explained at the meeting July 21 that the EPA conductivity measurement was derived from West Virginia Department of Environmental Protection data on stream quality, and EPA it was validated by similar Kentucky data.

Conductivity was correlated with the presence of various invertebrates, notably mayflies and similar insects. It was not correlated with fish because the small headwaters streams that bear the main impacts from waste rock disposal often do not have fish.

EPA developed a benchmark from the measurements to use in judging mining permit requests: 300 microSiemens per centimeter as an indicator of threat to species. The agency has begun using that benchmark in judging mining permit applications, an action that has been challenged in court (*National Mining Association v. Jackson*, D.D.C., No. 1:10-cv-01220, 7/20/10; 138 DEN A-6, 7/21/10).

**Members of the science advisory panel expressed much respect for the database, the methodology for establishing a benchmark, and the specific 300 microSiemens per centimeter benchmark. Use of conductivity as a gauge stresses on aquatic life was "an excellent step in the right direction," as one subgroup of the advisory panel tentatively phrased it.**

The predictability of conductivity was questioned. Denise Keehner, director of the Office of Wetlands, Oceans, and Watersheds within the EPA Office of Water, said predictions had been derived by looking at the impacts that other mines had.

The scientists cautioned that while the benchmark could be applied in West Virginia and Kentucky, it could be inappropriate if applied with the same number elsewhere. In Pennsylvania, for example, different soil types might require different benchmarks, they said.

But as they discussed the subject, the scientists generally agreed that the methodology behind the benchmark was sound and could be adapted to other parts of the country and other pollutants. They cautioned that EPA would need to consider conductivity yardstick in conjunction with other parameters, such as measurements of nutrients or dissolved oxygen.

### Gaps in Ecosystem Report

EPA has put great emphasis on conductivity as a gauge for ecosystem health downstream from mountaintop mines, and members of the science panel said the agency overdid it. An ecosystem assessment, they said, needs to reflect the complexities of pollutant impacts by devoting much attention not only to conductivity but to selenium pollution and such indicators of water quality as mussel populations.

The scientists expressed concern about the need for measuring the geographic extent of ecosystem impacts. While the reports frequently referred to downstream impacts, they typically did not qualify the references with distances downstream. The advisory panel members suggested there was a need for descriptions of how far downstream an effect was measured.

An ecosystem report needs to consider degrees of effect with distances downstream and answer such questions as whether the effects are continuous, stepwise, or reach thresholds, the scientists said.

Panelists urged EPA to consider variations in both space and time for the dissolved solids that are measured by conductivity. Similarly, they suggested a need for more evaluation of the variations in space and time for the cumulative impacts of multiple mining operations in a watershed.

They suggested more consideration of the environment around the stream, not just the stream itself and the life forms in the water. They recommended looking at impacts throughout the food web and impacts that are synergistic among various environmental stressors.

They also suggested more attention to ecosystem function. A headwater may remain in existence below a mine and may support life, but it may be entirely different from what it was before the mining began.

By **Alan Kovski**

---

Matt Klasen  
U.S. Environmental Protection Agency  
Office of Water (IO)  
202-566-0780  
cell (b)(6)



01268-EPA-4039

**Bob  
Perciasepe/DC/USEPA/US**  
07/23/2010 06:50 PM

To Bob Sussman, Richard Windsor  
cc Seth Oster, Arvin Ganesan, Betsaida Alcantara, Adora Andy,  
Paul Anastas  
bcc

Subject Re: BNA on SAB: "Science Panel Sees Strength in New  
Method to Gauge Surface Mines' Impact on Streams

Excellent!  
Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c) (b)(6) Privacy  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 07/23/2010 05:57 PM EDT  
**To:** Richard Windsor; Bob Perciasepe  
**Cc:** Seth Oster; Arvin Ganesan; Betsaida Alcantara; Adora Andy; Paul  
Anastas  
**Subject:** Fw: BNA on SAB: "Science Panel Sees Strength in New Method to  
Gauge Surface Mines' Impact on Streams  
Some good press on the just concluded SAB meeting reviewing the ORD reports supporting our MTM  
guidance. (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 07/23/2010 05:53 PM -----

From: Matthew Klasen/DC/USEPA/US  
To: Gregory Peck/DC/USEPA/US@EPA, Denise Keehner/DC/USEPA/US@EPA, Christopher  
Hunter/DC/USEPA/US@EPA, Michael Slimak/DC/USEPA/US@EPA, Susan  
Norton/DC/USEPA/US@EPA, Susan Cormier/CI/USEPA/US@EPA, Glenn  
Suter/CI/USEPA/US@EPA, Jeff Frithsen/DC/USEPA/US@EPA, Sharmin  
Syed/DC/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US@EPA, Nancy  
Stoner/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Kevin  
Minoli/DC/USEPA/US@EPA, Karyn Wendelowski/DC/USEPA/US@EPA, Margaret  
Passmore/R3/USEPA/US@EPA, John Forren/R3/USEPA/US@EPA  
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### *Mining*

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The reports were released in support of guidance issued April 1 by EPA that provided conductivity benchmarks for use in assessing permit applications for surface coal mines, especially mountaintop removal mines, in central Appalachia (62 Fed. Reg. 4/2/10).

In their comments, the scientists on the 19-member advisory panel were offering initial, tentative reactions, not their final word. Their discussion, chaired by ecologist Duncan Patten of Montana State University, was to be followed by further discussion, writing, and rewriting before being released in final form.

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By [Alan Kovski](#)

---

Matt Klasen  
U.S. Environmental Protection Agency  
Office of Water (IO)  
202-566-0780  
cell (b)(6)

01268-EPA-4040

**Richard Windsor/DC/USEPA/US**  
07/23/2010 08:12 PM

To Bob Perciasepe, Bob Sussman  
cc Seth Oster, Arvin Ganesan, Betsaida Alcantara, Adora Andy, Paul Anastas  
bcc  
Subject Re: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams

Wonderful job Bob S.  
Bob Perciasepe

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

**From:** Bob Perciasepe  
**Sent:** 07/23/2010 06:50 PM EDT  
**To:** Bob Sussman; Richard Windsor  
**Cc:** Seth Oster; Arvin Ganesan; Betsaida Alcantara; Adora Andy; Paul Anastas  
**Subject:** Re: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams

Excellent !  
Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c) (b)(6) Privacy  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 07/23/2010 05:57 PM EDT  
**To:** Richard Windsor; Bob Perciasepe  
**Cc:** Seth Oster; Arvin Ganesan; Betsaida Alcantara; Adora Andy; Paul Anastas  
**Subject:** Fw: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams

Some good press on the just concluded SAB meeting reviewing the ORD reports supporting our MTM guidance. (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 07/23/2010 05:53 PM -----

From: Matthew Klasen/DC/USEPA/US  
To: Gregory Peck/DC/USEPA/US@EPA, Denise Keehner/DC/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US@EPA, Michael Slimak/DC/USEPA/US@EPA, Susan Norton/DC/USEPA/US@EPA, Susan Cormier/CI/USEPA/US@EPA, Glenn Suter/CI/USEPA/US@EPA, Jeff Frithsen/DC/USEPA/US@EPA, Sharmin Syed/DC/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US@EPA, Nancy Stoner/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Kevin Minoli/DC/USEPA/US@EPA, Karyn Wendelowski/DC/USEPA/US@EPA, Margaret Passmore/R3/USEPA/US@EPA, John Forren/R3/USEPA/US@EPA  
Date: 07/23/2010 08:26 AM  
Subject: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams

## **Mining**

### **Science Panel Sees Strength in New Method To Gauge Surface Mines' Impact on Streams**

**An Environmental Protection Agency science advisory panel said July 22 that a new approach to assessing water quality appeared to be based on sound science, could serve as a powerful tool for measuring environmental harm from surface coal mines, and could be adapted for gauging other pollutants in other regions.**

But the new assessment method should not stand alone in assessing ecosystem impacts, the members of the Mountain Mining Panel of the EPA Science Advisory Board said in a preliminary assessment. The method uses electrical conductivity to measure dissolved solids in stream water and sets a critical benchmark derived from field evidence of harm to wildlife.

During a three-day public meeting, the panel members reviewed two EPA science reports that were issued in draft form July 12 for external review. The reports have since drawn hundreds of public comments, especially critical reactions from the mining industry but also from other industries that engage in much earth-moving work affecting streams.

Written by EPA's Office of Research and Development, the reports are *A Field-Based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams* and *The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems in the Central Appalachian Coalfields*.

The reports were released in support of guidance issued April 1 by EPA that provided conductivity benchmarks for use in assessing permit applications for surface coal mines, especially mountaintop removal mines, in central Appalachia (62 FR 11100, 4/2/10).

In their comments, the scientists on the 19-member advisory panel were offering initial, tentative reactions, not their final word. Their discussion, chaired by ecologist Duncan Patten of Montana State University, was to be followed by further discussion, writing, and rewriting before being released in final form.

#### **Conductivity Approach Praised**

Susan Cormier of the EPA Office of Research and Development explained at the meeting July 21 that the EPA conductivity benchmark was derived from West Virginia Department of Environmental Protection data on stream quality, and EPA data from Kentucky, where it was validated by similar Kentucky data.

Conductivity was correlated with the presence of various invertebrates, notably mayflies and similar insects. It was not correlated with fish because the small headwaters streams that bear the main impacts from waste rock disposal often do not have fish.

EPA developed a benchmark from the measurements to use in judging mining permit requests: 300 microSiemens per centimeter as an indicator of threat to species. The agency has begun using that benchmark in judging mining permit applications, an action that has been challenged in court (*National Mining Association v. Jackson*, D.D.C., No. 1:10-cv-01220, 7/20/10; 138 DEN A-6, 7/21/10).

**Members of the science advisory panel expressed much respect for the database, the methodology for establishing a benchmark, and the specific 300 microSiemens per centimeter benchmark. Use of conductivity to gauge stresses on aquatic life was "an excellent step in the right direction," as one subgroup of the advisory panel tentatively phrased it.**

The predictability of conductivity was questioned. Denise Keehner, director of the Office of Wetlands, Oceans, and Watersheds within the EPA Office of Water, said predictions had been derived by looking at the impacts that other mines had.

The scientists cautioned that while the benchmark could be applied in West Virginia and Kentucky, it could be inappropriate if applied with the same number elsewhere. In Pennsylvania, for example, different soil types might require different benchmarks, they said.

But as they discussed the subject, the scientists generally agreed that the methodology behind the benchmark was sound and could be adapted to other parts of the country and other pollutants. They cautioned that EPA would need to consider conductivity yardstick in conjunction with other parameters, such as measurements of nutrients or dissolved oxygen.

#### **Gaps in Ecosystem Report**

EPA has put great emphasis on conductivity as a gauge for ecosystem health downstream from mountaintop mines, and members of the science panel said the agency overdid it. An ecosystem assessment, they said, needs to reflect the



complexities of pollutant impacts by devoting much attention not only to conductivity but to selenium pollution and such indicators of water quality as mussel populations.

The scientists expressed concern about the need for measuring the geographic extent of ecosystem impacts. While the reports frequently referred to downstream impacts, they typically did not qualify the references with distances downstream. The advisory panel members suggested there was a need for descriptions of how far downstream an effect was measured.

An ecosystem report needs to consider degrees of effect with distances downstream and answer such questions as whether the effects are continuous, stepwise, or reach thresholds, the scientists said.

Panelists urged EPA to consider variations in both space and time for the dissolved solids that are measured by conductivity. Similarly, they suggested a need for more evaluation of the variations in space and time for the cumulative impacts of multiple mining operations in a watershed.

They suggested more consideration of the environment around the stream, not just the stream itself and the life forms in the water. They recommended looking at impacts throughout the food web and impacts that are synergistic among various environmental stressors.

They also suggested more attention to ecosystem function. A headwater may remain in existence below a mine and may support life, but it may be entirely different from what it was before the mining began.

By [Alan Kovski](#)

---

Matt Klasen  
U.S. Environmental Protection Agency  
Office of Water (IO)  
202-566-0780  
cell (b)(6)

01268-EPA-4041

**Bob Perciasepe/DC/USEPA/US**  
07/23/2010 09:16 PM

To Janet Woodka, "Seth Oster", "Bob Perciasepe", "Richard Windsor"  
cc  
bcc

Subject Re: Open Letter to Ray Mabus

**(b) (6) Privacy**

Bob Perciasepe  
Office of the Administrator  
(o) 202 564 4711  
(c) **(b)(6) Privacy**

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

From: Janet Woodka  
Sent: 07/23/2010 08:06 PM EDT  
To: "Seth Oster" <oster.seth@epa.gov>; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Richard Windsor" <windsor.richard@epa.gov>  
Subject: Fw: Open Letter to Ray Mabus

**(b)(5) Deliberative**

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

From: Sidney Coffee [scoffee@americaswetland.com]  
Sent: 07/23/2010 05:03 PM EST  
To: Janet Woodka  
Cc: Valsin Marmillion <vam@mcopr.com>  
Subject: Open Letter to Ray Mabus

Janet,

Just wanted to give you a heads up on an ad we're placing in Roll Call to run this Tuesday, July 27, in an effort to highlight need for restoration during recovery from Deepwater Horizon. (It will also run in the Advocate in Baton Rouge and the Times-Picayune).

Partnering with us on the "open letter" ad are Environmental Defense Fund, The Nature Conservancy, National Wildlife Federation, Ducks Unlimited, Audubon, and Coalition to Restore Coastal Louisiana.

Enjoyed our talk the other day. Let me know if you need anything else. Heard the meeting with Secretary Jackson went very well last week.

Best,

Sidney

--

Sidney Coffee  
America's WETLAND Foundation  
Senior Advisor/Climate, Energy and the Coast  
(225) 603-3698  
[www.americaswetland.com](http://www.americaswetland.com)

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01268-EPA-4042

Paul Anastas/DC/USEPA/US

07/24/2010 08:17 AM

To Bob Perciasepe

cc Bob Sussman, Richard Windsor, Seth Oster, Arvin Ganesan, Betsaida Alcantara, Adora Andy

bcc

Subject Re: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams

I'll be sure to convey your sentiments to the ORD staff who did an excellent and creative job on constructing this scientific approach.

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

To: Bob Sussman/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA

From: Bob Perciasepe/DC/USEPA/US

Date: 07/23/2010 06:50PM

cc: Seth Oster/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Paul Anastas/DC/USEPA/US@EPA

Subject: Re: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams

Excellent !

Bob Perciasepe

Office of the Administrator

(o)202 564 4711

(c) (b)(6) Privacy

Bob Sussman

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

From: Bob Sussman

Sent: 07/23/2010 05:57 PM EDT

To: Richard Windsor; Bob Perciasepe

Cc: Seth Oster; Arvin Ganesan; Betsaida Alcantara; Adora Andy; Paul

Anastas

Subject: Fw: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams

Some good press on the just concluded SAB meeting reviewing the ORD reports supporting our MTM guidance. (b)(5) Deliberative

Robert M. Sussman

Senior Policy Counsel to the Administrator

Office of the Administrator

US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 07/23/2010 05:53 PM -----

Fro Matthew Klasen/DC/USEPA/US

m:

To: Gregory Peck/DC/USEPA/US@EPA, Denise Keehner/DC/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US@EPA, Michael Slimak/DC/USEPA/US@EPA, Susan Norton/DC/USEPA/US@EPA, Susan Cormier/CI/USEPA/US@EPA, Glenn Suter/CI/USEPA/US@EPA, Jeff Frithsen/DC/USEPA/US@EPA, Sharmin Syed/DC/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US@EPA, Nancy Stoner/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Kevin Minoli/DC/USEPA/US@EPA, Karyn Wendelowski/DC/USEPA/US@EPA, Margaret Passmore/R3/USEPA/US@EPA, John Forren/R3/USEPA/US@EPA

Date: 07/23/2010 08:26 AM

Subject:

Subject: BNA on SAB: "Science Panel Sees Strength in New Method to Gauge Surface Mines' Impact on Streams"

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### ***Mining***

### **Science Panel Sees Strength in New Method To Gauge Surface Mines' Impact on Streams**

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But the new assessment method should not stand alone in assessing ecosystem impacts, the members of the Mountaintop Mining Panel of the EPA Science Advisory Board said in a preliminary assessment. The method uses electrical conductivity to measure dissolved solids in stream water and sets a critical benchmark derived from field evidence of harm to wildlife.

During a three-day public meeting, the panel members reviewed two EPA science reports that were issued in draft form April 12 for external review. The reports have since drawn hundreds of public comments, especially critical reactions from the mining industry but also from other industries that engage in much earth-moving work affecting streams.

Written by EPA's Office of Research and Development, the reports are *A Field-Based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams* and *The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields*.

The reports were released in support of guidance issued April 1 by EPA that provided conductivity benchmarks for use in assessing permit applications for surface coal mines, especially mountaintop removal mines, in central Appalachia ([62 DEN A-9, 4/2/10](#)).

In their comments, the scientists on the 19-member advisory panel were offering initial, tentative reactions, not their final word. Their discussion, chaired by ecologist Duncan Patten of Montana State University, was to be followed by further discussion, writing, and rewriting before being released in final form.

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By Alan Kovski

-----  
Matt Klasen  
U.S. Environmental Protection Agency  
Office of Water (IO)  
202-566-0780  
cell (b)(6)

01268-EPA-4043

Bob Perciasepe  
<(b)(6)>  
07/24/2010 02:23 PM

To Seth Oster, Bob Sussman, Richard Windsor  
cc  
bcc

Subject Re: Fracking PA Hearing in NYT

(b)(5) Deliberative

On 7/24/10, Oster.Seth@epamail.epa.gov <Oster.Seth@epamail.epa.gov> wrote:

>  
> (b)(5) Deliberative

> Seth

>  
>  
>

> ----- Original Message -----

> From: Bob Perciasepe [(b)(6)]  
> Sent: 07/24/2010 12:57 PM AST  
> To: Bob Sussman; Richard Windsor; Seth Oster  
> Subject: Fracking PA Hearing in NYT

>  
>  
>

> July 23, 2010

> E.P.A. Considers Risks of Gas Extraction By TOM ZELLER  
> Jr.<

[http://topics.nytimes.com/topics/reference/timestopics/people/z/tom\\_jr\\_zeller/index.html?inline=nyt-per](http://topics.nytimes.com/topics/reference/timestopics/people/z/tom_jr_zeller/index.html?inline=nyt-per)>

>  
> CANONSBURG, Pa. - The streams of people came to the public meeting here  
> armed with stories of yellowed and foul-smelling well water, deformed  
> livestock, poisoned fish and itchy skin. One resident invoked the 1968  
> zombie thriller "Night of the Living Dead," which, as it happens, was filmed  
> just an hour away from this southwestern corner of Pennsylvania.

>

> The culprit, these people argued, was hydraulic fracturing, a method of  
> extracting natural  
> gas<<http://www.nytimes.com/info/natural-gas/?inline=nyt-classifier>>that  
> involves blasting underground rock with a cocktail of water, sand and  
> chemicals.

>

> Gas companies countered that the horror stories described in Pennsylvania  
> and at other meetings held recently in Texas and Colorado are either  
> fictions or not the companies' fault. More regulation, the industry warned,  
> would kill jobs and stifle production of gas, which the companies consider a  
> clean-burning fuel the nation desperately needs.

>

> Just as the Gulf of Mexico is the battleground for the future of offshore  
> oil<

[http://topics.nytimes.com/top/reference/timestopics/subjects/o/oil\\_spills/gulf\\_of\\_mexico\\_2010/index.html?inline=nyt-classifier](http://topics.nytimes.com/top/reference/timestopics/subjects/o/oil_spills/gulf_of_mexico_2010/index.html?inline=nyt-classifier)>drilling,

> Pennsylvania is at the center of the battle over hydraulic  
> fracturing, or fracking, which promises to open up huge swaths of land for  
> natural gas extraction, but whose environmental risks are still uncertain.



> Natural gas accounts for roughly a quarter of all energy used in the United States, and that fraction is expected to grow as the nation weans itself from dirtier sources like coal and oil.

>

> The Environmental Protection Agency<

[http://topics.nytimes.com/top/reference/timestopics/organizations/e/environmental\\_protection\\_agency/index.html?inline=nyt-org](http://topics.nytimes.com/top/reference/timestopics/organizations/e/environmental_protection_agency/index.html?inline=nyt-org)>has

> been on a listening tour, soliciting advice from all sides on how to shape a forthcoming \$1.9 million study of hydraulic fracturing's effect on groundwater.

>

> With the steep environmental costs of fossil fuel extraction apparent on beaches from Texas to Florida – and revelations that industry shortcuts and regulatory negligence may have contributed to the

> BP<

[http://topics.nytimes.com/top/news/business/companies/bp\\_plc/index.html?inline=nyt-org](http://topics.nytimes.com/top/news/business/companies/bp_plc/index.html?inline=nyt-org)>catastrophe

> in the gulf – gas prospectors are finding a cold reception for their assertions that their drilling practices are safe.

>

> "The industry has argued there are no documented cases of hydraulic fracturing contaminating groundwater," said Dencil Backus, a resident of nearby Mt. Pleasant Township, at Thursday night's hearing. "Our experience in southwestern Pennsylvania suggests that this cannot possibly be true."

>

> Matt Pitzarella, a spokesman for Range Resources<

<http://topics.nytimes.com/top/news/business/companies/range-resources-corporation/index.html?inline=nyt-org>>,

> a Texas-based natural gas producer, acknowledged that the gulf spill had increased public concern about any sort of drilling activity. "However, when people can review the facts, void of the strong emotions the gulf elicits, they can see the stark contrast between high-risk, deep offshore oil drilling and much safer, much lower risk onshore natural gas development," he said by e-mail.

>

> In this part of the country, the potentially enormous natural gas play of the Marcellus Shale has many residents lining up to lease their land to gas prospectors. Estimates vary on the precise size of the Marcellus Shale, which stretches from West Virginia across much of Pennsylvania and eastern Ohio and into the Southern Tier of New York. But by any estimate, the gas deposit is huge – perhaps as much as 500 trillion cubic feet. (New York State uses a little over 1.1 trillion cubic feet of natural gas each year.)

>

> An industry-financed study published this week suggested that as much as \$6 billion in government revenue and up to 280,000 jobs could be at stake in the Marcellus Shale region.

>

> Fracking has been around for decades, and it is an increasingly prominent tool in the effort to unlock previously unreachable gas reserves. The oil and gas industry estimates that 90 percent of the more than 450,000 operating gas wells in the United States rely on hydraulic fracturing.

>

> Roughly 99.5 percent of the fluids typically used in fracking, the industry says, are just water and sand, with trace amounts of chemical thickeners, lubricants and other compounds added to help the process along. The cocktail is injected thousands of feet below the water table and, the industry argues, can't possibly be responsible for growing complaints of spoiled streams and wells. But critics say that the relationship between fracking

> fluids and groundwater contamination has never been thoroughly studied – and  
> that proving a link has been made more difficult by oil and gas companies  
> that have jealously guarded as trade secrets the exact chemical ingredients  
> used at each well.  
>  
> Several other concerns linger over fracking, as well as other aspects of gas  
> drilling – including the design and integrity of well casings and the  
> transport and potential spilling of chemicals and the millions of gallons of  
> water required for just one fracking job.  
>  
> The recent string of accidents in the oil and gas industries – including the  
> gulf spill and a blowout last month at a gas field in Clearfield County,  
> Pa., that spewed gas and wastewater for 16 hours – has unnerved residents  
> and regulators.  
>  
> “There is extraordinary economic potential associated with the development  
> of Marcellus Shale resources,” said Representative Joe  
> Sestak<  
> [http://topics.nytimes.com/top/reference/timestopics/people/s/joe\\_sestak/index.html?inline=nyt-per](http://topics.nytimes.com/top/reference/timestopics/people/s/joe_sestak/index.html?inline=nyt-per)>,  
> Democrat of Pennsylvania, in a statement Friday announcing \$1 million for a  
> federal study of water use impacts in the Delaware Water Basin. However,  
> “there is also great risk.” He said, “One way to ensure proper development  
> is to understand the potential impacts.”  
>  
> Amy Mall, a senior policy analyst with the Natural Resources Defense  
> Council<  
> [http://topics.nytimes.com/top/reference/timestopics/organizations/n/natural\\_resources\\_defense\\_council/index.html?inline=nyt-org](http://topics.nytimes.com/top/reference/timestopics/organizations/n/natural_resources_defense_council/index.html?inline=nyt-org)>,  
> said the scrutiny was long overdue. “I think it’s all helping to shine a  
> spotlight on this entire industry,” she said. “Corners are sometimes cut,  
> and regulations simply aren’t strong enough.”  
>  
> Fears of fracking’s impact on water supplies prompted regulators overseeing  
> the Delaware Water Basin to curtail gas exploration until the effects could  
> be more closely studied. New York State lawmakers are contemplating a  
> moratorium.  
>  
> At the national level, in addition to the E.P.A. study, a Congressional  
> investigation of gas drilling and fracturing, led by House Energy and  
> Commerce Committee, intensified last week with demands sent to several  
> companies for details on their operations – particularly how they handled  
> the slurry of water and chemicals that flowed back from deep within a well.  
>  
> A renewed, if unlikely, push is also under way to pass federal legislation  
> that would undo an exemption introduced under the Bush administration that  
> critics say freed hydraulic fracturing from regulation under the Safe  
> Drinking Water Act.  
>  
> Last month, Wyoming introduced some of the nation’s toughest rules governing  
> fracturing, including provisions that require companies to disclose the  
> ingredients in their fracturing fluids to state regulators – though  
> specifically not to the public.  
>  
> Gas drillers, responding to the increased scrutiny and eyeing the expansive  
> and lucrative new gas plays in Appalachia, are redoubling their efforts to  
> stave off federal oversight, in some cases by softening their rigid  
> positions on fracking-fluid disclosure. Last week, Range Resources went so  
> far as to announce its intent to disclose the contents of its fracking  
> fluids to Pennsylvania regulators and to publish them on the company’s Web

> site.  
>  
> "We should have done this a long time ago," said Mr. Pitzarella, the Range  
> spokesman. "There are probably no health risks with the concentrations that  
> we're utilizing. But if someone has that concern, then it's real and you  
> have to address it."  
>  
> Environmental groups welcomed that, but said that clear and broad federal  
> jurisdiction would still be needed.  
>  
> "Any one accident might not be on the scale of the Deepwater Horizon  
> disaster," said Ms. Mall. "But accidents are happening all the time, and  
> there's no regime in place that broadly protects the health of communities  
> and the surrounding environment where drilling is being done."  
>  
> That was a common theme at the meeting Thursday night.  
>  
> "I can take you right now to my neighbors who have lost their water  
> supplies," Mr. Backus said to the handful of E.P.A. regulators on hand. "I  
> can take you also to places where spills have killed fish and other aquatic  
> life."  
>  
> "Corporations have no conscience," he added. "The E.P.A. must give them that  
> conscience."  
>

--

Sent from my mobile device

01268-EPA-4045

**Mathy  
Stanislaus/DC/USEPA/US**  
07/26/2010 11:42 AM

To "Richard Windsor"  
cc "Bob Perciasepe", "Bob Sussman", "Lisa Feldt", "Barry  
Breen", "Diane Thompson"  
bcc  
Subject CCR Planning

Lisa:

On July 21, Bob Susman and I met with my staff and OGC, and resolved a number of issues associated with the Coal Combustion Residue (CCR) proposed rule and the Coal Combustion Products Partnership (C2P2). (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

his is

(b)(5) Deliberative

[Redacted]

[Redacted]

Mathy

01268-EPA-4046

**Richard Windsor/DC/USEPA/US**  
07/26/2010 01:59 PM

To Adora Andy, "Seth Oster"  
cc "David McIntosh"  
bcc

Subject Re: FIREDOGLAKE: Obama Administration Threatens Veto on Any Bill Blocking EPA Carbon Regulations

Stupid.

Adora Andy

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

**From:** Adora Andy  
**Sent:** 07/26/2010 01:51 PM EDT  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Bob Sussman; Seth Oster; Allyn Brooks-LaSure; David McIntosh; Arvin Ganesan <ganesan.arvin@epa.gov>; Gina McCarthy  
**Subject:** FIREDOGLAKE: Obama Administration Threatens Veto on Any Bill Blocking EPA Carbon Regulations  
<http://news.firedoglake.com/2010/07/26/obama-administration-threatens-veto-on-any-bill-blocking-epa-carbon-regulations/>

## **FIRE DOG LAKE**

### **Obama Administration Threatens Veto on Any Bill Blocking EPA Carbon Regulations**

By: David Dayen Monday July 26, 2010 10:22 am

This is pretty good news. It's important to note that the death of climate legislation does not mean the death of carbon regulation. It just moves it into a new phase, where the EPA takes the lead. And the Administration will protect that privilege:

President Barack Obama would veto legislation suspending the EPA's plans to write new climate change rules, a White House official said Friday.

Coal-state Democrats, led by Sen. Jay Rockefeller (W. Va.), Reps. Rick Boucher (Va.) and Nick Rahall (W. Va), are trying to limit the federal government's ability to control greenhouse gases from power plants.

The coal-state proposals, which would block the Environmental Protection Agency's authority for two years, would undercut what is widely seen as Obama's alternative climate policy, now that Congress has punted on cap-and-trade legislation for the year. The Obama aide said the proposals won't win the president's signature if they managed to pass on Capitol Hill. Rockefeller's bill is expected to reach the Senate floor at some point this year.

All those lawmakers who want Congress and not "unelected bureaucrats" to determine climate policy had their chance, and failed. So now, it's the EPA's turn. And I'll bet energy interests aren't going to like what they come up with as much as they like the opportunity to deal with a captured Congress.

While the courts will surely get involved in the EPA's rulemaking, the EPA is merely following a 2007 Supreme Court ruling mandating that they regulate greenhouse gas emissions. So industry, Republicans and coal-staters can stamp their little feet all they want, but the White House will follow the law.

Good for them. Dave Roberts said the day the climate bill died that the EPA is basically the last hope, and the necessary outcome of a process where coal-staters refused to budge.

Protecting the EPA is now job one for progressives: Murkowski already tried to block EPA on carbon.

Rockefeller's going to try again shortly, and his bid is going to be even trickier to block than hers. The EPA's ability to act must be protected. It won't be as comprehensive, as economically efficient, or as socially cooperative as smart climate legislation would have been, but it will reduce carbon. And you know what? Senators from coal-heavy states have poorly served their constituents, so as far as I'm concerned, they deserve a big ol' EPA boot to the ass. They made this bed, they can sleep in it.

It's possible that industry will come back to the table with a new proposal. And while any Congressional legislation on carbon caps is dead, some demand-side measures like a renewable energy standard might get revived. While Senate Democrats wanted to block all amendments originally, that could be changing, and a few could sneak through. Tom Udall, Jeff Merkley and others in the Senate believe that they could get Republican support for a decent RES, beyond the pitiful one in the Bingaman ACELA bill.

But on carbon regulation, the EPA is king. And it's entirely the fault of coal-state Democrats and Republicans who didn't believe the threat credible. Well, tough. EPA will now become your worst nightmare, and you caused it.

UPDATE: A case in point: the EPA has just issued a ruling incorporating environmental justice into their rulemaking considerations. From the release:

"Historically, the low-income and minority communities that carry the greatest environmental burdens haven't had a voice in our policy development or rulemaking. We want to expand the conversation to the places where EPA's work can make a real difference for health and the economy," said EPA Administrator Lisa P. Jackson. "This plan is part of my ongoing commitment to give all communities a seat at the decision-making table. Making environmental justice a consideration in our rulemaking changes both the perception and practice of how we work with overburdened communities, and opens this conversation up to new voices."

That's the new authority over GHG mitigation which Jay Rockefeller and Ben Nelson and the rest just empowered. Deal with it.

01268-EPA-4048

David  
McIntosh/DC/USEPA/US  
07/29/2010 09:39 AM

To Richard Windsor  
cc Diane Thompson, Bob Perciasepe, Arvin Ganesan  
bcc  
Subject Re: I'm keeping an eye on this today

Late this morning the Senate will vote on a motion to limit debate on -- and consider only germane amendments to -- the small business bill. If the motion gets 60 votes, then the Murkowski amendment will not subsequently be considered, because it is not germane. If the motion fails to get 60 votes, then I think Reid will pull the bill from the floor -- in which case the Murkowski amendment obviously will not be considered either. (b)(5) Deliberative

David McIntosh CLIMATE: Murkowski weighs bid to ad... 07/28/2010 01:29:15 PM

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 07/28/2010 01:29 PM  
Subject: I'm keeping an eye on this today

## **CLIMATE: Murkowski weighs bid to add EPA amendment to business bill (Wednesday, July 28, 2010)**

**Robin Bravender, E&E reporter**

Sen. Lisa Murkowski (R-Alaska) is considering offering an amendment that would block U.S. EPA climate regulations for two years to the small business package pending in the Senate, the senator's spokesman Robert Dillon said today.

"We have reserved our right to do so," Dillon said. "There is broad bipartisan concern about the impact EPA regulations of greenhouse gases would have on the economy starting at the beginning of the year."

Murkowski, the Senate Energy and Natural Resources Committee's top Republican, may offer legislation introduced by Sen. Jay Rockefeller (D-W.Va.) as an amendment to the small business bill, Dillon said.

Rockefeller's legislation would impose a two-year delay on EPA climate regulations for stationary sources like power plants and refineries, which are slated to kick in next January.

Senate Majority Leader Harry Reid (D-Nev.) promised Rockefeller a vote on the bill before the November election, Rockefeller told reporters yesterday.

Rockefeller said he had not decided yet whether to offer the bill as an amendment to the oil spill legislation that Democrats are bringing to the Senate floor this week. And it remains unclear whether Rockefeller would have that opportunity.



Many political analysts expect Reid to curtail amendments in an effort to stave off controversial debates and move the bill more quickly during the short window before the Senate breaks for the August recess.

Murkowski may seek to attach the measure to the small business bill because "it's what's on the floor now," Dillon said.

But President Obama would veto the measure if it made it to his desk, a White House aide said today.

Murkowski has failed in several previous efforts to stave off EPA regulations. In June, the Senate rejected, 47-53, a disapproval resolution from the Alaska Republican that would have nullified EPA's authority to regulate greenhouse gases under the Clean Air Act.

01268-EPA-4049

**Richard Windsor/DC/USEPA/US**  
07/29/2010 10:12 AM

To David McIntosh  
cc  
bcc

Subject Re: I'm keeping an eye on this today

(b)(5) Deliberative

David McIntosh

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

**From:** David McIntosh  
**Sent:** 07/29/2010 09:39 AM EDT  
**To:** Richard Windsor  
**Cc:** Diane Thompson; Bob Perciasepe; Arvin Ganesan  
**Subject:** Re: I'm keeping an eye on this today

Late this morning the Senate will vote on a motion to limit debate on -- and consider only germane amendments to -- the small business bill. If the motion gets 60 votes, then the Murkowski amendment will not subsequently be considered, because it is not germane. If the motion fails to get 60 votes, then I think Reid will pull the bill from the floor -- in which case the Murkowski amendment obviously will not be considered either.

(b)(5) Deliberative

y.

David McIntosh

CLIMATE: Murkowski weighs bid to ad...

07/28/2010 01:29:15 PM

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 07/28/2010 01:29 PM  
Subject: I'm keeping an eye on this today

## CLIMATE: Murkowski weighs bid to add EPA amendment to business bill (Wednesday, July 28, 2010)

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But President Obama would veto the measure if it made it to his desk, a White House aide said today.

Murkowski has failed in several previous efforts to stave off EPA regulations. In June, the Senate rejected, 47-53, a disapproval resolution from the Alaska Republican that would have nullified EPA's authority to regulate greenhouse gases under the Clean Air Act.

01268-EPA-4050

Gina McCarthy/DC/USEPA/US

To Richard Windsor, "Bob Sussman", "Bob Perciasepe", "Scott  
Fulton", Janet McCabe, "Lisa Heinzerling", "David McIntosh"

07/30/2010 12:20 AM

cc Joseph Goffman

bcc

Subject GHG BACT

Here is a draft timeline for GHG BACT and NSPS for tomorrow's meeting.

[REDACTED]  
• (b)(5) Deliberative  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

01268-EPA-4051

**Richard Windsor/DC/USEPA/US**  
07/30/2010 10:38 AM

To Janet McCabe, Gina McCarthy  
cc "Scott Fulton", "Lisa Heinzerling", Joseph Goffman, "David McIntosh", "Bob Perciasepe", "Bob Sussman", "Heidi Ellis"  
bcc

Subject Re: GHG BACT

We will be re-scheduling to Monday because I now have to go to MI.  
Janet McCabe

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

**From:** Janet McCabe  
**Sent:** 07/30/2010 10:12 AM EDT  
**To:** Gina McCarthy  
**Cc:** "Scott Fulton" <Fulton.Scott@EPA.GOV>; "Lisa Heinzerling" <Heinzerling.Lisa@EPA.GOV>; Joseph Goffman; "David McIntosh" <McIntosh.David@EPA.GOV>; "Bob Perciasepe" <perciasepe.bob@epa.gov>; Richard Windsor; "Bob Sussman" <Sussman.bob@EPA.GOV>  
**Subject:** Re: GHG BACT

(b)(5) Deliberative  
[Redacted]

[attachment "Ozone Timelines 7-30-10.doc" deleted by Richard Windsor/DC/USEPA/US]

Janet McCabe  
Principal Deputy Assistant Administrator  
Office of Air and Radiation, USEPA  
Room 5426K, 1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-3206  
mccabe.janet@epa.gov

Gina McCarthy Here is a draft timeline for GHG BACT... 07/30/2010 12:20:23 AM

**From:** Gina McCarthy/DC/USEPA/US  
**To:** Richard Windsor/DC/USEPA/US@EPA, "Bob Sussman" <Sussman.bob@EPA.GOV>, "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Scott Fulton" <Fulton.Scott@EPA.GOV>, Janet McCabe/DC/USEPA/US, "Lisa Heinzerling" <Heinzerling.Lisa@EPA.GOV>, "David McIntosh" <McIntosh.David@EPA.GOV>  
**Cc:** Joseph Goffman/DC/USEPA/US  
**Date:** 07/30/2010 12:20 AM  
**Subject:** GHG BACT

Here is a draft timeline for GHG BACT and NSPS for tomorrow's meeting.

(b)(5) Deliberative  
[Redacted]

(b)(5)  
Deliberative

[Redacted text block]

01268-EPA-4052

**Michael Moats/DC/USEPA/US**

07/30/2010 04:27 PM

To "Richard Windsor", "Adora Andy"

cc

bcc

Subject FOR REVIEW facebbok post

Administrator, wanted to make sure you're good with this post for facebook.

This week EPA rejected petitions challenging the science of our finding that greenhouse gases are a threat to human health and the environment. The petitions - based on selectively edited data and a manufactured controversy - offered no evidence to dispute the years of science and study on the causes of climate change. To those trying to obstruct and delay progress, it's time to join the majority of the American people who want more green jobs, clean energy innovation and an end to the oil addiction that pollutes our planet and jeopardizes our national security.

01268-EPA-4054

**Richard Windsor/DC/USEPA/US**  
07/30/2010 10:17 PM

To Michael Moats, "Adora Andy"  
cc  
bcc

Subject Re: FOR REVIEW facebbok post

Cool !

Michael Moats

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

**From:** Michael Moats

**Sent:** 07/30/2010 04:27 PM EDT

**To:** Richard Windsor; "Adora Andy" <andy.adora@epa.gov>

**Subject:** FOR REVIEW facebbok post

Administrator, wanted to make sure you're good with this post for facebook.

This week EPA rejected petitions challenging the science of our finding that greenhouse gases are a threat to human health and the environment. The petitions - based on selectively edited data and a manufactured controversy - offered no evidence to dispute the years of science and study on the causes of climate change. To those trying to obstruct and delay progress, it's time to join the majority of the American people who want more green jobs, clean energy innovation and an end to the oil addiction that pollutes our planet and jeopardizes our national security.



01268-EPA-4055

**Gina McCarthy/DC/USEPA/US**

To Richard Windsor

cc

08/02/2010 01:05 PM

bcc

Subject Portland cement

Do you have 15 minutes so I can fill you in on the Portland Cement MACT - NSPS Rule? Sorry to bug you.

(b)(5) Deliberative

01268-EPA-4056

**Richard Windsor/DC/USEPA/US**  
08/02/2010 01:16 PM

To Gina McCarthy  
cc  
bcc

Subject Re: Portland cement

Sorry. It is literally back gto back til 630.  
Gina McCarthy

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

**From:** Gina McCarthy  
**Sent:** 08/02/2010 01:05 PM EDT  
**To:** Richard Windsor  
**Subject:** Portland cement

Do you have 15 minutes so I can fill you in on the Portland Cement MACT - NSPS Rule? Sorry to bug you.

(b)(5) Deliberative

01268-EPA-4057

**Gina McCarthy/DC/USEPA/US**

To Richard Windsor

08/02/2010 01:32 PM

cc

bcc

Subject Re: Portland cement

Ok. Talk tomorrow.  
Richard Windsor

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

**From:** Richard Windsor

**Sent:** 08/02/2010 01:16 PM EDT

**To:** Gina McCarthy

**Subject:** Re: Portland cement

Sorry. It is literally back gto back til 630.  
Gina McCarthy

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

**From:** Gina McCarthy

**Sent:** 08/02/2010 01:05 PM EDT

**To:** Richard Windsor

**Subject:** Portland cement

Do you have 15 minutes so I can fill you in on the Portland Cement MACT - NSPS Rule? Sorry to bug you.

(b)(5) Deliberative

01268-EPA-4064

Bob Sussman/DC/USEPA/US

08/06/2010 08:32 AM

To Richard Windsor, Bob Perciasepe, David McIntosh, Diane Thompson, Seth Oster, Brendan Gilfillan, Scott Fulton, Gina McCarthy, Al Armendariz, Janet McCabe

cc

bcc

Subject Texas Speech -- GHG Tailoring Rule

Here is an INSIDE EPA article covering comments in the speech I made in Austin, Texas yesterday at an environmental conference. (b)(5) Deliberative

## Confident Of Court Win, EPA Urges Texas To Cooperate On GHG Permits

**Posted: August 5, 2010**

AUSTIN, TX -- EPA is confident that its first-time greenhouse gas (GHG) permitting rule will survive a pending legal challenge and is dropping its outright refusal to implement the regulation and instead work with the agency now to resolve the state's concerns with the rule, a top agency official.

"We're going to defend this rule vigorously and we're pretty confident that we're going to prevail and we would like to turn the corner here implementing this rule in a common sense, thoughtful, and responsible manner," Bob Sussman, senior policy counsel at EPA, told at an law conference here Aug. 5.

He said the agency's actions on climate change have "created quite a buzz here in the state of Texas," noting that EPA recently received a "remarkable" letter from Texas' environmental department and attorney general "raising serious doubts about whether the state will work to implement EPA's tailoring rule setting GHG permit limits.

In the Aug. 2 letter to EPA, Texas Commission on Environmental Quality Chairman Bryan Shaw and Texas Attorney General Greg Abbott has neither the authority nor the intention of interpreting, ignoring, or amending its laws in order to compel the permitting of greenhouse gas emissions."

Texas officials, along with industry, environmental groups and others have all filed suit over the tailoring rule, though for differing reasons ([story](#)).

Sussman said that EPA has given "an enormous amount of thought" about how to implement GHG limits in Clean Air Act prevention of significant deterioration (PSD) and Title V permits starting in 2011 under the tailoring rule. He said EPA pursued the rule in a "thoughtful and measured" way and urged Texas to work with the agency to implement it.

"We know that there's a lot of hard work that's going to have to be done," he said.

GHG permitting is "uncharted territory for us and the states, and by the same token we think we have constructed this rule in a way that conserving state permitting resources and avoiding delays and identifying control strategies for greenhouse gases that are cost-effective and economically sustainable," he said.

Sussman advocated that "at this very critical juncture" Texas and the state's industry "come in and work with us on this because we think with cooperation we can get the job done. We think without cooperation it's going to be a long and difficult road for all of us and we think that in the interest of the economy and in the interest of legal certainty and in the interest of good government, we really need to hunker down and work together." Texas' intention not to implement GHG permitting requirements signals a broader split among states over the tailoring rule. For example, Texas recently said it plans to ask EPA to take over its program, and Wisconsin saying it intends to implement emergency rules as it works to develop a new policy.

### States' Plans On GHG Permits

The states' plans on their GHG permit rules are contained in [recent responses](#) to EPA's request for information by Aug. 2 on their plans to implement the agency's final tailoring rule, which is intended to ease the regulatory thresholds for permitting stationary sources of GHG. In addition to the tailoring rule, EPA is also working on a so-called SIP Call demanding that states harmonize their programs to meet the federal requirements. And the agency is working on a related rule that could establish a federal implementation plan (FIP) that will act as a federal backstop that will give the agency authority to temporarily take over state GHG permitting if states such as Texas and Florida fail to revise their laws in sufficient time to implement EPA's tailoring rule. Both proposals are now pending at the White House Office of Management & Budget.

"There will be a good faith effort by almost every state to comply on time . . . but there will likely be some growing pains associated with the

says a source with the National Association of Clean Air Agencies, which represents state and local air regulators. The source predicts wide state responses on the issue but says the group is still assessing the overall breakdown of responses.

Other states have sent wide-ranging responses to EPA on their ability and willingness to implement the tailoring rule, in response to EPA's June 3 rule to inform the agency of their efforts.

At least one state -- Florida -- is already calling for EPA to take over its stationary source permitting programs for GHGs early next year but may be unable to make necessary changes ahead of the GHG tailoring rule's trigger date of Jan. 2, 2011. Florida says that a FIP will be needed for EPA to take over stationary source permitting.

Florida says in a July 2 letter to EPA that because the state will elect a new governor this year, it will be impossible to estimate when it will finalize rule revisions to incorporate the new thresholds contained in the tailoring rule. As a result, Florida asks EPA to anticipate having authority "for an indefinite period of time" on the issue.

Florida is not the only state that faces varying degrees of difficulty in making regulatory or even statutory changes to its programs. Several sources cite prior indications that dozens of states may have to make at least some changes, though many of these sources say EPA's final rule -- which also made changes from the agency's earlier proposal -- helps blunt the impact of the transition for states.

Some states appear on track to finalize new rules ahead of the Jan. 2, 2011, trigger for applying GHGs to Clean Air Act prevention of significant deterioration permits. For example, Wisconsin in an upcoming letter to EPA will voice its intent to issue emergency rules effective no later than Jan. 2, 2011. For permanent rules it says it will need nine to 12 months to finalize.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4069

**Gina McCarthy/DC/USEPA/US**

To Richard Windsor

08/09/2010 10:55 PM

cc Paul Anastas, "Shalini Vajjhala"

bcc

Subject Cookstoves

I wanted you to know that the USG cookstoves initiative seems to be building momentum. State has embraced the program and both the Clinton Global Initiative and UN Foundation are on board.

(b)(5) Deliberative



01268-EPA-4070

**Lisa Feldt/DC/USEPA/US**  
08/11/2010 08:54 AM

To Bob Sussman, Diane Thompson, Richard Windsor, Seth Oster, Bob Perciasepe  
cc Mathy Stanislaus  
bcc

Subject Coal Combustion Docket

Mathy asked me to get this status to you. Please let us know if you have any questions.

(b)(5) Deliberative



Lisa Feldt  
Deputy Assistant Administrator  
Office of Solid Waste & Emergency Response  
U.S. Environmental Protection Agency  
Phone: (202) 566-0200:  
Fax: (202) 566-0207  
feldt.lisa@epa.gov

01268-EPA-4071

**Bob Sussman/DC/USEPA/US**

08/11/2010 09:35 AM

To Lisa Feldt

cc Bob Perciasepe, Diane Thompson, Mathy Stanislaus,  
Richard Windsor, Seth Oster

bcc

Subject Re: Coal Combustion Docket

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Lisa Feldt

[Mathy asked me to get this status to yo...](#)

08/11/2010 08:54:43 AM

From: Lisa Feldt/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 08/11/2010 08:54 AM  
Subject: Coal Combustion Docket

Mathy asked me to get this status to you. Please let us know if you have any questions.

(b)(5) Deliberative

[Redacted content]

[Redacted content]



(b)(5) Deliberative

Lisa Feldt  
Deputy Assistant Administrator  
Office of Solid Waste & Emergency Response  
U.S. Environmental Protection Agency  
Phone: (202) 566-0200:  
Fax: (202) 566-0207  
feldt.lisa@epa.gov

01268-EPA-4072

Gina McCarthy/DC/USEPA/US

To Richard Windsor, perciasepe.bob

08/11/2010 09:50 AM

cc

bcc

Subject Fw: BNA--Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says

**(b)(5) Deliberative**

----- Forwarded by Gina McCarthy/DC/USEPA/US on 08/11/2010 09:49 AM -----

From: Andrea Drinkard/DC/USEPA/US  
To: Joseph Goffman/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Don Zinger/DC/USEPA/US@EPA  
Date: 08/11/2010 09:10 AM  
Subject: BNA--Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says

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FYI...you may have already seen this, but just in case BNA article on the MJ Bradley report.

### **Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says**

Electricity generators are “well positioned” to adapt to pending Environmental Protection Agency regulations that would require power plants to operate controls for several pollutants without jeopardizing the reliability of the power grid, according to an industry-funded report released Aug. 9.

The [report](#), Ensuring a Clean, Modern Electric Generating Fleet While Maintaining Electric System Reliability, predicts EPA's pending interstate emissions transport rule for power plants and national emissions standards for hazardous air pollutants (NESHAP) for the utility industry could force 24 gigawatts to 40 gigawatts of coal-fired generating capacity to close by 2015. Coal-fired power plants provide 150 gigawatts of energy production.

The report was prepared by M.J. Bradley & Associates and Sue Tierney and Paul Hibbard from the Analysis Group on behalf of a coalition of electric companies, including Calpine Corp., Constellation Energy, Entergy Corp., and PG&E Corp.

The report said 65 percent of coal-fired power plants have or will soon install pollution controls for sulfur dioxide emissions. Half of coal-fired power plants have or will soon install controls for emissions of nitrogen oxides. The coal-fired power plants that are expected to close are between 40 years and 60 years old and have reached the end of their useful life, according to the report.

EPA has some flexibility to delay implementation requirements of its pending transport rule and hazardous air pollutant standards for power plants on a case-by-case basis should electrical generation reliability become a concern, according to the report.

EPA and the Department of Energy can use consent decrees to permit power plants to continue operation to ensure reliability, pending required expansions and upgrades.

The use of limited emissions trading in EPA's proposed interstate emissions transport rule also will provide power plants with some flexibility in meeting the agency's emissions standards, according to the report.

### **Power Plant Regulations Pending**

EPA's proposed transport rule would replace its Clean Air Interstate Rule, amending 40 C.F.R. Parts 51, 52, 72, 78, and 97. It would curb emissions of sulfur dioxide and nitrogen oxides from fossil fuel-fired power plants from 31 Eastern and Midwestern states and the District of Columbia beginning in 2012, with a second round of emissions reductions required in 2014 (75 Fed. Reg. 45,075; [146 DEN A-1, 8/2/10](#)).

The proposed rule is intended to help downwind states achieve EPA's national ambient air quality standards (NAAQS) for ozone and fine particles by reducing emissions of sulfur dioxide and nitrogen oxides, which are precursor pollutants. The proposed rule would allow intrastate trading of emissions allowances but only limited interstate trading on a regional basis.

EPA also surveyed power plants for their emissions of hazardous air pollutants, also known as air toxics, as it begins work on regulations that would require the facilities to limit their emissions of pollutants such as mercury (74 Fed. Reg. 58,012; [216 DEN A-1, 11/12/09](#)).

The survey is part of the agency's preparations to issue a maximum achievable control technology (MACT) standard for power plants that would require them to control emissions of mercury and other air toxics under Section 112 of the Clean Air Act. EPA agreed to propose the controls by March 2011, with a final rule expected by November of that year as part of a settlement with several health and environmental advocacy groups (American Nurses Ass'n v. Jackson, D.D.C., No. 08-02198, consent decree proposed 10/22/09).

By [Andrew Childers](#)

Andrea Drinkard  
U.S. Environmental Protection Agency  
Office of Air and Radiation  
Email: [drinkard.andrea@epa.gov](mailto:drinkard.andrea@epa.gov)  
Phone: 202.564.1601  
Cell: (b)(6)

Joseph Goffman    [Please see request below. Joseph Go...](#)    08/09/2010 01:31:02 PM

From: Joseph Goffman/DC/USEPA/US  
To: Andrea Drinkard/DC/USEPA/US@EPA  
Date: 08/09/2010 01:31 PM  
Subject: Fw: Press Strategy

Please see request below.

Joseph Goffman  
Senior Counsel to the Assistant Administrator

Office of Air and Radiation  
US Environmental Protection Agency  
202 564 3201

----- Forwarded by Joseph Goffman/DC/USEPA/US on 08/09/2010 01:31 PM -----

From: Gina McCarthy/DC/USEPA/US  
To: "Don Zinger" <Zinger.Don@EPA.GOV>, Joseph Goffman/DC/USEPA/US  
Date: 08/09/2010 01:29 PM  
Subject: Fw: Press Strategy

---

(b)(5) Deliberative

---

**From:** "Michael Bradley" [mbradley@mjbradley.com]  
**Sent:** 08/08/2010 02:00 PM AST  
**To:** Gina McCarthy  
**Cc:** "Darlene Ryan" <dryan@mjbradley.com>  
**Subject:** FW: Press Strategy

Gina,

We plan to release the CEG report on reliability tomorrow morning and I wanted you to have a chance to see the press release in advance. It's been wonderful working with Sue Tierney and Paul Hibbard on this. We will be looking for time on your calendar over the next couple of weeks to brief you the report and review the additional steps we have in mind.

I'll be in touch.

Michael

\*\*\*\*\*[attachment "Press Release for MJBA and Analysis Group Reliability Report - DRAFT 080610 PM.doc" deleted by Andrea Drinkard/DC/USEPA/US]

01268-EPA-4073

Richard  
Windsor/DC/USEPA/US  
08/11/2010 09:55 AM

To: Gina McCarthy, "Bob Perciasepe"  
cc: "David McIntosh"  
bcc:  
Subject: Re: BNA--Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says

Yeah. Saw it. V cool.  
Gina McCarthy

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

**From:** Gina McCarthy  
**Sent:** 08/11/2010 09:50 AM EDT  
**To:** Richard Windsor; perciasepe.bob@epa.gov  
**Subject:** Fw: BNA--Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says

(b)(5) Deliberative

----- Forwarded by Gina McCarthy/DC/USEPA/US on 08/11/2010 09:49 AM -----

From: Andrea Drinkard/DC/USEPA/US  
To: Joseph Goffman/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Don Zinger/DC/USEPA/US@EPA  
Date: 08/11/2010 09:10 AM  
Subject: BNA--Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says

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The [report](#), Ensuring a Clean, Modern Electric Generating Fleet While Maintaining Electric System Reliability, predicts EPA's pending interstate emissions transport rule for power plants and national emissions standards for hazardous air pollutants (NESHAP) for the utility industry could force 24 gigawatts to 40 gigawatts of coal-fired generating capacity to close by 2015. Coal-fired power plants provide 150 gigawatts of energy production.

The report was prepared by M.J. Bradley & Associates and Sue Tierney and Paul Hibbard from the Analysis Group on behalf of a coalition of electric companies, including Calpine Corp., Constellation Energy, Entergy Corp., and PG&E Corp.

The report said 65 percent of coal-fired power plants have or will soon install pollution controls for sulfur dioxide emissions. Half of coal-fired power plants have or will soon install controls for emissions of nitrogen oxides. The coal-fired power plants that are expected to close are between 40 years and 60 years old and have reached the end of their useful life, according to the report.

EPA has some flexibility to delay implementation requirements of its pending transport rule and hazardous air pollutant standards for power plants on a case-by-case basis should electrical generation reliability become a concern, according to the report.

EPA and the Department of Energy can use consent decrees to permit power plants to continue operation to ensure reliability, pending required expansions and upgrades.

The use of limited emissions trading in EPA's proposed interstate emissions transport rule also will provide power plants with some flexibility in meeting the agency's emissions standards, according to the report.

### **Power Plant Regulations Pending**

EPA's proposed transport rule would replace its Clean Air Interstate Rule, amending 40 C.F.R. Parts 51, 52, 72, 78, and 97. It would curb emissions of sulfur dioxide and nitrogen oxides from fossil fuel-fired power plants from 31 Eastern and Midwestern states and the District of Columbia beginning in 2012, with a second round of emissions reductions required in 2014 (75 Fed. Reg. 45,075; [146 DEN A-1, 8/2/10](#)).

The proposed rule is intended to help downwind states achieve EPA's national ambient air quality standards (NAAQS) for ozone and fine particles by reducing emissions of sulfur dioxide and nitrogen oxides, which are precursor pollutants. The proposed rule would allow intrastate trading of emissions allowances but only limited interstate trading on a regional basis.

EPA also surveyed power plants for their emissions of hazardous air pollutants, also known as air toxics, as it begins work on regulations that would require the facilities to limit their emissions of pollutants such as mercury (74 Fed. Reg. 58,012; [216 DEN A-1, 11/12/09](#)).

The survey is part of the agency's preparations to issue a maximum achievable control technology (MACT) standard for power plants that would require them to control emissions of mercury and other air toxics under Section 112 of the Clean Air Act. EPA agreed to propose the controls by March 2011, with a final rule expected by November of that year as part of a settlement with several health and environmental advocacy groups (*American Nurses Ass'n v. Jackson*, D.D.C., No. 08-02198, consent decree proposed 10/22/09).

By [Andrew Childers](#)

Andrea Drinkard  
U.S. Environmental Protection Agency  
Office of Air and Radiation  
Email: [drinkard.andrea@epa.gov](mailto:drinkard.andrea@epa.gov)  
Phone: 202.564.1601  
Cell: 202.236.7765

From: Joseph Goffman/DC/USEPA/US  
To: Andrea Drinkard/DC/USEPA/US@EPA  
Date: 08/09/2010 01:31 PM  
Subject: Fw: Press Strategy

Please see request below.

Joseph Goffman  
Senior Counsel to the Assistant Administrator  
Office of Air and Radiation  
US Environmental Protection Agency  
202 564 3201

----- Forwarded by Joseph Goffman/DC/USEPA/US on 08/09/2010 01:31 PM -----

From: Gina McCarthy/DC/USEPA/US  
To: "Don Zinger" <Zinger.Don@EPA.GOV>, Joseph Goffman/DC/USEPA/US  
Date: 08/09/2010 01:29 PM  
Subject: Fw: Press Strategy

(b)(5) Deliberative

**From:** "Michael Bradley" [mbradley@mjbradley.com]  
**Sent:** 08/08/2010 02:00 PM AST  
**To:** Gina McCarthy  
**Cc:** "Darlene Ryan" <dryan@mjbradley.com>  
**Subject:** FW: Press Strategy

Gina,

We plan to release the CEG report on reliability tomorrow morning and I wanted you to have a chance to see the press release in advance. It's been wonderful working with Sue Tierney and Paul Hibbard on this. We will be looking for time on your calendar over the next couple of weeks to brief you the report and review the additional steps we have in mind.

I'll be in touch.

Michael

\*\*\*\*\*[attachment "Press Release for MJBA and Analysis Group Reliability Report - DRAFT 080610 PM.doc" deleted by Andrea Drinkard/DC/USEPA/US]

01268-EPA-4076

**Bob Sussman/DC/USEPA/US** To Richard Windsor  
08/12/2010 10:22 PM cc  
bcc  
Subject Fw: EGU/NSPS Outline

**(b)(5) Deliberative**

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 08/12/2010 10:23 PM -----

From: Gina McCarthy/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Avi Garbow/DC/USEPA/US@EPA, Fulton.Scott@EPA.GOV, Heinzerling.Lisa@EPA.GOV, Janet McCabe/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, McIntosh.David@EPA.GOV, perciasepe.bob@epa.gov, Richard Ossias/DC/USEPA/US@EPA, Sussman.bob@EPA.GOV, Thompson.Diane@EPA.GOV  
Date: 08/12/2010 08:25 PM  
Subject: Re: Fw: EGU/NSPS Outline

**(b)(5) Deliberative**

Bob Sussman [Thanks Gina. This is helpful.](#) **(b)(5)** 08/12/2010 06:33:16 PM

From: Bob Sussman/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Cc: Fulton.Scott@EPA.GOV, Heinzerling.Lisa@EPA.GOV, Janet McCabe/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, McIntosh.David@EPA.GOV, perciasepe.bob@epa.gov, Richard Ossias/DC/USEPA/US@EPA, Sussman.bob@EPA.GOV, Thompson.Diane@EPA.GOV, Avi Garbow/DC/USEPA/US@EPA  
Date: 08/12/2010 06:33 PM  
Subject: Re: Fw: EGU/NSPS Outline

Thanks Gina. This is helpful.

**(b)(5) Deliberative**

**(b)(5) Deliberative**

**(b)(5) Deliberative**

Robert M. Sussman



Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Gina McCarthy

(b) (5)

08/11/2010 06:15:40 PM

From: Gina McCarthy/DC/USEPA/US  
To: Thompson.Diane@EPA.GOV, perciasepe.bob@epa.gov, Sussman.bob@EPA.GOV, Heinzerling.Lisa@EPA.GOV, McIntosh.David@EPA.GOV, Joseph Goffman/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Fulton.Scott@EPA.GOV, Richard Ossias/DC/USEPA/US@EPA  
Date: 08/11/2010 06:15 PM  
Subject: Fw: EGU/NSPS Outline

---

(b)(5) Deliberative

----- Forwarded by Gina McCarthy/DC/USEPA/US on 08/11/2010 06:12 PM -----

From: Joseph Goffman/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Cc: Cindy Huang/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA  
Date: 08/11/2010 01:31 PM  
Subject: EGU/NSPS Outline

(b)(5) (Deliberative), Attorney-Client, Attorney Work Product

Thanks.

(b)(5) (Deliberative), Attorney-Client, Attorney Work Product

(b)(5) (Deliberative), Attorney-Client, Attorney Work Product [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

**(b)(5) (Deliberative), Attorney-Client, Attorney Work Product**

[REDACTED]

[REDACTED] /USEPA/US]

01268-EPA-4078

**David  
McIntosh/DC/USEPA/US**  
08/13/2010 12:23 PM

To Richard Windsor, Diane Thompson, Bob Perciasepe, Arvin  
Ganesan, Seth Oster, Allyn Brooks-LaSure, Adora Andy,  
Heidi Ellis

cc

bcc

Subject Administrator climate hearing on September 15 or 16

Congress will return on September 13 for a four-week work period. Congressman Markey's staff just called me to say that Mr. Markey would like the Administrator to testify at a climate hearing in his Select Committee on Energy Independence and Global Warming in the first week of that work period (the week of September 13).

(b)(5) Deliberative



01268-EPA-4079

**David McIntosh/DC/USEPA/US**  
08/13/2010 01:24 PM

To Adora Andy, Allyn Brooks-LaSure, Arvin Ganesan, Bob Perciasepe, Diane Thompson, Heidi Ellis, Richard Windsor, Seth Oster

cc

bcc

Subject Re: Administrator climate hearing on September 15 or 16

(b)(5) Deliberative  
[Redacted]

David McIntosh Congress will return on September 13 f... 08/13/2010 12:23:52 PM

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Heidi Ellis/DC/USEPA/US@EPA  
Date: 08/13/2010 12:23 PM  
Subject: Administrator climate hearing on September 15 or 16

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[Redacted]

01268-EPA-4081

**Richard Windsor/DC/USEPA/US**  
08/14/2010 08:38 AM

To David McIntosh, Adora Andy, Allyn Brooks-LaSure, Arvin Ganesan, Bob Perciasepe, Diane Thompson, Heidi Ellis, Seth Oster

cc

bcc

Subject Re: Administrator climate hearing on September 15 or 16

(b)(5) Deliberative  
David McIntosh

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

**From:** David McIntosh

**Sent:** 08/13/2010 01:24 PM EDT

**To:** Adora Andy; Allyn Brooks-LaSure; Arvin Ganesan; Bob Perciasepe; Diane Thompson; Heidi Ellis; Richard Windsor; Seth Oster

**Subject:** Re: Administrator climate hearing on September 15 or 16

(b)(5) Deliberative  
[Redacted content]

David McIntosh Congress will return on September 13 f... 08/13/2010 12:23:52 PM

**From:** David McIntosh/DC/USEPA/US  
**To:** Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Heidi Ellis/DC/USEPA/US@EPA  
**Date:** 08/13/2010 12:23 PM  
**Subject:** Administrator climate hearing on September 15 or 16

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(b)(5) Deliberative  
[Redacted content]

(b)(5) Deliberative



01268-EPA-4082

**Richard Windsor/DC/USEPA/US**  
08/15/2010 06:31 PM

To David McIntosh  
cc  
bcc

Subject Fw: BNA--Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says

uh huh

----- Forwarded by Richard Windsor/DC/USEPA/US on 08/15/2010 06:34 PM -----

From: Gina McCarthy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, perciasepe.bob@epa.gov  
Date: 08/11/2010 09:50 AM  
Subject: Fw: BNA--Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says

(b)(5) Deliberative

----- Forwarded by Gina McCarthy/DC/USEPA/US on 08/11/2010 09:49 AM -----

From: Andrea Drinkard/DC/USEPA/US  
To: Joseph Goffman/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Don Zinger/DC/USEPA/US@EPA  
Date: 08/11/2010 09:10 AM  
Subject: BNA--Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says

FYI...you may have already seen this, but just in case BNA article on the MJ Bradley report.

### **Air Pollution: Pollution Control Rules for Power Plants Will Not Endanger Reliability, Report Says**

Electricity generators are “well positioned” to adapt to pending Environmental Protection Agency regulations that would require power plants to operate controls for several pollutants without jeopardizing the reliability of the power grid, according to an industry-funded report released Aug. 9.

The [report](#), Ensuring a Clean, Modern Electric Generating Fleet While Maintaining Electric System Reliability, predicts EPA's pending interstate emissions transport rule for power plants and national emissions standards for hazardous air pollutants (NESHAP) for the utility industry could force 24 gigawatts to 40 gigawatts of coal-fired generating capacity to close by 2015. Coal-fired power plants provide 150 gigawatts of energy production.

The report was prepared by M.J. Bradley & Associates and Sue Tierney and Paul Hibbard from the Analysis Group on behalf of a coalition of electric companies, including Calpine Corp., Constellation Energy, Entergy Corp., and PG&E Corp.

The report said 65 percent of coal-fired power plants have or will soon install pollution controls for sulfur dioxide emissions. Half of coal-fired power plants have or will soon install controls for emissions of nitrogen oxides. The coal-fired power plants that are expected to close are between 40 years and 60 years old and have reached the end of their useful life, according to the report.



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EPA's proposed transport rule would replace its Clean Air Interstate Rule, amending 40 C.F.R. Parts 51, 52, 72, 78, and 97. It would curb emissions of sulfur dioxide and nitrogen oxides from fossil fuel-fired power plants from 31 Eastern and Midwestern states and the District of Columbia beginning in 2012, with a second round of emissions reductions required in 2014 (75 Fed. Reg. 45,075; [146 DEN A-1, 8/2/10](#)).

The proposed rule is intended to help downwind states achieve EPA's national ambient air quality standards (NAAQS) for ozone and fine particles by reducing emissions of sulfur dioxide and nitrogen oxides, which are precursor pollutants. The proposed rule would allow intrastate trading of emissions allowances but only limited interstate trading on a regional basis.

EPA also surveyed power plants for their emissions of hazardous air pollutants, also known as air toxics, as it begins work on regulations that would require the facilities to limit their emissions of pollutants such as mercury (74 Fed. Reg. 58,012; [216 DEN A-1, 11/12/09](#)).

The survey is part of the agency's preparations to issue a maximum achievable control technology (MACT) standard for power plants that would require them to control emissions of mercury and other air toxics under Section 112 of the Clean Air Act. EPA agreed to propose the controls by March 2011, with a final rule expected by November of that year as part of a settlement with several health and environmental advocacy groups (American Nurses Ass'n v. Jackson, D.D.C., No. 08-02198, consent decree proposed 10/22/09).

By [Andrew Childers](#)

Andrea Drinkard  
U.S. Environmental Protection Agency  
Office of Air and Radiation  
Email: [drinkard.andrea@epa.gov](mailto:drinkard.andrea@epa.gov)  
Phone: 202.564.1601  
Cell: 202.236.7765

From: Joseph Goffman/DC/USEPA/US  
To: Andrea Drinkard/DC/USEPA/US@EPA  
Date: 08/09/2010 01:31 PM  
Subject: Fw: Press Strategy

Please see request below.

Joseph Goffman  
Senior Counsel to the Assistant Administrator  
Office of Air and Radiation  
US Environmental Protection Agency  
202 564 3201

----- Forwarded by Joseph Goffman/DC/USEPA/US on 08/09/2010 01:31 PM -----

From: Gina McCarthy/DC/USEPA/US  
To: "Don Zinger" <Zinger.Don@EPA.GOV>, Joseph Goffman/DC/USEPA/US  
Date: 08/09/2010 01:29 PM  
Subject: Fw: Press Strategy

(b)(5) Deliberative

**From:** "Michael Bradley" [mbradley@mjbradley.com]  
**Sent:** 08/08/2010 02:00 PM AST  
**To:** Gina McCarthy  
**Cc:** "Darlene Ryan" <dryan@mjbradley.com>  
**Subject:** FW: Press Strategy

Gina,

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Michael

\*\*\*\*\*[attachment "Press Release for MJBA and Analysis Group Reliability Report - DRAFT 080610 PM.doc" deleted by Andrea Drinkard/DC/USEPA/US]

01268-EPA-4096

**Richard Windsor/DC/USEPA/US**  
08/23/2010 09:36 PM

To Seth Oster, "Lisa Jackson", Janet Woodka  
cc  
bcc  
Subject Re: Follow up on Gulf Coast Clean Energy and Healthy Communities Foundation - follow up to idea to presented Secretary Mabus and Administrator Jackson

(b)(5) Deliberative

---

**From:** Seth Oster  
**Sent:** 08/23/2010 09:23 PM EDT  
**To:** "Lisa Jackson" <windsor richard@epa.gov>; Janet Woodka  
**Subject:** Fw: Follow up on Gulf Coast Clean Energy and Healthy Communities Foundation - follow up to idea to presented Secretary Mabus and Administrator Jackson

FYI.

---

**From:** Matt Petersen [mpetersen@globalgreen.org]  
**Sent:** 08/23/2010 05:26 PM MST  
**To:** thomas.oppel@mil.gov  
**Cc:** Seth Oster; Global Green Assistant <assistant@globalgreen.org>  
**Subject:** Follow up on Gulf Coast Clean Energy and Healthy Communities Foundation - follow up to idea to presented Secretary Mabus and Administrator Jackson

Dear Mr. Opper,

Just a quick note to follow up on Secretary Mabus and Administrator Jackson's interest in our proposal for Gulf Coast Clean Energy and Healthy Communities Foundation. The director of my New Orleans office, Beth Galante, presented the idea to them at a meeting in New Orleans a few weeks ago. I also talked with Debra Knopman at Rand about the idea, explaining the important reasons and rationale why an independent foundation is needed to help in the long term recovery and transition of the region.

Thank you in advance for your attention to this matter.

Sincerely,  
Matt Petersen  
President and CEO  
Global Green USA  
[www.globalgreen.org](http://www.globalgreen.org)

--

**Global Green USA**  
**WHITE PAPER Executive Summary:**

## Creating the “Gulf Coast Clean Energy and Healthy Communities Foundation”

**Goal:** To transform the Gulf Coast to the Green Coast by helping the hard working Americans in the Gulf lead us to a stronger and cleaner economy, support wetlands and ecosystem restoration, and create more resilient Gulf Coast communities.

**How:** In addition to demanding that BP put billions of dollars into escrow to pay for restoration, we must require BP to deposit \$2.5 billion into an independent foundation as part of the fines the federal government makes them pay. The foundation would provide grants and loans to nonprofits and municipalities to fund environmental, conservation, and clean energy initiatives -- including regulation of existing and future oil and gas operations - along the Gulf Coast, and exist for 20 years, with the intent of spending itself out of existence to achieve it's aims. These would be funds to support the policies and activities needed to help make a clean energy future and protecting coastal communities possible.

**Why:** We must also ensure a lasting legacy for a cleaner, greener future. We need the Obama Administration to lead in creating a clean energy future for this nation that starts with energy and fuel efficiency, advances renewable energy, puts a price on the pollution created from fossil fuels, and ends subsidies of oil, gas, and coal. There is a dearth of grant makers -- and hence, environmental and other organizations organizations -- that are actually located along the Gulf Coast and/or that fund groups located there. We need to change that. Hence, the culture of deregulation that leads to constant impacts upon the marine, river, and other ecosystems and the human health of residents pervades.

**What:** In addition to traditional grants to fund research, technical assistance, and model policy development, the foundation should also employ other strategies to help create new green businesses, and clean jobs. To create off shore wind, solar, energy efficiency products, and other key needs for a sustainable and clean economy, the foundation would invest its principal in businesses and/or other vehicles -- alone or jointly with cities, states, or other foundations in the region -- to create these clean, green jobs. This not only helps the fishing and tourism businesses, but also creates an opportunity for oil workers to transition to cleaner, healthier, less dangerous jobs.

**Need:** There is no capacity to support an aggressive regulatory environment within the Gulf states, and no ability to regulate oil extraction. Any big money is oil money, which is allowing oil companies to drive the agenda and push for taxpayers to pay for the clean-up post oil disasters. We need **non-oil** money, independent from any oil agenda. As we have learned from Katrina, we need a LONG TERM view to help the region recover and transition, hence we need to make sure that all the money is not quickly spent. We must push for long-term

investment that the hard-working Americans on the Gulf Coast can rely on, driven by the political will and individuals needs for clean-technology. A lack of regulatory measures and incentives designed to spur clean energy and clean technology investments prohibits clean energy industry players from making longer term investments in the Gulf Coast.

**Who:** The board would be comprised of foundation, nonprofit, university, and citizen stakeholders from each state. This includes the heads of the community foundations (e.g. GNOF, FMS, etc), universities, municipalities, and environmental groups working in the region who have offices on the ground. Citizen advisory councils created in each state would advise the foundation's grant making activities.

01268-EPA-4097

Bob Sussman/DC/USEPA/US

08/24/2010 08:23 AM

To Richard Windsor, Paul Anastas, Bob Perciasepe

cc

bcc

Subject DOD Criticism of EPA Assessment

(b)(5) Deliberative

## EPA May Face New Data Challenge Over Changes To Key Dioxane Study

**Posted: August 23, 2010**

The Defense Department (DOD) is warning EPA that its just-issued risk assessment of dioxane, a chemical found in industrial solvents and consumer care products, is vulnerable to a Data Quality Act (DQA) challenge because EPA completed the assessment without external review of a draft version of a key study the agency relied on.

EPA says changes to the study are "minor" and did not affect the final risk assessment.

But the agency is already facing criticism from industry over a draft version of the risk assessment as well as a growing number of DQA challenges from industry over chemical and other issues since a federal court suggested for the first time that agency decisions under DQA may be subject to reviewable.

At issue is EPA's Integrated Risk Information System (IRIS) assessment for 1,4 dioxane, which regulators will use to set regulatory standards for products containing the chemical and cleanup standards at contaminated waste sites. The assessment, unveiled Aug. 11, labels the chemical "likely" to cause cancer in humans despite claims from some industry groups that the classification is not justified by available data.

EPA released a draft version of the assessment in May 2009 and the document subsequently went through an external peer review process. When the peer review was complete, results from one of the studies on which the assessment is based -- a study on the effects of 1,4 dioxane in dioxane conducted by the Japan Bioassay Research Center (JBRC) originally reported in 1994 -- was republished in 2009 as a peer-reviewed manuscript in *Food & Chemical Toxicology* by H. Kano.

In light of the Kano 2009 publication, EPA made what an agency spokeswoman describes as "minor changes" to the risk assessment document. The spokeswoman says "did not significantly affect the qualitative or quantitative cancer assessment for 1,4 dioxane."

But in June 8 comments released alongside EPA's final risk assessment, DOD characterizes the study updates as "major changes in criteria. Changes were made "after completion of the interagency and external peer reviews." The changes included "the number of animals, the number of animals that had tumors, the doses given to the animals, and changes in both the statistical procedures and . . . calculations," DOD says.

DOD suggests "use of an additional external peer review to preclude a data quality challenge based on the fact that the original panel did not have accurate data at the time of their review." DOD also suggests "that both the data reviewed by the external panel as well as the data on which EPA bases its analysis, be presented in the final report."

### Clarifying Changes

In response to DOD's concerns, EPA added text to the final assessment meant to clarify the changes and "clearly state which report . . . is the source for the data discussed," the agency spokeswoman says. The agency also added Appendix E to the document, which provides a side-by-side comparison of the data from the various versions of the JBRC study.

However, the EPA spokeswoman says "[a]n additional peer review was not warranted considering the data reported by [Kano 2009] did not change compared to earlier reports . . . reviewed by the external peer review panel."

The DQA generally requires EPA and other federal agencies to ensure that scientific and other data used to develop policy stances are reliable, reproducible and peer-reviewed. The law requires agencies to accept and respond to petitions to correct allegedly flawed data used in rulemaking and other decisions.

Industry efforts to use the authority to challenge agency decisions had been stymied by a 2006 federal appellate ruling in *Salt Institute v. EPA*. DQA petitions are not subject to judicial review. But proponents of the law say a more recent ruling has opened the door to judicial review. The U.S. Court of Appeals for the District of Columbia Circuit May 10 denied a Justice Department petition in *Prime Time Int'l Co. v. Vilsack* asking the court to clarify that a ruling in the suit did not address whether the DQA creates judicially enforceable rights.

While critics say the D.C. Circuit ruling does not set any new precedent, supporters have already filed a flurry of petitions challenging data on in chemical risk assessments of key chemicals like methanol, arsenic and phthalates, as well as climate change, coal ash and other chemicals. The dioxane petition could also be ripe for a data quality challenge given long-standing industry opposition. EPA in the assessment classifies the chemical as a "likely" carcinogen using its 2005 *Guidelines for Carcinogenic Risk Assessment*, which allows the agency to designate chemicals as either "known" carcinogens, "likely" carcinogens, "suggestive" carcinogens, or as not having enough data to make a determination that the chemical is a carcinogen.

But this classification was challenged in July 6 comments filed by the aerospace industry group Alliance for Environmental Responsibility and Openness (AERO), which argued that the "only studies that show 1,4 dioxane causes tumors are very high dose rodent studies." AERO argued available data shows 1,4 dioxane is not genotoxic or mutagenic, and therefore there is no reason to assume, as EPA did in its assessment, that there is a "proportional or linear relationship between health problems experienced in rodents at high doses and those expected to occur in humans exposed to the chemical in more typical environmental circumstances. EPA guidelines suggest it should assess chemicals that may be mutagenic with the more conservative linear modeling.

#### **Non-Linear Model**

The industry group advocated that EPA use a non-linear model, such as the physiologically based pharmacokinetic (PBPK) model to assess how the chemical would react in the human body. AERO argued EPA should include more of the data underlying the risk assessment in the assessment document, arguing the current draft "hides" information from regulatory policy makers.

But in its finalized IRIS assessment EPA maintains 1,4 dioxane is "likely to be carcinogenic to humans" based on "inadequate evidence of carcinogenicity in humans" and "sufficient evidence in animals (i.e., hepatic tumors in multiple species [three strains of rats, two strains of guinea pigs]; mesotheliomas of the peritoneum, mammary, and nasal tumors have also been observed in rats following 2 years of oral 1,4-dioxane)."

The final assessment says the PBPK "models available for 1,4 dioxane were found unsuitable and could not be used for interspecies oral extrapolation. The final assessment's finding that the chemical is a "likely" human carcinogen is consistent with statements peer review panelists made to consider it only a "suggestive" carcinogen would be likely inappropriate. While some of the panelists said much is still unknown about how it causes health problems, classifying a chemical as only a "suggestive" carcinogen is usually only appropriate under EPA's guidelines in situations where only one study has suggested a link between a chemical and cancer, which they noted is not the case with 1,4, dioxane. AERO representatives could not be reached for comment by press time. -- *Douglas P. Guarino*

#### **Related News: [Toxics](#) [Waste](#)**

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4100

**Richard Windsor/DC/USEPA/US**  
08/24/2010 09:30 PM

To: Gina McCarthy  
cc  
bcc  
Subject: Re: US Solicitor General Asks Supreme Court to Reverse Our Legal Victory

Just sent to you.

---

**From:** Gina McCarthy  
**Sent:** 08/24/2010 09:29 PM EDT  
**To:** Richard Windsor; "Scott Fulton" <Fulton.Scott@EPA.GOV>  
**Subject:** Fw: US Solicitor General Asks Supreme Court to Reverse Our Legal Victory

(b)(5) Deliberative

---

**From:** "Michael Northrop" [mnorthrop@rbf.org]  
**Sent:** 08/24/2010 09:22 PM AST  
**To:** Gina McCarthy; Gina McCarthy  
**Subject:** FW: US Solicitor General Asks Supreme Court to Reverse Our Legal Victory

[Have you seen this? Terrible!](#)

**From:** mp@pawalaw.com [mailto:mp@pawalaw.com]  
**Sent:** Tuesday, August 24, 2010 6:57 PM  
**To:** Michael Northrop  
**Subject:** US Solicitor General Asks Supreme Court to Reverse Our Legal Victory

Dear Friends – sad but true. The US Solicitor General, acting on behalf of TVA, has asked the US Supreme Court to vacate the Second Circuit victory we earned in 2009. See attached. The SG had full authority to prevent TVA from filing anything in the Supreme Court but instead has chosen to side with America’s biggest greenhouse gas polluters even as EPA dithers about whether to regulate coal fired power plant emissions from existing power plants.

We will push on against our latest adversary – the United States government. Our brief is currently due in early October. Stay tuned.

Matt

Matt Pawa  
Law Offices of Matthew F. Pawa, P.C.  
1280 Centre Street, Suite 230  
Newton Centre, MA 02459  
(617) 641-9550



(617) 641-9551 facsimile  
<http://www.pawalaw.com/>

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01268-EPA-4101

Michael Moats/DC/USEPA/US

To Richard Windsor

08/25/2010 06:53 PM

cc Vicki Ekstrom

bcc

Subject TEDxNOLA Outline rough draft

Administrator, passing along the rough draft of the outline I drew up for TED on Friday. The theme of the meeting is creativity through crisis. The basic flow is to say, in 10-12 minutes, that...

(b)(5) Deliberative

It's fuller on the attached doc. I'll flesh it out some more tomorrow as well. Just wanted to give you a look as early as possible.

-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

01268-EPA-4103

**Bob Perciasepe/DC/USEPA/US**  
08/26/2010 08:44 AM

To Bob Sussman, Cynthia Giles-AA  
cc Richard Windsor, Seth Oster  
bcc  
Subject Re: Pavillion

(b)(5) Deliberative

[Redacted]

Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c) (b)(6) Privacy  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 08/26/2010 08:39 AM EDT  
**To:** Cynthia Giles-AA  
**Cc:** Bob Perciasepe; Richard Windsor; Seth Oster  
**Subject:** Re: Pavillion

Cynthia (b)(5) (Deliberative)

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Cynthia Giles-AA (b)(5) Deliberative 08/26/2010 07:53:13 AM

**From:** Cynthia Giles-AA/DC/USEPA/US  
**To:** Bob Sussman/DC/USEPA/US@EPA  
**Cc:** Bob Perciasepe/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
**Date:** 08/26/2010 07:53 AM  
**Subject:** Re: Pavillion

(b)(5) Deliberative

[Redacted]

(b)(5) Deliberative

Cynthia

Cynthia Giles  
Assistant Administrator  
U.S. EPA, Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-2440

THIS MESSAGE IS CONFIDENTIAL and may contain legally privileged information. If you receive it in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Bob Sussman

(b)(5) Deliberative

08/26/2010 07:26:01 AM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA  
Date: 08/26/2010 07:26 AM  
Subject: Re: Pavillion

(b)(5) Deliberative

---

**From:** Richard Windsor  
**Sent:** 08/26/2010 06:20 AM EDT  
**To:** Bob Perciasepe; Bob Sussman; Seth Oster; Cynthia Giles-AA  
**Subject:** Re: Pavillion

(b)(5) Deliberative

---

**From:** Bob Perciasepe  
**Sent:** 08/26/2010 05:23 AM EDT  
**To:** Richard Windsor; Bob Sussman; Seth Oster; Cynthia Giles-AA  
**Subject:** Fw: Pavillion

Lisa.

(b)(5) Deliberative

Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c)(b)(6) Privacy

---

**From:** Jim Martin  
**Sent:** 08/25/2010 08:32 PM MDT  
**To:** Seth Oster; Bob Sussman; Bob Perciasepe; Cynthia Giles-AA; Scott Fulton  
**Cc:** rushin.carol@epa.gov; Brendan Gilfillan  
**Subject:** Pavillion

All -

(b)(5) Deliberative

(b)(5) Deliberative

[Redacted text block]

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[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

(b)(5) Deliberative



Jim

01268-EPA-4112

**Richard Windsor/DC/USEPA/US**  
08/30/2010 11:56 AM

To Michael Moats  
cc  
bcc

Subject Re: TEDxNOLA Outline rough draft

(b)(5) Deliberative

Michael Moats Administrator, passing along the rough... 08/25/2010 06:53:34 PM

From: Michael Moats/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Vicki Ekstrom/DC/USEPA/US@EPA  
Date: 08/25/2010 06:53 PM  
Subject: TEDxNOLA Outline rough draft

Administrator, passing along the rough draft of the outline I drew up for TED on Friday (b)(5) (Deliberative)

[Redacted]

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

It's fuller on the attached doc. I'll flesh it out some more tomorrow as well. Just wanted to give you a look as early as possible.

-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436



01268-EPA-4113

Michael Moats/DC/USEPA/US

To Richard Windsor

08/30/2010 11:59 AM

cc

bcc

Subject Re: TEDxNOLA Outline rough draft

[Redacted] (b)(5) Deliberative

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 08/30/2010 11:56 AM EDT

**To:** Michael Moats

**Subject:** Re: TEDxNOLA Outline rough draft

[Redacted] (b)(5) Deliberative

Michael Moats

Administrator, passing along the rough...

08/25/2010 06:53:34 PM

From: Michael Moats/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Vicki Ekstrom/DC/USEPA/US@EPA  
Date: 08/25/2010 06:53 PM  
Subject: TEDxNOLA Outline rough draft

Administrator, passing along the rough draft of the outline I drew up for TED on Friday. (b)(5) (Deliberative)

[Redacted]

[Redacted] (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

It's fuller on the attached doc. I'll flesh it out some more tomorrow as well. Just wanted to give you a look as early as possible.

-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

01268-EPA-4116

**Gina McCarthy/DC/USEPA/US**

To Richard Windsor, Depass.Michelle

cc

08/30/2010 07:38 PM

bcc

Subject China

Thanks for thinking of me but I have too much going on right now and the trip seems to have only limited focus on clean air and climate issues. So I think I will try to plan a trip next year so there is more time to plan. Hope you find the trip productive and enjoyable.

01268-EPA-4117

**Michelle**  
**DePass/DC/USEPA/US**  
08/30/2010 07:41 PM

To Gina McCarthy, Richard Windsor, "Depass Michelle"  
cc  
bcc

Subject Re: China

Thanks, Gina,  
Will be happy to help when that time comes and you can get away for that trip.  
Michelle  
Gina McCarthy

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

**From:** Gina McCarthy  
**Sent:** 08/30/2010 07:38 PM EDT  
**To:** Richard Windsor; Depass.Michelle@EPA.GOV  
**Subject:** China

Thanks for thinking of me but I have too much going on right now and the trip seems to have only limited focus on clean air and climate issues. So I think I will try to plan a trip next year so there is more time to plan. Hope you find the trip productive and enjoyable.

01268-EPA-4118

**Richard Windsor/DC/USEPA/US**  
08/30/2010 07:49 PM

To Gina McCarthy  
cc  
bcc

Subject Re: China

K. Next time then. Am looking forward to a trip together. I thought today's mtg was v helpful. You?  
Gina McCarthy

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

**From:** Gina McCarthy  
**Sent:** 08/30/2010 07:38 PM EDT  
**To:** Richard Windsor; Depass.Michelle@EPA.GOV  
**Subject:** China

Thanks for thinking of me but I have too much going on right now and the trip seems to have only limited focus on clean air and climate issues. So I think I will try to plan a trip next year so there is more time to plan. Hope you find the trip productive and enjoyable.

01268-EPA-4119

Gina McCarthy/DC/USEPA/US To Richard Windsor  
08/30/2010 08:27 PM cc  
bcc  
Subject Re: China

(b)(5) Deliberative  
[Redacted]

[Redacted]

Richard Windsor K. Next time then. Am looking forward... 08/30/2010 07:49:43 PM

From: Richard Windsor/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 08/30/2010 07:49 PM  
Subject: Re: China

K. Next time then. Am looking forward to a trip together. I thought todays mtg was v helpful. You?

Gina McCarthy

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

**From:** Gina McCarthy  
**Sent:** 08/30/2010 07:38 PM EDT  
**To:** Richard Windsor; Depass.Michelle@EPA.GOV  
**Subject:** China

Thanks for thinking of me but I have too much going on right now and the trip seems to have only limited focus on clean air and climate issues. So I think I will try to plan a trip next year so there is more time to plan. Hope you find the trip productive and enjoyable.

01268-EPA-4120

**Richard Windsor/DC/USEPA/US**  
08/30/2010 08:52 PM

To: Gina McCarthy  
cc  
bcc  
Subject: Re: China

(b)(5) Deliberative  
[Redacted]

Gina McCarthy (b)(5) Deliberative 08/30/2010 08:27:04 PM

From: Gina McCarthy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 08/30/2010 08:27 PM  
Subject: Re: China

(b)(5) Deliberative  
[Redacted]

[Redacted]

Richard Windsor K. Next time then. Am looking forward... 08/30/2010 07:49:43 PM

From: Richard Windsor/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 08/30/2010 07:49 PM  
Subject: Re: China

K. Next time then. Am looking forward to a trip together. I thought todays mtg was v helpful. You?

Gina McCarthy

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

**From:** Gina McCarthy  
**Sent:** 08/30/2010 07:38 PM EDT  
**To:** Richard Windsor; Depass.Michelle@EPA.GOV

**Subject:** China

Thanks for thinking of me but I have too much going on right now and the trip seems to have only limited focus on clean air and climate issues. So I think I will try to plan a trip next year so there is more time to plan. Hope you find the trip productive and enjoyable.

01268-EPA-4121

Gina McCarthy/DC/USEPA/US To Richard Windsor  
08/30/2010 08:56 PM cc  
bcc  
Subject Re: China

Thx  
Richard Windsor

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

From: Richard Windsor  
Sent: 08/30/2010 08:52 PM EDT  
To: Gina McCarthy  
Subject: Re: China

(b)(5) Deliberative  
[Redacted]

Gina McCarthy (b)(5) (Deliberative) 08/30/2010 08:27:04 PM

From: Gina McCarthy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 08/30/2010 08:27 PM  
Subject: Re: China

(b)(5) Deliberative  
[Redacted]

[Redacted]

Richard Windsor K. Next time then. Am looking forward... 08/30/2010 07:49:43 PM

From: Richard Windsor/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 08/30/2010 07:49 PM  
Subject: Re: China



K. Next time then. Am looking forward to a trip together. I thought today's mtg was v helpful. You?

Gina McCarthy

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

**From:** Gina McCarthy

**Sent:** 08/30/2010 07:38 PM EDT

**To:** Richard Windsor; Depass.Michelle@EPA.GOV

**Subject:** China

Thanks for thinking of me but I have too much going on right now and the trip seems to have only limited focus on clean air and climate issues. So I think I will try to plan a trip next year so there is more time to plan. Hope you find the trip productive and enjoyable.

01268-EPA-4123

**Richard Windsor/DC/USEPA/US**  
08/31/2010 03:23 PM

To Bob Sussman  
cc  
bcc

Subject Re: Comments on GHG BACT Guidance Draft

(b)(5) Deliberative  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 08/31/2010 03:21 PM EDT  
**To:** Richard Windsor  
**Cc:** Lisa Heinzerling; Bob Perciasepe; David McIntosh; Scott Fulton  
**Subject:** Comments on GHG BACT Guidance Draft

(b)(5) Deliberative  
[Redacted]

[Redacted]

[attachment "GHG Guidance 8-25-10 draft LH 8-31.doc" deleted by Richard Windsor/DC/USEPA/US]

Bob Sussman (b)(5) Deliberative 08/31/2010 02:07:10 PM

1. (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative



(b)(5) Deliberative



Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4124

David  
McIntosh/DC/USEPA/US  
08/31/2010 03:52 PM

To Bob Sussman, Richard Windsor  
cc Lisa Heinzerling, Bob Perciasepe, Scott Fulton  
bcc  
Subject Re: Comments on GHG BACT Guidance Draft

(b)(5) Deliberative

[Redacted]

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 08/31/2010 03:21 PM EDT  
**To:** Richard Windsor  
**Cc:** Lisa Heinzerling; Bob Perciasepe; David McIntosh; Scott Fulton  
**Subject:** Comments on GHG BACT Guidance Draft

(b)(5) Deliberative

[Redacted]

[attachment "GHG Guidance 8-25-10 draft LH 8-31.doc" deleted by David McIntosh/DC/USEPA/US]

Bob Sussman (b)(5) Deliberative 08/31/2010 02:07:10 PM

(b)(5) Deliberative

(b)(5) Deliberative



(b)(5) Deliberative



Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4125

**Richard Windsor/DC/USEPA/US**  
08/31/2010 04:33 PM

To David McIntosh  
cc  
bcc

Subject Re: Comments on GHG BACT Guidance Draft

(b)(5) Deliberative

David McIntosh

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

**From:** David McIntosh  
**Sent:** 08/31/2010 03:52 PM EDT  
**To:** Bob Sussman; Richard Windsor  
**Cc:** Lisa Heinzerling; Bob Perciasepe; Scott Fulton  
**Subject:** Re: Comments on GHG BACT Guidance Draft

(b)(5) Deliberative

[Redacted]

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 08/31/2010 03:21 PM EDT  
**To:** Richard Windsor  
**Cc:** Lisa Heinzerling; Bob Perciasepe; David McIntosh; Scott Fulton  
**Subject:** Comments on GHG BACT Guidance Draft

(b)(5) Deliberative

[Redacted]

[attachment "GHG Guidance 8-25-10 draft LH 8-31.doc" deleted by David McIntosh/DC/USEPA/US]

Bob Sussman

(b)(5) Deliberative

08/31/2010 02:07:10 PM

(b)(5) Deliberative



(b)(5) Deliberative



(b)(5) Deliberative



Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4126

**Bob Perciasepe/DC/USEPA/US**  
08/31/2010 04:56 PM

To David McIntosh, Bob Sussman, Richard Windsor  
cc Lisa Heinzerling, Scott Fulton  
bcc  
Subject Re: Comments on GHG BACT Guidance Draft

Bob S

(b)(5) Deliberative

Thanks.  
Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c) (b)(6) Privacy  
David McIntosh

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

**From:** David McIntosh  
**Sent:** 08/31/2010 03:52 PM EDT  
**To:** Bob Sussman; Richard Windsor  
**Cc:** Lisa Heinzerling; Bob Perciasepe; Scott Fulton  
**Subject:** Re: Comments on GHG BACT Guidance Draft

(b)(5) Deliberative

[Redacted]

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 08/31/2010 03:21 PM EDT  
**To:** Richard Windsor  
**Cc:** Lisa Heinzerling; Bob Perciasepe; David McIntosh; Scott Fulton  
**Subject:** Comments on GHG BACT Guidance Draft

(b)(5) Deliberative

[Redacted]

[attachment "GHG Guidance 8-25-10 draft LH 8-31.doc" deleted by David McIntosh/DC/USEPA/US]

Bob Sussman

(b)(5) Deliberative

08/31/2010 02:07:10 PM

(b)(5) Deliberative



(b)(5) Deliberative



Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4128

**David McIntosh/DC/USEPA/US**  
09/01/2010 10:21 AM

To Richard Windsor  
cc  
bcc

Subject Fw: short turn-around request from the Administrator on boiler MACT

Pls see below. Hopefully this will be forthcoming.

----- Forwarded by David McIntosh/DC/USEPA/US on 09/01/2010 10:20 AM -----

From: Joseph Goffman/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA  
Cc: Don Zinger/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Peter Tsirigotis/RTP/USEPA/US@EPA, Rob Brenner/DC/USEPA/US@EPA, RobertJ Wayland/RTP/USEPA/US@EPA, Steve Page/RTP/USEPA/US@EPA  
Date: 09/01/2010 10:08 AM  
Subject: Re: short turn-around request from the Administrator on boiler MACT

Got it. Thanks.

Joseph Goffman  
Senior Counsel to the Assistant Administrator  
Office of Air and Radiation  
US Environmental Protection Agency  
202 564 3201

David McIntosh Hi All, At this morning's 8:45 meeting, I... 09/01/2010 09:57:37 AM

From: David McIntosh/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Peter Tsirigotis/RTP/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Steve Page/RTP/USEPA/US@EPA, Rob Brenner/DC/USEPA/US@EPA, RobertJ Wayland/RTP/USEPA/US@EPA  
Cc: Don Zinger/DC/USEPA/US@EPA  
Date: 09/01/2010 09:57 AM  
Subject: short turn-around request from the Administrator on boiler MACT

Hi All,

At this morning's 8:45 meeting, I gave the Administrator the same political report that I gave to you on the phone yesterday about the boiler MACT rule, and also summarized for her the efforts that we now have underway to defend the rule.

(b)(5) Deliberative

[Redacted content]

Thanks,  
David

01268-EPA-4129

**Richard Windsor/DC/USEPA/US**  
09/01/2010 11:47 AM

To David McIntosh  
cc  
bcc

Subject Re: positive small business letter that is circulating

A ray of hope.  
David McIntosh

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

**From:** David McIntosh  
**Sent:** 09/01/2010 11:23 AM EDT  
**To:** Richard Windsor; Seth Oster  
**Subject:** positive small business letter that is circulating

----- Forwarded by David McIntosh/DC/USEPA/US on 09/01/2010 11:22 AM -----

From: "Doniger, David" <ddoniger@nrdc.org>  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 09/01/2010 11:12 AM  
Subject: FW: MSA letter

---

FYI. We are also working with a variety of other business groups, big and small.

David D. Doniger  
Policy Director, Climate Center  
Natural Resources Defense Council  
1200 New York Ave., NW  
Washington, DC 20005  
Phone: (202) 289-2403  
Cell: (202) 321-3435  
Fax: (202) 789-0859  
[ddoniger@nrdc.org](mailto:ddoniger@nrdc.org)  
on the web at [www.nrdc.org](http://www.nrdc.org)  
read my blog: <http://switchboard.nrdc.org/blogs/ddoniger/>

**From:** Altman, Pete  
**Sent:** Wednesday, September 01, 2010 11:02 AM  
**To:** Doniger, David  
**Subject:** MSA letter

They had about 175 signers as of last week, and are still collecting.  
<http://mainstreetalliance.org/wordpress/national/2768/>

## **Small Business Statement: Stand with Small Businesses, Not Big Polluters, on New EPA Standards**

As small business owners, we know our businesses are the backbone of our local economies. We're committed to providing high quality goods and services, and creating

local jobs. We're also committed to protecting our shared quality of life, because it's the right thing to do and because it makes good business sense: healthy communities sustain healthy small businesses.

Climate change poses a serious threat to the health of our communities, putting Main Street small businesses' economic future at risk. The Environmental Protection Agency, recognizing this threat to public health, is preparing new standards that will ensure that large emitters of greenhouse gas pollution install the best available technology to limit their emissions. This will not only protect local communities and economies from the perils of climate change, but also encourage investments in clean energy and create green jobs.

The EPA has been protecting American communities from environmental health threats for 40 years. But entrenched special interests – like Big Oil and Big Coal – are lobbying hard to gut the EPA's authority to do its job. We can't let that happen. We call on Congress to stand with small businesses and our communities, not big polluters, and support EPA's move to regulate greenhouse gas emissions.



01268-EPA-4131

David  
McIntosh/DC/USEPA/US  
09/01/2010 03:27 PM

To Richard Windsor  
cc Bob Sussman, Scott Fulton  
bcc  
Subject The Arguments/Requests That Elected Officials Are Making  
About the Proposed Boiler MACT Rule

Administrator,

This morning you requested a summary of the most notable arguments/requests made concerning the proposed boiler MACT rule in the letters that you have received to-date from elected officials. That summary is pasted below. (b)(5) Deliberative

[Redacted]

-David

**Elected Officials' Most Notable Particularized Arguments and Requests About the Proposed Boiler MACT Rule**

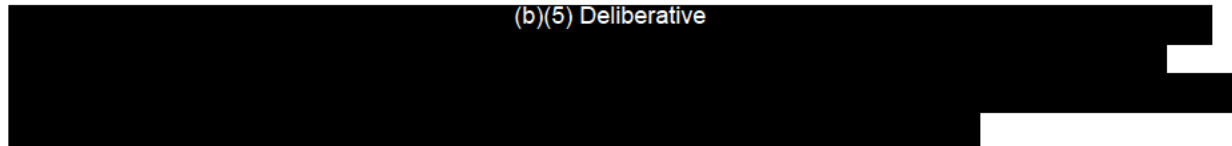
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(b)(5) Deliberative  
[Redacted]

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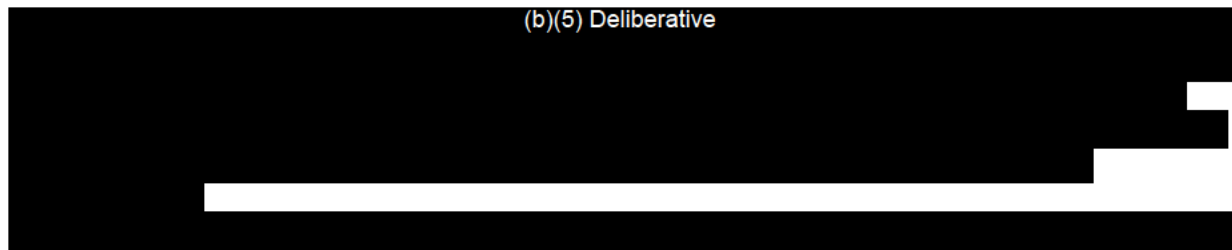
(b)(5) Deliberative

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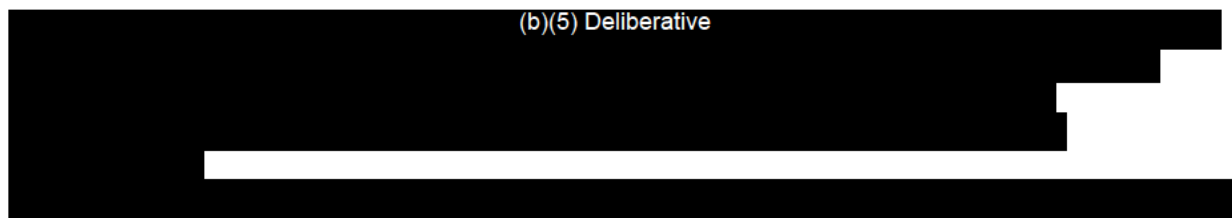
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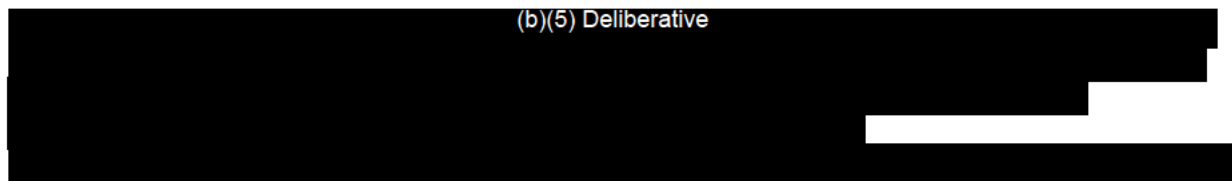
(b)(5) Deliberative

A large rectangular area of the document is completely blacked out, indicating redaction. The text "(b)(5) Deliberative" is centered at the top of this redacted area.

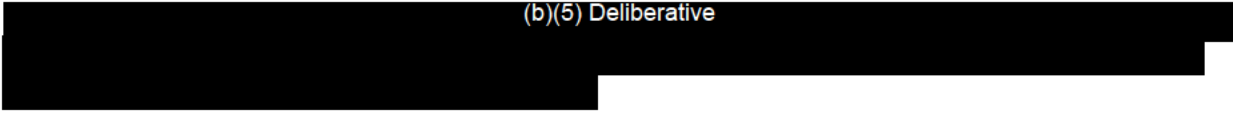
(b)(5) Deliberative

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A large rectangular area of the document is completely blacked out, indicating redaction. The text "(b)(5) Deliberative" is centered at the top of this redacted area.

(b)(5) Deliberative



01268-EPA-4133

**Bob Sussman/DC/USEPA/US**

09/02/2010 12:51 PM

To Richard Windsor

cc Lisa Heinzerling, Bob Perciasepe, David McIntosh

bcc

Subject Questions for OAR on Boiler MACT Proposal

Lisa -- as you requested, here is a set of questions for OAR

(b)(5) Deliberative

[Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4134

Gina McCarthy/DC/USEPA/US

To Lisa Heinzerling

09/02/2010 01:25 PM

cc Richard Windsor

bcc

Subject Re: E15 labeling

Thanks for the heads up [REDACTED] (b)(5) Deliberative

Lisa Heinzerling

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

**From:** Lisa Heinzerling

**Sent:** 09/02/2010 11:37 AM EDT

**To:** Gina McCarthy

**Subject:** E15 labeling

Gina,

[REDACTED] (b)(5) Deliberative

Best,  
Lisa



01268-EPA-4135

Gina McCarthy/DC/USEPA/US

To "Lisa Heinzerling"

09/02/2010 01:28 PM

cc Richard Windsor

bcc

Subject Fw: Fw: E15 labeling

Her is Margo's response.

(b)(5) Deliberative

Margo Oge

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

From: Margo Oge

Sent: 09/02/2010 01:25 PM EDT

To: Gina McCarthy

Subject: Re: Fw: E15 labeling

(b)(5) Deliberative

Gina McCarthy

(b)(5) Deliberative

09/02/2010 12:18:22 PM

From: Gina McCarthy/DC/USEPA/US  
To: "Margo Oge" <Oge.Margo@EPA.GOV>  
Date: 09/02/2010 12:18 PM  
Subject: Fw: E15 labeling

(b)(5) Deliberative

Lisa Heinzerling

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

From: Lisa Heinzerling

Sent: 09/02/2010 11:37 AM EDT

To: Gina McCarthy

Subject: E15 labeling

Gina,

(b)(5) Deliberative

(b)(5) Deliberative



Please let me know if you have any questions about anything I've said here. Thanks for your consideration.

Best,  
Lisa



01268-EPA-4136

**Richard Windsor/DC/USEPA/US**  
09/02/2010 03:01 PM

To: Gina McCarthy  
cc  
bcc

Subject: Fw: The Arguments/Requests That Elected Officials Are Making About the Proposed Boiler MACT Rule

Gina,

(b)(5) Deliberative

Lisa

----- Forwarded by Richard Windsor/DC/USEPA/US on 09/02/2010 03:00 PM -----

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Bob Sussman/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
Date: 09/01/2010 03:27 PM  
Subject: The Arguments/Requests That Elected Officials Are Making About the Proposed Boiler MACT Rule

Administrator,

This morning you requested a summary of the most notable arguments/requests made concerning the proposed boiler MACT rule in the letters that you have received to-date from elected officials. That summary is pasted below.

(b)(5) Deliberative

-David

**Elected Officials' Most Notable Particularized Arguments and Requests About the Proposed Boiler MACT Rule**

(b)(5) Deliberative

(b)(5) Deliberative

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(b)(5) Deliberative

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(b)(5) Deliberative

01268-EPA-4137

Gina McCarthy/DC/USEPA/US To Richard Windsor  
09/02/2010 03:02 PM cc  
bcc  
Subject Re: E15 labeling

(b)(5) Deliberative  
Richard Windsor

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

From: Richard Windsor  
Sent: 09/02/2010 02:28 PM EDT  
To: Lisa Heinzerling; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>  
Subject: Re: E15 labeling

(b)(5) Deliberative  
Lisa Heinzerling

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

From: Lisa Heinzerling  
Sent: 09/02/2010 02:01 PM EDT  
To: Gina McCarthy  
Cc: Richard Windsor  
Subject: Re: E15 labeling

(b)(5) Deliberative

Gina McCarthy (b)(5) Deliberative 09/02/2010 01:47:01 PM

From: Gina McCarthy/DC/USEPA/US  
To: Lisa Heinzerling/DC/USEPA/US@EPA  
Cc: Richard Windsor/DC/USEPA/US@EPA  
Date: 09/02/2010 01:47 PM  
Subject: Re: E15 labeling

(b)(5) Deliberative

Lisa Heinzerling

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

From: Lisa Heinzerling  
Sent: 09/02/2010 01:41 PM EDT  
To: Gina McCarthy  
Cc: Richard Windsor  
Subject: Re: E15 labeling

(b)(5) Deliberative

Gina McCarthy

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

From: Gina McCarthy

**Sent:** 09/02/2010 01:25 PM EDT  
**To:** Lisa Heinzerling  
**Cc:** Richard Windsor  
**Subject:** Re: E15 labeling

(b)(5) Deliberative  
[Redacted]

Lisa Heinzerling

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

**From:** Lisa Heinzerling  
**Sent:** 09/02/2010 11:37 AM EDT  
**To:** Gina McCarthy  
**Subject:** E15 labeling

Gina,

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Please let me know if you have any questions about anything I've said here. Thanks for your consideration.

Best,  
Lisa



01268-EPA-4138

Gina McCarthy/DC/USEPA/US

To Richard Windsor

09/02/2010 03:04 PM

cc

bcc

Subject Re: The Arguments/Requests That Elected Officials Are Making About the Proposed Boiler MACT Rule

I got the rundown from David and had a briefing today on commentys received. If there are other issues that we haven't heard we will do our best to include them.

Richard Windsor

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

From: Richard Windsor

Sent: 09/02/2010 03:01 PM EDT

To: Gina McCarthy

Subject: Fw: The Arguments/Requests That Elected Officials Are Making About the Proposed Boiler MACT Rule

Gina,

(b)(5) Deliberative

Lisa

----- Forwarded by Richard Windsor/DC/USEPA/US on 09/02/2010 03:00 PM -----

From: David McIntosh/DC/USEPA/US

To: Richard Windsor/DC/USEPA/US@EPA

Cc: Bob Sussman/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA

Date: 09/01/2010 03:27 PM

Subject: The Arguments/Requests That Elected Officials Are Making About the Proposed Boiler MACT Rule

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(b)(5) Deliberative

-David

**Elected Officials' Most Notable Particularized Arguments and Requests About the Proposed Boiler MACT Rule**

(b)(5) Deliberative

(b)(5) Deliberative





(b)(5) Deliberative



01268-EPA-4141

Gina McCarthy/DC/USEPA/US

To Richard Windsor

09/02/2010 09:32 PM

cc

bcc

Subject Re: Fw: Questions for OAR on Boiler MACT Proposal

Thanks. Bob's list hits most of the key issues and we will walk them next week. (b)(5) Deliberative

[Redacted]

Richard Windsor

Here are the ones from Sussman and...

09/02/2010 05:09:09 PM

From: Richard Windsor/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 09/02/2010 05:09 PM  
Subject: Fw: Questions for OAR on Boiler MACT Proposal

Here are the ones from Sussman and Heinzerling.

----- Forwarded by Richard Windsor/DC/USEPA/US on 09/02/2010 05:08 PM -----

From: Lisa Heinzerling/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Bob Perciasepe/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 09/02/2010 04:55 PM  
Subject: Re: Questions for OAR on Boiler MACT Proposal

(b)(5) Deliberative

[Redacted]

[Redacted]

Bob Sussman

(b)(5) Deliberative

09/02/2010 12:51:24 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Lisa Heinzerling/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA  
Date: 09/02/2010 12:51 PM  
Subject: Questions for OAR on Boiler MACT Proposal

(b)(5) Deliberative

[Redacted]

[Redacted]

- (b)(5) Deliberative [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency



01268-EPA-4144

David  
McIntosh/DC/USEPA/US  
09/03/2010 08:42 AM

To Richard Windsor, Seth Oster  
cc  
bcc

Subject EPA to issue more rules in climate fight

(b)(5) Deliberative

**News Headline:** EPA to issue more rules in climate fight |  

**Outlet Full Name:** Thomson Reuters - Online

**News OCR Text:** This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to colleagues, clients or customers, use the Reprints tool at the top of any article or visit: [www.reutersreprints.com](http://www.reutersreprints.com).

WASHINGTON (Reuters) - The Environmental Protection Agency will roll out more regulations on greenhouse gases and other pollution to help fight climate change, but they will not be as strong as action by Congress, a senior administration official said.

The agency "has a huge role to play in continuing the work to move from where we are now to lower carbon emissions," said the official, who did not want to be named as the EPA policies are still being formed.

President Barack Obama, looking to play a leading role in global talks on greenhouse gas emissions, has long warned that the EPA would take steps to regulate emissions if Congress failed to pass a climate bill.

The Senate has all but ruled out moving on greenhouse gases this year, even though the House of Representatives passed a bill last year. In late July, Senate Majority Leader Harry Reid stripped climate provisions out of an energy bill, saying he could not get one Republican vote for them.

The senior official stopped short of saying that the EPA alone would achieve Obama's goal of about 17 percent reductions in greenhouse gases by 2020 from 2005 levels.

"With legislation you almost certainly get more emissions reductions than you get with existing authorities" that the EPA can use under the Clean Air Act, the official said.

And analysts say the EPA will not be able to achieve far deeper cuts needed to help prevent the worst effects of climate change like floods, droughts and heat waves.

Though Congress will not likely move in 2010, the EPA expects it will in coming years, the official said. The EPA has worked with the Department of Transportation to set new fuel efficiency standards, as well as the first greenhouse gas emissions rules, on cars and light trucks. More standards for vehicles sold after 2017 are expected to be released later this month.

The EPA also has moved to regulate greenhouse gases from stationary sources like power plants and factories.

Starting next year the EPA will require large power plants, manufacturers and oil refiners to get permits for releasing greenhouse gas emissions, though details are still unclear.

The EPA will also require industrial sources to submit analyses on the so-called "best available technology" they could add to their plants to cut emissions under the existing Clean Air Act.

The official said the EPA will put out guidance this month that would help companies determine which technologies -- perhaps moving to cleaner burning natural gas and away from coal -- would make the most sense.

In addition, EPA is working on rules to cut emissions of mercury from coal-burning power plants and cement plants and on toughening rules on coal ash. In combination, all of the rules could help force inefficient coal plants into early retirement.

That could hit shares in big coal burners like American Electric Power and Southern Co..

A recent Bernstein Research report said that upcoming EPA rules could push 15 percent of current coal-fired power plant capacity into early retirement by 2015. EPA plans on smokestack emissions face obstacles in Congress and in the courts. Senator Jay Rockefeller, a West Virginia Democrat, and other lawmakers hope to stop the EPA from regulating the emissions for two years.

The official said the EPA rules would provide regulatory certainty that could help businesses get loans to build new plants. A two-year delay would only prolong the uncertainty, and hurt the chances of getting financing, the official said.

The EPA will soon roll out more regulations on both greenhouse gases and traditional pollutants like mercury emissions that will help cut planet-warming pollution and emissions that more directly hurt human health, the official said.

EPA Administrator Lisa Jackson plans to attend a meeting in Mexico in October aimed at reducing emissions of methane, a greenhouse gas about 20 times more potent than carbon dioxide, the official said.

The meeting will come a month before representatives from rich and developing countries convene for annual U.N. climate talks in Cancun, Mexico. © Thomson Reuters 2010. All rights reserved. Users may download and print extracts of content from this website for their own personal and non-commercial use only. Republication or redistribution of Thomson Reuters content, including by framing or similar means, is expressly prohibited without the prior written consent of Thomson Reuters. Thomson Reuters and its logo are registered trademarks or trademarks of the Thomson Reuters group of companies around the world.

01268-EPA-4145

**Richard Windsor/DC/USEPA/US**  
09/03/2010 08:45 AM

To David McIntosh, Seth Oster  
cc "Adora Andy"  
bcc  
Subject Re: EPA to issue more rules in climate fight



[Redacted] (b)(5) Deliberative [Redacted]

[Redacted]  
David McIntosh

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

**From:** David McIntosh  
**Sent:** 09/03/2010 08:42 AM EDT  
**To:** Richard Windsor; Seth Oster  
**Subject:** EPA to issue more rules in climate fight

[Redacted] (b)(5) Deliberative [Redacted]

**News Headline:** EPA to issue more rules in climate fight |  

**Outlet Full Name:** Thomson Reuters - Online

**News OCR Text:** This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to colleagues, clients or customers, use the Reprints tool at the top of any article or visit: [www.reutersreprints.com](http://www.reutersreprints.com).

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The meeting will come a month before representatives from rich and developing

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01268-EPA-4146

Bob Sussman/DC/USEPA/US

09/03/2010 08:46 AM

To Richard Windsor, Bob Perciasepe, David McIntosh, Arvin Ganesan, Lisa Heinzerling

cc

bcc

Subject Comments on Boiler MACT

(b)(5) Deliberative

***Air Pollution*****EPA's Proposed Air Standards for Boilers Unobtainable, Industries Say in Comments**

The Environmental Protection Agency's proposed emissions standards for industrial, commercial, and institutional boilers unachievable, several industry groups argued in comments on the proposed rule.

Industry groups and some states have raised concerns about EPA's proposal, including how the agency calculated the emissions limits, the need for more subcategories for the boiler standards, and how EPA has defined violations as part of the proposed rule. In addition, more than 100 members of Congress have expressed concerns about the possible economic impact of the rules.

The comment period on the proposals closed Aug. 23.

In June, EPA proposed two separate rules to set national emissions standards for hazardous air pollutants (NESHAP) for industrial, commercial, and institutional boilers and process heaters—one for major sources and one for smaller area sources. The proposed rules would require operators to control emissions of toxic pollutants such as mercury, hydrogen chloride, particulate matter, carbon monoxide, and dioxins and furans with emissions standards based on the boiler type and size (75 Fed. Reg. 31,896; 75 Fed. Reg. 32,006; [83 DEN A-10, 5/3/10](#)).

EPA is subject to a court-ordered deadline to issue final boiler rules by December.

In a 2007 U.S. District Court for the District of Columbia Circuit decision striking down the previous air toxics standards for boilers, a three-judge panel ruled EPA had wrongly excluded many industrial boilers from the definition of solid waste incinerators, which have more stringent emissions limits under Section 129 of the Clean Air Act (*NRDC v. EPA*, D.C. Circuit No. 04-1385, 6/8/07; [112 DEN A-11, 6/12/07](#)).

**Determination of Standards Disputed**

Various industry groups disputed how EPA determined the emissions standards for boilers and process heaters, arguing that they resulted in unobtainable standards. EPA's boiler proposal set the emissions limits for each hazardous air pollutant individually rather than evaluating the facilities' emissions as a whole, industry representatives argued. The case-by-case emissions limits resulted in standards that no one boiler or process heater will be able to achieve, they argued.

The carbon monoxide emissions control requirements of the proposal as part of the air toxics standards could interfere with boilers' ability to also meet requirements to control emissions of nitrogen oxides, the American Boiler Manufacturers Association said.

The Virginia Department of Environmental Quality raised similar concerns, arguing that EPA's proposed standards could actually lead to increased nitrogen oxides emissions. Like many industry groups, Virginia also questioned whether EPA's proposed standards could be achieved by any existing boilers and process heaters.

"For example, the boiler that has the lowest mercury emissions may not be able to meet the standards for any of the other regulated pollutants because those limits were set based on performances of one or more different units," Michael Dowling, director of the air division at the Virginia Department of Environmental Quality, said in his comments.

American Boiler Manufacturers Association said EPA's proposal violates Section 112(d)(3), which requires that the standards be "achieved in practice" by the best-performing units in any source category. The manufacturers ask EPA to consider additional emissions data collected by boiler and burner manufacturers during their own emissions testing process.

"Specifically, emission limits that are identified by EPA as 'achieved in practice' should not be inconsistent with the most

up-to-date equipment emission guarantees offered by equipment manufacturers," the association said.

American Electric Power also argued that EPA's proposal violated Section 112(d)(3).

"This approach results in the establishment of emissions limits that are not indicative of what a single source, in practice, can attain. Compliance with such emissions limits therefore has not been demonstrated by any single source in operation," John Hendricks, manager of air quality services for American Electric Power, said.

The Brick Industry Association accused EPA of "cherry picking" emissions data to create a "mythical" best-performing source when developing the proposed standards.

"EPA's ability to identify one or two sources that can meet the floor for all pollutants does not demonstrate the floor is reasonable," the Brick Industry Association said. "In fact, unless the one or two sources represent at least 6 percent of all sources in the category, it proves the opposite."

Industry groups raised similar concerns about EPA's proposed emissions standards during a June 15 public hearing ([115 DEN A-7, 6/16/10](#)).

### **More Subcategories Needed**

Several industry groups asked EPA to create additional subcategories of boilers with unique emissions limits to reflect the wide variety of designs and uses.

The Aluminum Association asked EPA to include additional equipment in a proposed process furnaces subcategory "because these units have different design and operating characteristics, including variable heating regimes, intermittent burner operation and batch processing." The association argued that homogenizing furnaces should also be listed under the metal process furnace subcategory as well. EPA did not propose numeric emissions limits for metal process furnaces. Rather, furnace operators would be required to abide by mandatory work practices, which the aluminum association supports.

In addition to more subcategories, the Council of Industrial Boiler Owners suggested EPA give boiler and process heaters the option of either meeting a numeric emissions limit or reducing toxic emissions by a required percentage, which the association has done for some emissions rules previously.

"EPA would obviously need to consider proper subcategorization relative to control efficiencies that differ depending on combustion unit and fuel types. But this approach is feasible and could provide significant flexibility," the Council of Industrial Boiler Owners said.

### **Violations Need to Be Defined**

The South Carolina Department of Health and Environmental Control said EPA's proposals fail to "establish guidelines to determine continuous compliance with limits and work practice standards," making it difficult to determine when a facility has violated the proposed emissions limits. Instead, EPA needs to clearly define what constitutes a violation under various circumstances, such as when a facility is using a continuous emissions monitoring system, leak detection equipment, or continuous opacity monitoring systems.

EPA proposed the boiler standards as part of a larger package of regulations that would also set emissions limits for incinerators and a rule to define which materials should be considered fuels and those that should be considered solid waste.

EPA in April announced new source performance standards—technology-based emissions limits—for commercial and industrial solid waste incineration units (75 Fed. Reg. 31,938; [83 DEN A-12, 5/3/10](#)).

Along with the boiler and incinerator emissions standards, EPA proposed a fourth rule that would define which material waste to be burned in incinerators and which materials can be considered fuel to be burned in boilers. Boilers are regulated by Section 112 of the Clean Air Act while incinerators are subject to the more stringent standards under Section 129 (75 Fed. Reg. 31,844).

The comment period on that proposal closed Aug. 3 ([159 DEN A-3, 8/19/10](#)).

More than 100 members of Congress signed an Aug. 2 letter to EPA Administrator Lisa Jackson urging EPA to consider the economic impact of its proposed boiler rules when finalizing the emissions standards ([150 DEN A-8, 8/6/10](#)).

By **Andrew Childers**


Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4147

**Richard Windsor/DC/USEPA/US**  
09/03/2010 10:47 AM

To Gina McCarthy, David McIntosh, Seth Oster, Bob Perciasepe, Bob Sussman, Lisa Heinzerling  
cc  
bcc

Subject [REDACTED] (b)(5) Deliberative

**News Headline:** Dallas-Fort Worth residents heeding ozone alerts, study finds | 



**Outlet Full Name:** Dallas Morning News - Online

**News OCR Text:** Elaborate government rules, flashing highway signs that urge carpooling, and even police raids on shops accused of selling phony inspection stickers are all part of the war on unbreathable air in North Texas.

New research, however, says a simple personal decision that has received almost no public credit might be a powerful weapon for protecting people from smog.

The state's system of forecasting high-ozone days is apparently helping people take their own precautions such as staying indoors, a doctoral student has found after examining years of North Texas records on ozone and asthma treatments.

The evidence: On high-ozone days that were predicted a day in advance, fewer North Texans with asthma show up at emergency rooms or are admitted to hospitals.

When high ozone comes without advance warning, hospital visits rise.

Apparently, people got sick on those days because they didn't know to avoid the outdoor air.

"People do respond to this information about air quality," said researcher Ginger Smith Carls, who completed the study this year as her doctoral dissertation in health services organization and policy and economics at the University of Michigan.

"From my study, it looks like [the alert system] is protective," Carls said in an interview. "People can take steps to protect themselves."

Her study is believed to be the first to examine whether North Texas' ozone alerts lead people to change their behavior. Other research has found similar results for programs elsewhere, especially Southern California.

Carls' findings come as Environmental Protection Agency Administrator Lisa P. Jackson prepares to announce a tighter national limit on ozone, a tasteless, odorless, yet harmful air pollutant that is the main component of smog. A decision had been expected by Aug. 31 but has been put off until October.

Texas and regional officials are seeking new ways to crank down the local smog. Ozone levels have declined since 2000, especially since 2007. However, they have

not reached the current federal maximum and will be far above the stricter standard that Jackson is expected to choose.

"We're not where we want to be, but there's certainly been progress," said David Brymer, director of air quality for the Texas Commission on Environmental Quality.

State and local measures include tougher rules for many industries; state financial aid for early replacement of older, higher-polluting commercial diesel equipment, including trucks; and annual smog checks for most gasoline-powered vehicles.

Vehicles are the biggest local source of smog-causing emissions. Authorities are sending undercover officers into shops accused of selling bogus inspection stickers.

Another mainstay of the anti-smog effort is the state environmental commission's air pollution watch system. Experts at the agency's Austin headquarters review daily weather conditions, mainly temperature and wind speed and direction. They issue an ozone watch if high levels are expected the following day. But they issue a warning if it really does happen.

The terms mirror the National Weather Service's tornado alerts: a "watch" if conditions are favorable and a "warning" if a tornado occurs.

"The watch portion is designed to give people advance notice a day ahead of time that levels could be high," said Bryan Lambeth, senior meteorologist with the TCEQ. "If they have susceptibility to the high ozone, they can take precautions."

Warnings are meant to tell people who are particularly sensitive to ozone that monitors have recorded high levels. The state offers online maps with constantly updated ozone levels around the metro area. "That was impossible 20 years ago because we didn't have real-time data systems," Lambeth said.

To see whether people were acting on the ozone watches, Carls reviewed medical claims filed on behalf of as many as 427,000 North Texas adults and children from 2000 to 2008, as reported by insurance companies. The records did not contain patients' names.

The study tracked the relationship between predicted and unpredicted high-ozone days and several patient outcomes: claims for asthma-related visits to doctors' offices and emergency rooms, hospital inpatient stays, and asthma prescription refills. She also related high-ozone days and asthma treatments to smog-inducing hot weather. Emergency-room visits and hospitalizations showed the strongest trends. They were lower on high-ozone days that had a forecast, and higher on days when the ozone wasn't predicted in advance.

The insurance records reflect just the results of people's actions or inaction to protect themselves from ozone. Carls said she doesn't know what actions they may have taken to avoid going to the doctor.

"Are people deciding to mow the lawn in the morning [when ozone levels are lowest], running in the morning instead of the evening?" asked Carls, an analyst with the information firm Thomson Reuters. "Are the children skipping their sporting events?"

The obvious and easiest choice would be to stay indoors, where ozone levels are typically much lower than outside.

Staying indoors is not a complete solution to North Texas' smog, since it does nothing to reduce the emissions that create ozone. Some people, including those with outdoors jobs, can't stay inside.

For many people, however, limiting exposure can be an important step for staying healthy, at least until official pollution-reduction strategies dealing with emissions from vehicles and fuels, industries, and other sources reduce regional ozone to safe levels.

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"If we get to the point when there are ozone alerts two weeks in a row, people might start ignoring them," she said.

Hot weather and bad air could still be in the forecast even in summer's final weeks. Here are some lessons from August:

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Purple: General public may feel serious effects

Maroon: Most serious rating possible. The entire population would be affected.

SOURCES: Texas Commission on Environmental Quality; National Weather Service;  
Dallas Morning News research

[Return to Top](#)

01268-EPA-4148


Bob Sussman/DC/USEPA/US To Richard Windsor  
09/03/2010 11:01 AM cc  
bcc  
Subject Re: fyi

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Richard Windsor News Headline: CRS SUGGESTS NE... 09/03/2010 11:00:20 AM

From: Richard Windsor/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Date: 09/03/2010 11:00 AM  
Subject: fyi

**News Headline:** CRS SUGGESTS NEW WASTE LAW PROVISION FOR EPA  
REGULATION OF COAL ASH | 

**Outlet Full Name:** Inside EPA Weekly Report

**News OCR Text:** The Congressional Research Service (CRS) is suggesting that Congress add a new subtitle to federal waste law to give EPA enforcement authority over coal waste rules without declaring the waste hazardous and to regulate beneficial reuse of coal ash, a move that could resolve a fight over how EPA should regulate the waste.

The Aug. 9 report, "Regulating Coal Combustion Waste Disposal Issues For Congress," suggests that lawmakers consider amending the Resource Conservation & Recovery Act (RCRA) to create a new subtitle K "that would specifically address issues unique to the management" of coal combustion waste (CCW). EPA is currently weighing whether to regulate CCW as hazardous under RCRA subtitle C or as solid waste under subtitle D.

CRS' suggestion could serve as a compromise avoiding the stringent hazardous waste regulation that industry opposes while providing EPA with the enforcement authority it would lack under less-strict solid waste rules. EPA has identified that lack of enforcement power as a major concern over issuing subtitle D rules.

The approach could also resolve questions over the extent to which EPA should regulate beneficial reuses of coal waste in products such as cement. Industry claims that a hazardous waste designation would decimate the reuse industry, which recyclers say handles almost half of the coal waste produced annually.

But at least one key group of state environmental officials is expressing concern about the CRS report, saying it did not meet states' expectations because it includes little input from states.

EPA June 21 issued its proposal to establish first-time federal CCW disposal rules that seeks comment on either regulating the material as hazardous under RCRA subtitle C or as nonhazardous under RCRA subtitle D. The agency's proposal was long stalled at the White House due to industry concerns about the stigma of a hazardous classification, and EPA recently extended the comment period for the proposal by 60 days, through Nov. 19.

The CRS report suggests that a RCRA subtitle K approach "broadly, could direct EPA to develop waste management standards applicable to disposal units that accept CCW (similar to subtitle D), but also provide EPA with federal enforcement authority to require states to implement those standards (similar to subtitle C) while avoiding labeling the material a 'hazardous' waste. Such a proposal could also authorize EPA to specifically regulate certain beneficial uses." Relevant documents are available on InsideEPA.com.

Rep. Heath Shuler (D-NC) floated a similar option in July, though he did not provide details, such as whether his approach would amend subtitle D or add a new subtitle to RCRA.

CRS also notes, "Congress may also choose to do nothing. That is, Congress may allow the current rulemaking process to continue and allow EPA to select either its subtitle C -- or D -- related proposal."

It is unclear which lawmaker requested the report, but a bipartisan group of House members has expressed concern about EPA RCRA subtitle C rules, with 31 members of the Energy & Commerce Committee sending EPA Administrator Lisa Jackson a July 29 letter "to express our strong opposition" to a subtitle C approach. The letter was signed by House energy committee's oversight panel chair Rep. Bart Stupak (D-MI), technology panel chair Rep. Rick Boucher (D-VA), environment panel ranking member Rep. Fred Upton (R-MI) and others.

The letter acknowledged EPA's concern about not being able to federally enforce RCRA solid waste rules for CCW but says "that obstacle should not be cause for more burdensome regulation."

Additionally, Shuler, chairman of the House Small Business Committee's rural development panel, said at a July 22 hearing that he and other lawmakers were developing legislation to give EPA authority to enforce CCW rules under RCRA subtitle D as a way for all parties to move forward on the issues. "We want to be able to work with everyone to get a compromise and I think a compromise is good at this point," he said in an interview after the hearing. (Inside EPA, July 30). Shuler is not on the Energy & Commerce Committee and did not sign the bipartisan letter to EPA.

Speaking to Inside EPA after the July hearing, Shuler declined to provide further details on his pending coal waste legislation. Shuler's office could not be reached for comment on the CRS report.

The report is at least the second CRS has issued on coal waste this year. In January, CRS in a report noted lawmakers' concern about what was then EPA's pending proposal, including that it could be too strict or too lax. The report also cited difficulty in getting information about CCW, due to a lack of federal rules.



"Since the regulation of CCW disposal and use is controlled by individual states, it is difficult to determine certain information about the waste. For example, it is difficult to determine the entire amount of CCW that has been disposed of in the United States," CRS said. It did not include recommendations for Congress but noted a high level of interest following the massive 2008 coal ash spill at a Tennessee Valley Authority (TVA) facility, which is the impetus for the EPA rule.

Although CRS' report could provide some stakeholders room to discuss a compromise over EPA's coal ash rule, a top official from the Environmental Council of the States (ECOS) is raising concerns over the report.

Steve Brown, executive director of ECOS, said at the group's annual meeting Aug. 29 in Whitefield, NH, that the report "didn't meet our expectations because it had very little input from states." Brown said that ECOS was planning to have a meeting with CRS over the report.

One reason for ECOS' concern with the report could be CRS' recommendation for a subtitle K, because it would give EPA new authority to enforce RCRA subtitle D rules, which are now enforced by states. For coal ash, however, EPA has expressed dissatisfaction with the stringency of some state approaches and, though its proposal is neutral, the agency points out that compliance would be far higher under subtitle C due exclusively to enforcement.

At the ECOS meeting Aug. 30, Gary Baughman, director of the Colorado Department of Public Health & Environment's Hazardous Materials & Waste Management Division and also president of the Association of State & Territorial Solid Waste Management Officials, warned ECOS members that if EPA finalized a rule classifying CCW as hazardous, that would create major problems given a lack of storage capacity.

Baughman said of the 136 million tons of CCW generated annual, 75 million tons are disposed in landfills and surface impoundments, compared to 50 million tons that are beneficially reused and 10 million tons placed in mines. There is not enough capacity to add 75 million tons of material to existing hazardous waste landfills, he said, adding that it would increase the amount of hazardous waste disposed annually by about 40 percent.

However, environmentalists are continuing to step up their push for hazardous waste rules, with environmental groups citing alleged new incidents of CCW contamination in communities around the country to pressure EPA to finalize a subtitle C rule that would impose strict coal waste controls.

The Environmental Integrity Project, Earthjustice and Sierra Club released an Aug. 26 report they say shows that state regulation of CCW is inadequate. The report, "In Harm's Way Lack of Federal Coal Ash Regulations Endangers Americans & Their Environment," seeks to document contamination to ground and surface water near coal ash disposal sites, identifying 39 new contamination instances in 21 states in addition to 67 sites EPA has already acknowledged.

Additionally, during EPA's first hearing on its proposal Aug. 30 in Arlington, VA, environmentalists sought to focus on contamination from the massive TVA coal ash spill. That waste is being taken for disposal to historically black and poor Perry County, AL, which is experiencing severe negative impacts, including discolored

drinking water and foul odors, according to testimony by Perry County District Attorney Michael Jackson. Jackson added that it is difficult for citizens to fight against the impacts in the absence of strict EPA rules. -- Dawn Reeves

01268-EPA-4150

**David  
McIntosh/DC/USEPA/US**  
09/03/2010 11:13 AM

To "Richard Windsor"

cc "Bob Sussman"

bcc

Subject Senator Alexander's written request that EPA hold in  
Tennessee one of its public hearings on the proposed coal  
ash rule

(b)(5) Deliberative



01268-EPA-4151

**Richard Windsor/DC/USEPA/US**  
09/03/2010 12:07 PM

To David McIntosh  
cc Bob Sussman  
bcc

Subject Re: Senator Alexander's written request that EPA hold in Tennessee one of its public hearings on the proposed coal ash rule

(b)(5) Deliberative

David McIntosh

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

**From:** David McIntosh

**Sent:** 09/03/2010 11:13 AM EDT

**To:** Richard Windsor

**Cc:** Bob Sussman

**Subject:** Senator Alexander's written request that EPA hold in Tennessee one of its public hearings on the proposed coal ash rule

(b)(5) Deliberative

[REDACTED]

01268-EPA-4152

**David McIntosh/DC/USEPA/US**  
09/03/2010 12:37 PM

To Richard Windsor  
cc Bob Sussman  
bcc

Subject Re: Senator Alexander's written request that EPA hold in Tennessee one of its public hearings on the proposed coal ash rule

(b)(5) Deliberative

Richard Windsor (b)(5) Deliberative 09/03/2010 12:07:48 PM

From: Richard Windsor/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA  
Cc: Bob Sussman/DC/USEPA/US@EPA  
Date: 09/03/2010 12:07 PM  
Subject: Re: Senator Alexander's written request that EPA hold in Tennessee one of its public hearings on the proposed coal ash rule

(b)(5) Deliberative

David McIntosh

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

**From:** David McIntosh  
**Sent:** 09/03/2010 11:13 AM EDT  
**To:** Richard Windsor  
**Cc:** Bob Sussman

**Subject:** Senator Alexander's written request that EPA hold in Tennessee one of its public hearings on the proposed coal ash rule

(b)(5) Deliberative



01268-EPA-4153

Gina McCarthy/DC/USEPA/US

To Richard Windsor

09/03/2010 01:02 PM

cc


bcc

Subject (

(b)(5) Deliberative

Richard Windsor

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

**From:** Richard Windsor**Sent:** 09/03/2010 10:47 AM EDT**To:** Gina McCarthy; David McIntosh; Seth Oster; Bob Perciasepe; Bob Sussman; Lisa Heinzerling**Subject:** (b)(5) Deliberative**News Headline:** Dallas-Fort Worth residents heeding ozone alerts, study finds | **Outlet Full Name:** Dallas Morning News - Online**News OCR Text:** Elaborate government rules, flashing highway signs that urge carpooling, and even police raids on shops accused of selling phony inspection stickers are all part of the war on unbreathable air in North Texas.

New research, however, says a simple personal decision that has received almost no public credit might be a powerful weapon for protecting people from smog.

The state's system of forecasting high-ozone days is apparently helping people take their own precautions such as staying indoors, a doctoral student has found after examining years of North Texas records on ozone and asthma treatments.

The evidence: On high-ozone days that were predicted a day in advance, fewer North Texans with asthma show up at emergency rooms or are admitted to hospitals.

When high ozone comes without advance warning, hospital visits rise.

Apparently, people got sick on those days because they didn't know to avoid the outdoor air.

"People do respond to this information about air quality," said researcher Ginger Smith Carls, who completed the study this year as her doctoral dissertation in health services organization and policy and economics at the University of Michigan.

"From my study, it looks like [the alert system] is protective," Carls said in an interview. "People can take steps to protect themselves."

Her study is believed to be the first to examine whether North Texas' ozone alerts lead people to change their behavior. Other research has found similar results for programs elsewhere, especially Southern California.

Carls' findings come as Environmental Protection Agency Administrator Lisa P. Jackson prepares to announce a tighter national limit on ozone, a tasteless, odorless, yet harmful air pollutant that is the main component of smog. A decision had been expected by Aug. 31 but has been put off until October.

Texas and regional officials are seeking new ways to crank down the local smog. Ozone levels have declined since 2000, especially since 2007. However, they have not reached the current federal maximum and will be far above the stricter standard that Jackson is expected to choose.

"We're not where we want to be, but there's certainly been progress," said David Brymer, director of air quality for the Texas Commission on Environmental Quality.

State and local measures include tougher rules for many industries; state financial aid for early replacement of older, higher-polluting commercial diesel equipment, including trucks; and annual smog checks for most gasoline-powered vehicles.

Vehicles are the biggest local source of smog-causing emissions. Authorities are sending undercover officers into shops accused of selling bogus inspection stickers.

Another mainstay of the anti-smog effort is the state environmental commission's air pollution watch system. Experts at the agency's Austin headquarters review daily weather conditions, mainly temperature and wind speed and direction. They issue an ozone watch if high levels are expected the following day. But they issue a warning if it really does happen.

The terms mirror the National Weather Service's tornado alerts: a "watch" if conditions are favorable and a "warning" if a tornado occurs.

"The watch portion is designed to give people advance notice a day ahead of time that levels could be high," said Bryan Lambeth, senior meteorologist with the TCEQ. "If they have susceptibility to the high ozone, they can take precautions."

Warnings are meant to tell people who are particularly sensitive to ozone that monitors have recorded high levels. The state offers online maps with constantly updated ozone levels around the metro area. "That was impossible 20 years ago because we didn't have real-time data systems," Lambeth said.

To see whether people were acting on the ozone watches, Carls reviewed medical claims filed on behalf of as many as 427,000 North Texas adults and children from 2000 to 2008, as reported by insurance companies. The records did not contain patients' names.

The study tracked the relationship between predicted and unpredicted high-ozone days and several patient outcomes: claims for asthma-related visits to doctors' offices and emergency rooms, hospital inpatient stays, and asthma prescription refills. She also related high-ozone days and asthma treatments to smog-inducing hot weather. Emergency-room visits and hospitalizations showed the strongest trends. They were lower on high-ozone days that had a forecast, and higher on days when the ozone wasn't predicted in advance.

The insurance records reflect just the results of people's actions or inaction to

protect themselves from ozone. Carls said she doesn't know what actions they may have taken to avoid going to the doctor.

"Are people deciding to mow the lawn in the morning [when ozone levels are lowest], running in the morning instead of the evening?" asked Carls, an analyst with the information firm Thomson Reuters. "Are the children skipping their sporting events?"

The obvious and easiest choice would be to stay indoors, where ozone levels are typically much lower than outside.

Staying indoors is not a complete solution to North Texas' smog, since it does nothing to reduce the emissions that create ozone. Some people, including those with outdoors jobs, can't stay inside.

For many people, however, limiting exposure can be an important step for staying healthy, at least until official pollution-reduction strategies dealing with emissions from vehicles and fuels, industries, and other sources reduce regional ozone to safe levels.

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Maroon: Most serious rating possible. The entire population would be affected.

SOURCES: Texas Commission on Environmental Quality; National Weather Service; Dallas Morning News research

[Return to Top](#)

01268-EPA-4154

**Lisa Feldt/DC/USEPA/US**

09/03/2010 03:39 PM

To Richard Windsor

cc

bcc

Subject Re: Additional Public Hearing in Tennessee

Asking our folks specific question but based on my read of google map its about 175-200 miles.knoxville or chatanooga are closer. Knoxville you are getting close to DOE site, Oak Ridge. There have been many meetings at kingston albiet focussed on the spill and not the rule. As an aside, the enviros recently held a meeting near Kingston to discuss coal ash and it is my understanding that only 50 folks attended.

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 09/03/2010 03:25 PM EDT

**To:** Lisa Feldt

**Cc:** David McIntosh; Bob Sussman

**Subject:** Re: Additional Public Hearing in Tennessee

How far is Nashville from spill?

Lisa Feldt

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

**From:** Lisa Feldt

**Sent:** 09/03/2010 03:23 PM EDT

**To:** Richard Windsor

**Cc:** David McIntosh; Bob Sussman

**Subject:** Additional Public Hearing in Tennessee

(b)(5) Deliberative



01268-EPA-4155

**Richard Windsor/DC/USEPA/US**  
09/03/2010 03:41 PM

To Lisa Feldt  
cc  
bcc

Subject Re: Additional Public Hearing in Tennessee

(b)(5) Deliberative

Lisa Feldt

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

**From:** Lisa Feldt  
**Sent:** 09/03/2010 03:39 PM EDT  
**To:** Richard Windsor  
**Subject:** Re: Additional Public Hearing in Tennessee

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**Cc:** David McIntosh; Bob Sussman  
**Subject:** Re: Additional Public Hearing in Tennessee

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**Sent:** 09/03/2010 03:23 PM EDT  
**To:** Richard Windsor  
**Cc:** David McIntosh; Bob Sussman  
**Subject:** Additional Public Hearing in Tennessee

(b)(5) Deliberative

01268-EPA-4156

Lisa Feldt/DC/USEPA/US

To Richard Windsor

09/03/2010 03:53 PM

cc

bcc

Subject Re: Additional Public Hearing in Tennessee

(b)(5) Deliberative Have a good labor day weekend. Lisa  
Richard Windsor

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

**From:** Richard Windsor

**Sent:** 09/03/2010 03:41 PM EDT

**To:** Lisa Feldt

**Subject:** Re: Additional Public Hearing in Tennessee

(b)(5) Deliberative

Lisa Feldt

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**Sent:** 09/03/2010 03:25 PM EDT

**To:** Lisa Feldt

**Cc:** David McIntosh; Bob Sussman

**Subject:** Re: Additional Public Hearing in Tennessee

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**Sent:** 09/03/2010 03:23 PM EDT

**To:** Richard Windsor

**Cc:** David McIntosh; Bob Sussman

**Subject:** Additional Public Hearing in Tennessee

(b)(5) Deliberative

01268-EPA-4157

**Richard Windsor/DC/USEPA/US**  
09/03/2010 03:54 PM

To Lisa Feldt  
cc  
bcc

Subject Re: Additional Public Hearing in Tennessee

You too.

Lisa Feldt

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

**From:** Lisa Feldt  
**Sent:** 09/03/2010 03:53 PM EDT  
**To:** Richard Windsor  
**Subject:** Re: Additional Public Hearing in Tennessee  
(b)(5) Deliberative Have a good labor day weekend. Lisa  
Richard Windsor

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**Sent:** 09/03/2010 03:41 PM EDT  
**To:** Lisa Feldt  
**Subject:** Re: Additional Public Hearing in Tennessee  
(b)(5) Deliberative  
Lisa Feldt

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**To:** Lisa Feldt  
**Cc:** David McIntosh; Bob Sussman  
**Subject:** Re: Additional Public Hearing in Tennessee

How far is Nashville from spill?

Lisa Feldt

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

**From:** Lisa Feldt  
**Sent:** 09/03/2010 03:23 PM EDT  
**To:** Richard Windsor  
**Cc:** David McIntosh; Bob Sussman  
**Subject:** Additional Public Hearing in Tennessee

(b)(5) Deliberative

(b)(5) Deliberative



01268-EPA-4159

Bob Sussman/DC/USEPA/US

09/07/2010 09:52 AM

To Gina McCarthy, Richard Windsor, Janet McCabe, Joe Goffman (goffman.joseph@epamail.mail.gov), Bob Perciasepe, David McIntosh, Arvin Ganesan, Lisa Heinzerling

cc

bcc

Subject Paper Industry Jobs Study for Boiler MACT

The pulp and paper industry has released a study projecting job losses of 71,000 people in the industry due to the boiler MACT A link to the study is in the enclosed article. (b)(5)

Delib  
erativ

## Paper Industry Fears Resource Drain From Multiple Upcoming Air Rules

**Posted: September 3, 2010**

Pulp and paper industry officials are protesting plans by EPA's air program to issue a series of rules for air toxics, criteria pollutants and greenhouse gas (GHG) emissions that will impact the sector, with industry warning the rules overlap with an ongoing data collection request for the sector that will overwhelm industry's limited resources.

Environmentalists, however, say the rules -- including a new source performance standard (NSPS) for Kraft pulp mills, a national emission standard for hazardous air pollutants (NESHAP) for the sector, and other rules -- are long overdue given what they say was the Bush EPA's inaction on new air rules for the industry. Environmentalists also oppose an attempt by some industry members to try and streamline EPA's ongoing effort.

EPA in a June 23 *Federal Register* notice announced a new information collection request (ICR) to receive emissions data from the pulp and paper sector. Companies will have 60 days to respond to the survey, which EPA estimates will cost a total of 127,906 hours and more than \$12 million from 386 respondents.

The data will be used by EPA in crafting its Kraft pulp mill NSPS, NESHAPs for chemical recovery combustion sources at Kraft, soda, sulfite and stand-alone semi-chemical pulp mills, and other rules.

But industry argues that the ICR, the pending NSPS and NESHAP rules, and other EPA air regulations targeting air toxics and GHG emissions amounts to an "unprecedented wave" of new Clean Air Act rules that threatens to overwhelm industry. "EPA's proposed survey could not come at a more unhelpful time," forest products company Weyerhaeuser said in Aug. 23 comments on the ICR. "It could prove to be very disruptive." In addition to the data collection mandate for the upcoming sector-specific rules, industry says it will also be adversely impacted in the coming months by first-time GHG reporting and permitting requirements, updates and additions to the maximum achievable control technology (MACT) standards for boilers; potential industrial boiler emission controls under the proposed Clean Air Transport Rule; and new modeling requirements for sulfur dioxide, nitrogen oxides and particulate matter under revised national ambient air quality standards.

The American Forest and Paper Association (AF&PA) Aug. 31 issued a report focused on the impact that the boiler MACT and other rules would have on jobs in the sector, and says a "ripple effect" from mill closures caused directly by the rule would lead to a loss of jobs in the supply chain and surrounding communities. The report estimates total job losses at 71,774 due to the boiler MACT and 185,581 due to the broader suite of rules and regulations.

"EPA has a choice -- they can regulate in a way that protects both jobs and the environment, or they can regulate in a way that sacrifices jobs," AF&PA President and CEO Donna Harman on an Aug. 31 teleconference.

Officials on the call said a key objective of issuing the report is to convince EPA to use a less stringent risk-based approach -- which EPA has previously proposed but does not select -- rather than a stricter technology-based standard. "Congress explicitly added a provision to allow for a consideration of risk to avoid wasteful expenditures," said Tim Hunt, AF&PA's senior director of air quality programs on a follow-up call with EPA. He added, "Some would even argue that it is arbitrary and capricious if EPA ignores that language in the statute."

### **Streamlining ICR**

To address some of its concerns, AF&PA is already urging EPA not to review and expand the sector's NESHAP and NSPS and also calling on the agency to significantly streamline the ICR.

AF&PA in its Aug. 23 comments echoes Weyerhaeuser's claims, asking EPA to pare back the ICR and the rules and saying the agency "s

overstates" its requirements under the Clean Air Act.

The group says that EPA's statement in the ICR notice that the law requires EPA to review and, if appropriate, revise existing NSPS at least every eight years ignores another statutory provision stating that the administrator may determine ahead of an eight-year review that the procedure is appropriate in light of readily available information on the efficacy of such standard."

This provision, the trade group says, gives EPA "almost unlimited discretion to decide not to do a periodic review of the Kraft Pulp Mill NSPS. The group's comments cite an abundance of existing information on sources and emissions controls -- particularly for total reduced sulfur and particulate matter -- that the agency could rely on to lawfully determine that a review is unnecessary. The group adds that the law doesn't require EPA to expeditiously review. "Nothing in Clean Air Act section 111 requires that NSPS cover all pollutants emitted by a source, and EPA has never interpreted it that way," according to the group's Aug. 23 comments.

The group argues that EPA also overstates its basis for collecting information on the NESHAPs, particularly startup, shutdown and malfunction emissions. In the proposed ICR, EPA refers to the United States Court of Appeals for the District of Columbia Circuit's 2008 ruling vacating an exemption for SSM in the general provisions of the air toxics program, plus a subsequent petition EPA received to revise NESHAPs in accordance with the court ruling. "To the extent that these legal actions need to be addressed in the pulp and paper NESHAP, EPA intends to investigate and make revisions at the same time as the [Clean Air Act] statutory reviews are conducted," says EPA.

However, AF&PA in its comments says that the agency's mention of the SSM vacatur and the subsequent petition "appear to be in direct violation of the judicial review and emission standard review provisions Congress has included in the Clean Air Act, which the group says requires parties to challenge NESHAPs through a petition for review filed in the courts of appeals within 60 days after publication of the rule.

"Congress established a system designed to provide certainty and clarity: anyone objecting to a rule must challenge it within 60 days; otherwise the rule remains in effect," the group says.

An environmentalist, however, says EPA's rules cited in the industry's protests are long overdue and reflect a more science-based approach. "The approach the agency is taking under the Obama administration -- an approach the source says will make the rules more reasonable for industry to comply with -- will be more able to withstand judicial review.

The source claims that the Bush EPA took a less-stringent approach to collecting information on industry's emissions, saying, "That's why so many of those rules were so bad and why they were being thrown out . . . And now EPA is actually going out and collecting the information as it should be." -- *Molly Davis*

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency



01268-EPA-4161

**Bob  
Perciasepe/DC/USEPA/US**  
09/08/2010 01:58 AM

To Richard Windsor  
cc Diane Thompson, Bob Sussman, Lisa Heinzerling  
bcc  
Subject Air Toxics

Lisa:

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

01268-EPA-4162

**David  
McIntosh/DC/USEPA/US**  
09/08/2010 12:29 PM

To Richard Windsor, Diane Thompson, Bob Perciasepe, Seth  
Oster, Arvin Ganesan  
cc  
bcc

Subject Senate Appropriations Committee

(b)(5) Deliberative



The members of the Senate Appropriations Committee are listed immediately below.

Democrats

Inouye  
Leahy  
Harkin  
Mikulski  
Kohl  
Murray  
Dorgan  
Feinstein  
Durbin  
Johnson  
Landrieu  
Reed  
Lautenberg  
Nelson (Ben)  
Pryor  
Tester  
Specter  
Brown

Republicans

Cochran  
Bond  
McConnell  
Shelby  
Gregg  
Bennett  
Hutchison  
Brownback  
Alexander

Collins  
Voinovich  
Murkowski

01268-EPA-4163

**Richard Windsor/DC/USEPA/US**  
09/08/2010 12:44 PM

To David McIntosh  
cc  
bcc

Subject Re: Senate Appropriations Committee

Tx

David McIntosh

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

**From:** David McIntosh

**Sent:** 09/08/2010 12:29 PM EDT

**To:** Richard Windsor; Diane Thompson; Bob Perciasepe; Seth Oster; Arvin Ganesan

**Subject:** Senate Appropriations Committee

(b)(5) Deliberative



The members of the Senate Appropriations Committee are listed immediately below.

Democrats

Inouye  
Leahy  
Harkin  
Mikulski  
Kohl  
Murray  
Dorgan  
Feinstein  
Durbin  
Johnson  
Landrieu  
Reed  
Lautenberg  
Nelson (Ben)  
Pryor  
Tester  
Specter  
Brown

Republicans

Cochran  
Bond  
McConnell  
Shelby  
Gregg  
Bennett  
Hutchison  
Brownback  
Alexander  
Collins  
Voinovich  
Murkowski

01268-EPA-4164

**Richard Windsor/DC/USEPA/US**  
09/08/2010 02:51 PM

To Bob Perciasepe  
cc  
bcc  
Subject Re: Air Toxics

[Redacted] (b) (6)  
Bob Perciasepe

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

**From:** Bob Perciasepe  
**Sent:** 09/08/2010 01:58 AM EDT  
**To:** Richard Windsor  
**Cc:** Diane Thompson; Bob Sussman; Lisa Heinzerling  
**Subject:** Air Toxics

Lisa:

[Redacted] (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Hope this helps.

01268-EPA-4169

Gina McCarthy/DC/USEPA/US

To "Lisa Heinzerling", "Bob Sussman", "Scott Fulton", Richard Windsor, "Bob Perciasepe", "Diane Thompson"

09/09/2010 08:27 AM

cc

bcc

Subject Draft NSPS principles and speech context

I will bring hard copies of the followinf draft NSPS principles and speech context to this mornings mtg but thought I would give you a preview. I shared with David and Seth earlier this morning for a quick gut check. David thought good start and have not heard from Seth yet.

(b)(5) Deliberative

[Redacted content]





01268-EPA-4170

**Heidi Ellis/DC/USEPA/US**

09/09/2010 10:53 AM

To Richard Windsor, David McIntosh

cc

bcc

Subject Lunch with Eileen Claussen

Administrator-

Eileen Claussen from the Pew Center would like to have lunch with you to discuss climate change and moving forward. I am not sure what your relationship is with her, but let me know how you would like to proceed.

Thank you.

---

Heidi M. Ellis  
Director of Scheduling  
Office of the Administrator | US EPA  
Phone: 202-564-3204  
Cell: 202-355-5212  
Fax: 202-501-1480

01268-EPA-4171

**David  
McIntosh/DC/USEPA/US**  
09/09/2010 10:56 AM

To Heidi Ellis, Richard Windsor  
cc  
bcc

Subject Re: Lunch with Eileen Claussen

(b)(5) Deliberative

Heidi Ellis

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

**From:** Heidi Ellis  
**Sent:** 09/09/2010 10:53 AM EDT  
**To:** Richard Windsor; David McIntosh  
**Subject:** Lunch with Eileen Claussen

Administrator-

Eileen Claussen from the Pew Center would like to have lunch with you to discuss climate change and moving forward. I am not sure what your relationship is with her, but let me know how you would like to proceed.

Thank you.

---

Heidi M. Ellis  
Director of Scheduling  
Office of the Administrator | US EPA  
Phone: 202-564-3204  
Cell: 202-355-5212  
Fax: 202-501-1480

01268-EPA-4172

**Richard Windsor/DC/USEPA/US**  
09/09/2010 11:01 AM

To David McIntosh, Heidi Ellis  
cc  
bcc

Subject Re: Lunch with Eileen Claussen

(b)(5) Deliberative

David McIntosh

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

**From:** David McIntosh  
**Sent:** 09/09/2010 10:56 AM EDT  
**To:** Heidi Ellis; Richard Windsor  
**Subject:** Re: Lunch with Eileen Claussen

(b)(5) Deliberative

Heidi Ellis

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

**From:** Heidi Ellis  
**Sent:** 09/09/2010 10:53 AM EDT  
**To:** Richard Windsor; David McIntosh  
**Subject:** Lunch with Eileen Claussen

Administrator-

Eileen Claussen from the Pew Center would like to have lunch with you to discuss climate change and moving forward. I am not sure what your relationship is with her, but let me know how you would like to proceed.

Thank you.

---

Heidi M. Ellis  
Director of Scheduling  
Office of the Administrator | US EPA  
Phone: 202-564-3204  
Cell: 202-355-5212  
Fax: 202-501-1480

01268-EPA-4174

**Gina McCarthy/DC/USEPA/US** To Richard Windsor  
09/09/2010 01:27 PM cc  
bcc  
Subject Fw: RGGI attack

Thought you might want to see this. It was sent by my old communications person (b)(5) Deliberative

----- Forwarded by Gina McCarthy/DC/USEPA/US on 09/09/2010 01:25 PM -----

From: "Schain, Dennis" <Dennis.Schain@ct.gov>  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 09/09/2010 12:45 PM  
Subject: RGGI attack

---

You are probably following the attack on RGGI....RGGI folks provided video, link below, of demonstration in NYC yesterday.

What struck me is that one news article on this mentioned that the group organizing this protest is funded by David Koch.

I just read an article about Koch and his brother...they are big time operators masterminding lots of activities on the "right" of the political spectrum.

Here is link to the article about Koch....and the youtube video.

[http://www.newyorker.com/reporting/2010/08/30/100830fa\\_fact\\_mayer](http://www.newyorker.com/reporting/2010/08/30/100830fa_fact_mayer)

<http://www.youtube.com/watch?v=rdcs2uM4YH4&feature=related>

01268-EPA-4175

**Richard Windsor/DC/USEPA/US**  
09/09/2010 02:20 PM

To: Gina McCarthy  
cc  
bcc  
Subject: Re: RGGI attack

(b)(5) Deliberative

Gina McCarthy

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

**From:** Gina McCarthy  
**Sent:** 09/09/2010 01:27 PM EDT  
**To:** Richard Windsor  
**Subject:** Fw: RGGI attack

Thought you might want to see this. It was sent by my old communications person (b)(5) Deliberative

[Redacted]

----- Forwarded by Gina McCarthy/DC/USEPA/US on 09/09/2010 01:25 PM -----

From: "Schain, Dennis" <Dennis.Schain@ct.gov>  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 09/09/2010 12:45 PM  
Subject: RGGI attack

You are probably following the attack on RGGI....RGGI folks provided video, link below, of demonstration in NYC yesterday.

What struck me is that one news article on this mentioned that the group organizing this protest is funded by David Koch.

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Here is link to the article about Koch....and the youtube video.

[http://www.newyorker.com/reporting/2010/08/30/100830fa\\_fact\\_mayer](http://www.newyorker.com/reporting/2010/08/30/100830fa_fact_mayer)

<http://www.youtube.com/watch?v=rdcs2uM4YH4&feature=related>

01268-EPA-4176

**Lisa  
Heinzerling/DC/USEPA/US**  
09/09/2010 04:00 PM

To Bob Perciasepe  
cc Bob Sussman, Diane Thompson, Richard Windsor  
bcc  
Subject Re: Air Toxics

Hi everybody.

I know this briefing has been rescheduled for a couple of weeks from now, but I wanted to point out one thing about the strategy (apart from Bob's notes below).

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

Bob Perciasepe (b)(5) Deliberative 09/08/2010 01:58:15 AM

From: Bob Perciasepe/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Lisa  
Heinzerling/DC/USEPA/US@EPA  
Date: 09/08/2010 01:58 AM  
Subject: Air Toxics

Lisa:

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED] (b)(5) Deliberative [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Hope this helps.

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

01268-EPA-4179

**Richard Windsor/DC/USEPA/US**  
09/10/2010 10:05 AM

To Mary-Kay Lynch  
cc  
bcc

Subject Re: Draft letter to Center for Biological Diversity regarding use of Dispersants and Endangered Species

**(b)(5) Attorney-Client, (b)(5) Deliberative**  
Mary-Kay Lynch

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

**From:** Mary-Kay Lynch  
**Sent:** 08/19/2010 07:56 PM EDT  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Scott Fulton; Mathy Stanislaus; Dana Tulis; Paul Anastas; lynch.mary-kay@epa.gov  
**Subject:** Draft letter to Center for Biological Diversity regarding use of Dispersants and Endangered Species  
Attorney Client Privilege  
Attorney Work Product

**(b)(5) Attorney-Client, (b)(5) Deliberative**  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



01268-EPA-4180

Mary-Kay  
Lynch/DC/USEPA/US  
09/10/2010 10:09 AM

To Richard Windsor  
cc  
bcc

Subject Re: Draft letter to Center for Biological Diversity regarding  
use of Dispersants and Endangered Species

attorney client privilege

(b)(5) Attorney-Client, (b)(5) Deliberative

Richard Windsor (b)(5) Attorney-Client, (b)(5) Deliberative 09/10/2010 10:05:59 AM

From: Richard Windsor/DC/USEPA/US  
To: Mary-Kay Lynch/DC/USEPA/US@EPA  
Date: 09/10/2010 10:05 AM  
Subject: Re: Draft letter to Center for Biological Diversity regarding use of Dispersants and Endangered Species

(b)(5) Attorney-Client, (b)(5) Deliberative

Mary-Kay Lynch

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

**From:** Mary-Kay Lynch  
**Sent:** 08/19/2010 07:56 PM EDT  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Scott Fulton; Mathy Stanislaus; Dana Tulis; Paul Anastas; lynch.mary-kay@epa.gov  
**Subject:** Draft letter to Center for Biological Diversity regarding use of Dispersants and Endangered Species  
Attorney Client Privilege  
Attorney Work Product

(b)(5) Attorney-Client, (b)(5) Deliberative

(b)(5) Attorney-Client, (b)(5) Deliberative

[REDACTED] (b)(5) Attorney-Client, (b)(5) Deliberative [REDACTED]

[REDACTED]

[REDACTED]

01268-EPA-4181

**Bob Sussman/DC/USEPA/US**

09/10/2010 08:26 PM

To Richard Windsor

cc Bob Perciasepe, Lisa Heinzerling, Gina McCarthy, Joseph Goffman, David McIntosh, Diane Thompson, Seth Oster, Avi Garbow, Scott Fulton

bcc

Subject NSPS Schedule

Lisa -- there's been considerable dialogue today about how to resequence the 2011 NSPS schedule. Here is where I believe we came out, subject to your reactions:

- (b)(5) Attorney-Client, (b)(5) Deliberative [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4182

Gina McCarthy/DC/USEPA/US

To Bob Sussman, Richard Windsor

09/10/2010 10:27 PM

cc Bob Perciasepe, Lisa Heinzerling, Joseph Goffman, David McIntosh, Diane Thompson, Seth Oster, Avi Garbow, Scott Fulton

bcc

Subject Re: NSPS Schedule

(b)(5) Deliberative

Bob Sussman

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

**From:** Bob Sussman

**Sent:** 09/10/2010 08:26 PM EDT

**To:** Richard Windsor

**Cc:** Bob Perciasepe; Lisa Heinzerling; Gina McCarthy; Joseph Goffman; David McIntosh; Diane Thompson; Seth Oster; Avi Garbow; Scott Fulton

**Subject:** NSPS Schedule

Lisa -- there's been considerable dialogue today about how to resequence the 2011 NSPS schedule. Here is where I believe we came out, subject to your reactions:

■ (b)(5) Attorney-Client, (b)(5) Deliberative

■ [Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

[Redacted]

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-4186

**David  
McIntosh/DC/USEPA/US**  
09/13/2010 04:15 PM

To Richard Windsor  
cc  
bcc

Subject former Senator John Warner at tomorrow's event

Hi Administrator,

Please see below. Chelsea was my counterpart in Senator John Warner's office when I worked on climate legislation for Senator Lieberman. (b)(5) Deliberative

-David

----- Forwarded by David McIntosh/DC/USEPA/US on 09/13/2010 04:12 PM -----

From: Chelsea Henderson Maxwell <chelsea@clarkgroupllc.com>  
To: David McIntosh <McIntosh.David@epamail.epa.gov>, Joe Goffman  
<Goffman.Joseph@epamail.epa.gov>  
Date: 09/13/2010 04:11 PM  
Subject: Tomorrow's event

---

Is one of you staffing Administrator Jackson tomorrow? JW is on the panel following her, but he plans to arrive in time to hear her speak, FYI.

And if either of you is attending the late afternoon/evening reception portion of the event, Dirk Forrister, Tom Lawler and I are grabbing dinner afterwards. Feel free to join us!

CH

Chelsea Henderson Maxwell  
Partner  
The Clark Group  
503 2nd Street, NE  
Washington, DC 20002  
Office: (202) 544-8200  
Cell: (703) 969-8659  
[chelsea@clarkgroupllc.com](mailto:chelsea@clarkgroupllc.com)

01268-EPA-4189

**Richard Windsor/DC/USEPA/US**  
09/14/2010 05:59 AM

To Susan Hedman  
cc  
bcc  
Subject Re: Minister Prentice Meeting Tomorrow -- Great Lakes Water Quality Agreement

Tx!

---

**From:** Susan Hedman  
**Sent:** 09/14/2010 01:36 AM EDT  
**To:** Cameron Davis; Richard Windsor  
**Cc:** Michelle DePass  
**Subject:** Re: Minister Prentice Meeting Tomorrow -- Great Lakes Water Quality Agreement

(b)(5) Deliberative  
[Redacted]

[Redacted]

---

**From:** Cameron Davis  
**Sent:** 09/13/2010 08:22 PM CDT  
**To:** Richard Windsor  
**Cc:** Michelle DePass; Susan Hedman  
**Subject:** Minister Prentice Meeting Tomorrow -- Great Lakes Water Quality Agreement

(b)(5) Deliberative  
[Redacted]

[Redacted]

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



01268-EPA-4191

**Richard Windsor/DC/USEPA/US**  
09/14/2010 09:23 AM

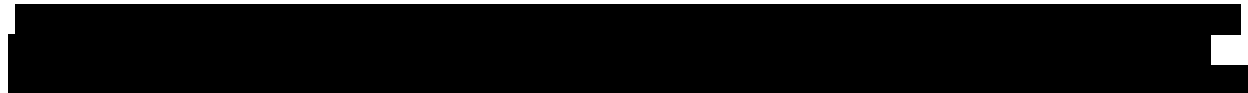
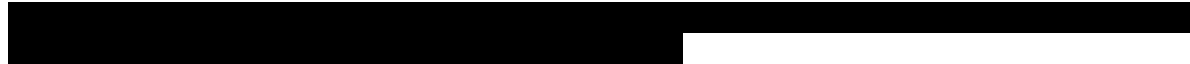
To: Cameron Davis  
cc  
bcc  
Subject: Re: Minister Prentice Meeting Tomorrow -- Great Lakes Water Quality Agreement

Tx

---

**From:** Cameron Davis  
**Sent:** 09/13/2010 08:22 PM CDT  
**To:** Richard Windsor  
**Cc:** Michelle DePass; Susan Hedman  
**Subject:** Minister Prentice Meeting Tomorrow -- Great Lakes Water Quality Agreement

(b)(5) Deliberative



(b)(5) Deliberative



01268-EPA-4193

**Richard Windsor/DC/USEPA/US**  
09/14/2010 03:09 PM

To Seth Oster  
cc  
bcc

Subject Re: DOW JONES: EPA Chief Blasts Lobbyists For Making 'Doomsday Predictions'

(b)(5) Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/14/2010 03:02 PM EDT  
**To:** Richard Windsor  
**Subject:** Fw: DOW JONES: EPA Chief Blasts Lobbyists For Making 'Doomsday Predictions'

(b)(5) Deliberative

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 09/14/2010 03:01 PM -----

**From:** Alisha Johnson/DC/USEPA/US  
**To:** Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA  
**Date:** 09/14/2010 02:57 PM  
**Subject:** DOW JONES: EPA Chief Blasts Lobbyists For Making 'Doomsday Predictions'

September 14, 2010

### **EPA Chief Blasts Lobbyists For Making 'Doomsday Predictions'**

By Tennille Tracy, Of DOW JONES NEWSWIRES

WASHINGTON -(Dow Jones)- U.S. Environmental Protection Agency Administrator Lisa P. Jackson took a swipe at industry lobbyists Tuesday, saying their " doomsday predictions" of environmental rules and the rules' impacts on U.S. businesses are often false and exaggerated.

"We are not going to fall victim to another round of trumped-up doomsday predictions," Jackson said during a symposium to celebrate the 40th anniversary of the Clean Air Act.

Jackson's comments coincide with EPA's ongoing efforts to regulate greenhouse gas emissions -- a controversial endeavour that has sparked widespread criticism from lawmakers and lobbyists alike.

Energy lobbyists, in particular, have criticized the EPA for using its authority under Clean Air Act to regulate greenhouse gases and have said the costs of complying with the rules could cripple some sectors of the industry and kill jobs.

Jackson's comments, made during a 15-minute keynote address at the Washington, D.C., symposium, appeared to be a direct response to those attacks and a defense of her agency's decision to regulate

carbon dioxide and other greenhouse gases.

Jackson said the EPA's rules are based on solid science, pointing to a so-called endangerment finding the agency released last year. She also reminded audience members that the EPA was directed to regulate greenhouse gases by the U.S. Supreme Court, which decided in 2007 that greenhouse gases are air pollutants under the Clean Air Act.

She also denied claims that EPA's efforts represented a "bureaucratic power grab," which some industry representatives have claimed in urging the U.S. Congress to block the agency's efforts.

Jackson also criticized some lobbyists for openly encouraging the EPA to regulate greenhouse gases in the most aggressive way possible, saying their goal was to make greenhouse gas rules so burdensome that it would create a backlash and force the EPA to back down.

Fortunately, Jackson said, "the Clean Air Act does not require EPA to act in a reckless manner."

-By Tennille Tracy, Dow Jones Newswires; 202-862-6619; tennille.tracy@dowjones.com

Read more:

<http://www.nasdaq.com/aspx/stock-market-news-story.aspx?storyid=201009141321dovay-predictions#ixzz0zX1YfRQX>

01268-EPA-4196

**Gina McCarthy/DC/USEPA/US**

To Richard Windsor

cc

09/14/2010 09:43 PM

bcc

Subject Feinstein letter

(b)(5) Deliberative



01268-EPA-4198

**David  
McIntosh/DC/USEPA/US**  
09/15/2010 01:59 PM

To Brendan Gilfillan, Adora Andy, Seth Oster, Richard Windsor,  
Arvin Ganesan  
cc  
bcc

Subject Re: Rockefeller

(b)(5) Deliberative

[Redacted]

Brendan Gilfillan [At a coal rally on Capitol Hill today \(a...](#) 09/15/2010 01:34:35 PM

From: Brendan Gilfillan/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Seth Oster <oster.seth@epa.gov>, Adora Andy/DC/USEPA/US@EPA, David  
McIntosh/DC/USEPA/US@EPA  
Date: 09/15/2010 01:34 PM  
Subject: Rockefeller

At a coal rally on Capitol Hill today (a bunch of coal-miners got together and said MTM, other policies are trying to shut down coal and cost them jobs) Sen. Rockefeller said this:

"She doesn't understand the sensitivities economically of what unemployment means."

(b)(5) Deliberative

[Redacted]

[Redacted]

Brendan Gilfillan  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2081  
gilfillan.brendan@epa.gov

01268-EPA-4201

**Richard Windsor/DC/USEPA/US**  
09/16/2010 02:09 PM

To Sarah Pallone  
cc  
bcc  
Subject Re: From Politico

Great.

Sarah Pallone

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

**From:** Sarah Pallone  
**Sent:** 09/16/2010 11:49 AM EDT  
**To:** Richard Windsor  
**Subject:** From Politico

See the highlighted portion below:

**POLITICO****GOP-ers eye House, meet lobbyists**

By: [Darren Samuelsohn](#)  
September 16, 2010 08:54 AM EDT

Top Republicans on the House Energy and Commerce Committee are preparing for a GOP takeover — by meeting with dozens of energy and telecom lobbyists.

Ranking member Joe Barton (Texas), potential 2011 GOP panel leader Fred Upton (Mich.) and Reps. John Shimkus (Ill.), Mike Rogers (Mich.) and Greg Walden (Ore.) met Wednesday with about 40 to 50 industry officials during an event at the National Republican Club.

An industry source in the room said the meeting wasn't billed as a fundraiser. But the lawmakers' message tacitly linked donations to the committee agenda in 2011 if Republicans win back the House.

"You should be giving us money because we're going to be in charge," the source said. "We'll ensure there is no climate bill. But at the same time, they think they'll build nuclear plants and more clean coal."

House Republican committee officials confirmed the meeting but sidestepped questions about the agenda for 2011.

"Mr. Barton is working hard to make sure that Democrats fill the ranking members' seats next year with their very best survivors," said Barton spokeswoman Lisa Miller.

No doubt, the agenda of a House GOP majority would stand in sharp contrast to the Democrats' plans for the final two years of President Barack Obama's first term. Rep. Henry Waxman, the current chairman of the Energy and Commerce Committee, told POLITICO on Tuesday that he'd try again on major climate legislation in 2011 if Democrats hold their majority. Waxman's push for cap-and-trade made it through the House last year, but it died in the Senate while putting supportive Democrats on defense on the campaign trail.

Across Capitol Hill, Senate Republicans have a bit tougher climb to the majority given their 10-seat deficit. Even so, Minority Leader Mitch McConnell declared on Wednesday the death of the "national energy tax" — the label Republicans have stuck on cap and trade.

Asked how a GOP Senate majority would deal with global warming, McConnell replied, "Clean coal technology and nuclear power would address the climate problem."

The top bullet points of a Senate GOP energy plan, McConnell explained, are: "Nuclear power, clean coal technology, offshore drilling, plug-in hybrid cars and trucks."

McConnell also blasted the Obama administration and the Environmental Protection Agency in their efforts to write climate-themed rules under the Clean Air Act.

McConnell spokesman Don Stewart later sought to lower expectations that the Senate GOP is thinking it will be in charge in 2011. "As we haven't said we're going to take back the Senate, it would be presumptuous to lay out the things we're going to move next year since the majority leader skeds the floor," he wrote in an email. "There are obviously things we like and don't like."

Sen. Jim Inhofe (R-Okla.), an outspoken skeptic on global warming science, said he would lead investigations of EPA Administrator Lisa Jackson and other Obama officials if he returns as chairman of the Environment and Public Works Committee.

"As fond as I am of Lisa Jackson, and I am, still I always have this feeling she's not calling the shots," Inhofe said. "It's Carol Browner. And we don't have that good relationship.... I think we'd want to investigate, for example, we can go back and look, what specifically [Jackson's] told us in public meetings on the endangerment finding."

Inhofe also said he would give the infrastructure side of the panel some exercise. "I want a transportation reauthorization. I want a WRDA bill." But



he's already envisioning problems with deficit-sensitive senators on his side of the aisle. "We have a lot of gun shy Republicans who are hard sells on infrastructure for some unknown reasons."



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Sarah Hospodor-Pallone  
Deputy Associate Administrator  
for Intergovernmental Relations  
Office of the Administrator  
202-564-7178  
pallone.sarah@epa.gov

01268-EPA-4202

**Richard Windsor/DC/USEPA/US**  
09/16/2010 07:40 PM

To Scott Fulton, Bob Sussman, David McIntosh, Lisa Heinzerling, Bob Perciasepe, Seth Oster, "Diane Thompson"  
cc  
bcc

Subject Re: Industry response to August 20 GHG NSPS letter

(b)(5) Deliberative, (b)(5) Attorney-Client, (b)(5) Attorney Work Product

Scott Fulton

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

**From:** Scott Fulton  
**Sent:** 09/16/2010 07:25 PM EDT  
**To:** Richard Windsor; Bob Sussman; David McIntosh; Lisa Heinzerling; Bob Perciasepe; Seth Oster; "Diane Thompson" <thompson.diane@epa.gov>  
**Subject:** Fw: Industry response to August 20 GHG NSPS letter

(b)(5) Deliberative, (b)(5) Attorney-Client, (b)(5) Attorney Work Product

[Redacted]

[Redacted]

[Redacted]

Scott  
Patricia Embrey

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

**From:** Patricia Embrey  
**Sent:** 09/16/2010 09:21 AM EDT  
**To:** Scott Fulton; Avi Garbow  
**Cc:** Richard Ossias <ossias.richard@epa.gov>  
**Subject:** Industry response to August 20 GHG NSPS letter

(b)(5) Deliberative, (b)(5) Attorney-Client, (b)(5) Attorney Work Product

[attachment "100915\_Ltr\_to\_Jackson\_GHG\_NSPS[1].pdf" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-4203

**Bob Sussman/DC/USEPA/US**  
09/16/2010 07:59 PM

To Scott Fulton  
cc "Lisa Heinzerling", "David McIntosh", "Seth Oster", "Bob Perciasepe", "Diane Thompson", Windsor.Richard  
bcc  
Subject Re: Fw: Industry response to August 20 GHG NSPS letter

Thanks Scott.

(b)(5) Deliberative, (b)(5) Attorney-Client, (b)(5) Attorney Work Product  
[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Scott Fulton (b)(5) Deliberative, (b)(5) Attorney-Client, (b)(5) Attorney Work Product 09/16/2010 07:25:54 PM

From: Scott Fulton/DC/USEPA/US  
To: Windsor.Richard@epamail.epa.gov, Sussman.Bob@epamail.epa.gov, "David McIntosh" <McIntosh.David@epamail.epa.gov>, "Lisa Heinzerling" <Heinzerling.Lisa@epamail.epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>  
Date: 09/16/2010 07:25 PM  
Subject: Fw: Industry response to August 20 GHG NSPS letter

(b)(5) Deliberative, (b)(5) Attorney-Client, (b)(5) Attorney Work Product  
[Redacted]

[Redacted]

[Redacted]

[Redacted] T date to accommodate this. We probably need to discuss once more in view of their persistence.

Scott  
Patricia Embrey

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

**From:** Patricia Embrey  
**Sent:** 09/16/2010 09:21 AM EDT  
**To:** Scott Fulton; Avi Garbow  
**Cc:** Richard Ossias <ossias.richard@epa.gov>  
**Subject:** Industry response to August 20 GHG NSPS letter

(b)(5) Deliberative, (b)(5) Attorney-Client, (b)(5) Attorney Work Product  
[Redacted]

**(b)(5) Deliberative, (b)(5) Attorney-Client, (b)(5) Attorney Work Product**

[attachment "100915\_Ltr\_to\_Jackson\_GHG\_NSPS[1].pdf" deleted by Bob Sussman/DC/USEPA/US]

01268-EPA-4204

David  
McIntosh/DC/USEPA/US  
09/16/2010 09:07 PM

To "Seth Oster", Richard Windsor, Diane Thompson, Bob  
Perciasepe  
cc  
bcc  
Subject Re: White House: Global Warming Out, 'Global Climate  
Disruption' In

From pathos to bathos.

---

**From:** "Seth Oster" [ (b) (6) ]

**Sent:** 09/16/2010 07:29 PM AST

**To:** Richard Windsor; David McIntosh; Diane Thompson; Bob Perciasepe

**Subject:** White House: Global Warming Out, 'Global Climate Disruption' In

Did we get this memo? He said, facetiously.....

Seth

## White House: Global Warming Out, 'Global Climate Disruption' In

Published September 16, 2010 | FoxNews.com

From the administration that brought you "man-caused disaster" and "overseas contingency operation," another terminology change is in the pipeline.

The [White House](#) wants the public to start using the term "global climate disruption" in place of "global warming" -- fearing the latter term oversimplifies the problem and makes it sound less dangerous than it really is.

White House science adviser [John Holdren](#) urged people to start using the phrase during a speech last week in Oslo, echoing a plea he made three years earlier. Holdren said global warming is a "dangerous misnomer" for a problem far more complicated than a rise in temperature.

The call comes as Congress prepares to adjourn for the season without completing work on a stalled climate bill. The term global warming has long been criticized as inaccurate, and the new push could be an attempt to re-shape climate messaging for next year's legislative session.

"They're trying to come up with more politically palatable ways to sell some of this stuff," said Republican pollster Adam Geller, noting that Democrats also rolled out a new logo and now refer to the Bush tax cuts as "middle-class tax cuts."

He said the climate change change-up likely derives from flagging public support for their bill to regulate emissions. He said the term "global warming" makes the cause easy to ridicule whenever there's a snowstorm.

"Every time we're digging our cars out -- what global warming?" he said. "(Global climate disruption is) more of a sort of generic blanket term, I guess, that can apply in all weather conditions."

It's unclear why Holdren prefers "global climate disruption" over "climate change," the most commonly used alternative to "global warming."

Asked about the speech, Holdren spokesman Rick Weiss said only that the Office of Science and Technology Policy has been transparent about Holdren's remarks.

"The PowerPoint for Dr. Holdren's Oslo presentation has been public on our website since the day after he returned," he said.

[Click here to see the presentation.](#)

In a 2007 presentation, Holdren suggested a similar phrase change -- "global climatic disruption."

The explanation he gave last week was that the impact from greenhouse gas emissions covers a broad "disruption" of climate patterns ranging from precipitation to storms to hot and cold temperatures. Those changes, he said, affect the availability of water, productivity of farms, spread of disease and other factors.

He's not the first scientist to publicly veer away from "global warming." [NASA](#) published an analysis on its website in 2008 explaining that it avoids the term because temperature change "isn't the most severe effect of changing climate."

"Changes to precipitation patterns and sea levels are likely to have much greater human impact than the higher temperatures alone," the report said.

But Republicans predicted that re-branding the issue would have limited effect on the legislative effort. GOP strategist Pete Snyder said he doubts the term is going to change hearts and minds.

"Are they going to change the name of weathermen to disruption analysts?" he quipped. GOP lawmakers already exploited a terminology change of their own by re-branding the "cap-and-trade" bill as "cap-and-tax."

Holdren's "global climate disruption" isn't the most convoluted term to grace the climate debate, however.

According to the NASA article, early studies on the impact humans had on global climate

referred to the relationship as "inadvertent climate modification."

01268-EPA-4205

**Richard Windsor/DC/USEPA/US**  
09/16/2010 11:46 PM

To Judith Enck  
cc  
bcc

Subject Re: DEP Release: Clean Air Trial Begins

(b)(5) Deliberative

---

**From:** Judith Enck  
**Sent:** 09/16/2010 09:54 PM EDT  
**To:** mccarthy.gina@epa.gov; Lisa Plevin; Richard Windsor  
**Subject:** DEP Release: Clean Air Trial Begins

See last paragraph of this news release from nj dep  
Sent by EPA Wireless E-Mail Services

---

**From:** Barbara Finazzo  
**Sent:** 09/16/2010 09:15 PM EDT  
**To:** Judith Enck; George Pavlou; Lisa Plevin; Bonnie Bellow; Kevin Bricke; Joann Brennan-McKee; Raymond Werner; Peter Brandt; Mary Mears  
**Subject:** Fw: DEP Release: Clean Air Trial Begins

FYI

-----Forwarded by Barbara Finazzo/R2/USEPA/US on 09/16/2010 09:14PM -----

To: <depnews@listserv.state.nj.us>  
From: "depnews depnews" <depnews@dep.state.nj.us>  
Sent by: depnews@dep.state.nj.us  
Date: 09/16/2010 03:59PM  
Subject: DEP Release: Clean Air Trial Begins

IMMEDIATE RELEASE  
Sept. 16, 2010

Contact: Lawrence Hajna (609) 984-1795  
Lawrence Ragonese (609) 292-2994

TRIAL BEGINS IN NEW JERSEY CLEAN-AIR SUIT AGAINST WESTERN  
PENNSYLVANIA POWER COMPANY

(10/95) TRENTON \* A federal trial has begun in a lawsuit filed by New Jersey and four other states to force coal-fired power plants in western Pennsylvania to take steps to clean up emissions of pollutants that degrade air quality in downwind states, including New Jersey.

"Governor Christie and I are committed to improving the state's air quality, even when it means having to fight in federal court to hold power companies in other states accountable to the same high standards and pollution control



technologies we require here in New Jersey," said Department of Environmental Protection Commissioner Bob Martin.

"Air quality is a critical issue in New Jersey, and violations of the Clean Air Act that affect our air quality will not be tolerated," said Attorney General Paula T. Dow. "We are committed to working with DEP to protect our residents from potentially harmful contaminants emitted by out-of-state energy plants. We are equally committed to using litigation where necessary to hold companies that operate those plants in violation of federal law accountable."

The bench trial began this week in the U.S. District Court for Western Pennsylvania in Pittsburgh before Chief Judge Gary L. Lancaster.

New Jersey is joined by Connecticut, Maryland, New York and Pennsylvania in a lawsuit seeking to require Greensburg, Pa.-based Allegheny Energy Inc. and its subsidiaries to install pollution-control equipment, as required by the federal Clean Air Act and Pennsylvania law, to reduce emissions of sulfur dioxide and nitrogen oxide at three power plants. Prevailing wind carries pollutants from these plants to the east, causing ozone smog pollution and acid rain in the five states.

"Air pollution does not adhere to state boundaries," Commissioner Martin said. "Even though Allegheny's power plants are hundreds of miles away, they affect New Jersey's ability to meet federal clean air standards. Our resolve to hold this company accountable to federal law is a strong example of our commitment to protecting New Jersey's air quality from out-of-state sources of pollution."

The three plants at issue in the litigation \* the Armstrong, Hatfield's Ferry and Mitchell plants \* consist of older, coal-fired generation units. The lawsuit asserts that Allegheny undertook many construction projects over the years to extend the operational lifespan of these plants without complying with federal standards requiring implementation of best available control technology standards or meeting the lowest achievable emission rate to reduce sulfur dioxide and nitrogen oxide emissions.

An analysis of emissions prepared in conjunction with the lawsuit shows that three plants emit nearly 200,000 tons of sulfur dioxide and nitrogen oxide annually.

Nitrogen oxide, in the presence of sunlight, reacts with other chemicals to form ozone smog, which contributes to health problems including chest pain, shortness of breath, coughing, and increased vulnerability to respiratory conditions such as asthma. Nitrogen oxide and sulfur dioxide emissions contribute to the formation of acid rain deposition. Acid rain inhibits the ability of fish to survive in ponds and lakes.

Both pollutants also contribute to excessive nutrient loading in coastal waters, affecting diversity of fish life, and leads to the creation of fine particles that can cause respiratory distress, cardiovascular disease and premature death in people.

New Jersey and the other states are seeking injunctive relief to require Allegheny to reduce its harmful emissions by installing state-of-the-art pollution controls at each of the three plants. The state is also seeking civil monetary penalties and an order for Allegheny to take appropriate actions for the harm done to public health and the environment.

The Allegheny subsidiaries named as defendants are Allegheny Energy Service

Corporation, Allegheny Energy Supply Company LLC, Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company.

Chief Judge Lancaster is currently holding the liability phase of the trial. This will be followed by a remedy phase.

Closer to New Jersey, Governor Christie and Commissioner Martin have called on the federal Environmental Protection Agency to expedite action to reduce pollutants spewing from Portland Generating Station, coal-fired power plant operated by RRI Energy in Northampton County, Pa., directly across the Delaware River from Knowlton, Warren County.

###

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01268-EPA-4207

Michael Moats/DC/USEPA/US  
09/17/2010 02:16 PM

To Adora Andy, lisapjackson, "Richard Windsor"  
cc  
bcc

Subject Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

From: Adora Andy/DC/USEPA/US  
To: "Richard Windsor" <windsor.richard@epa.gov>, (b)(6) Privacy  
Cc: "Michael Moats" <Moats.Michael@epamail.epa.gov>  
Date: 09/16/2010 10:29 PM  
Subject: PLEASE REVIEW: CAA piece for HuffPo

Hi Boss,  
(b)(5) Deliberative

Thanks and have a good night!  
AA

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

**From:** Michael Moats  
**Sent:** 09/15/2010 06:24 PM EDT  
**To:** Richard Windsor; Lisa Jackson <(b)(6) Privacy>  
**Cc:** Adora Andy  
**Subject:** FOR REVIEW CAA blog piece for HuffPo

(b)(5) Deliberative  
Enjoy.

Mike

[attachment "20100914 Clean Air Act OpEd (2).doc" deleted by Michael Moats/DC/USEPA/US]

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(b)(5)  
Deliberative

[Redacted]

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[Redacted]

[Redacted]

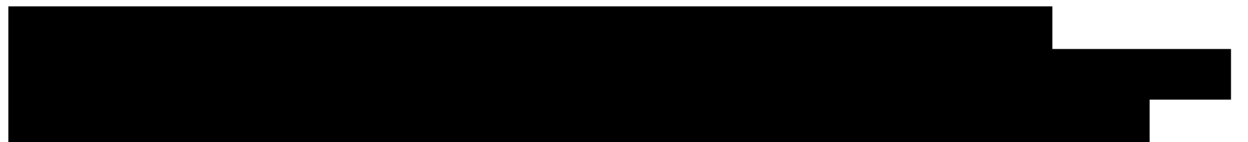
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[Redacted]

(b)(5) Deliberative

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(b)(5) Deliberative



-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

01268-EPA-4208

(b)(6) Privacy  
09/17/2010 02:32 PM  
Please respond to  
(b)(6) Privacy

To Michael Moats, Adora Andy, Richard Windsor  
cc  
bcc  
Subject Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

Sent via BlackBerry by AT&T

---

**From:** Moats.Michael@epamail.epa.gov  
**Date:** Fri, 17 Sep 2010 14:16:35 -0400  
**To:** <Andy.Adora@epamail.epa.gov>; <(b)(6) Privacy> Richard Windsor<>windsor.richard@epa.gov>  
**Subject:** Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

From: Adora Andy/DC/USEPA/US  
To: "Richard Windsor" <windsor.richard@epa.gov>; (b)(6) Privacy  
Cc: "Michael Moats" <Moats.Michael@epamail.epa.gov>  
Date: 09/16/2010 10:29 PM  
Subject: PLEASE REVIEW: CAA piece for HuffPo

---

Hi Boss,  
(b)(5) Deliberative

Thanks and have a good night!  
AA

----- Original Message -----  
**From:** Michael Moats  
**Sent:** 09/15/2010 06:24 PM EDT

**To:** Richard Windsor; Lisa Jackson <[REDACTED] (b)(6) Privacy

**Cc:** Adora Andy

**Subject:** FOR REVIEW CAA blog piece for HuffPo

(b)(5) Deliberative  
[REDACTED]

Mike

[attachment "20100914 Clean Air Act OpEd (2).doc" deleted by Michael Moats/DC/USEPA/US]

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**DRAFT**

(b)(5) Deliberative  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b)(5) Deliberative

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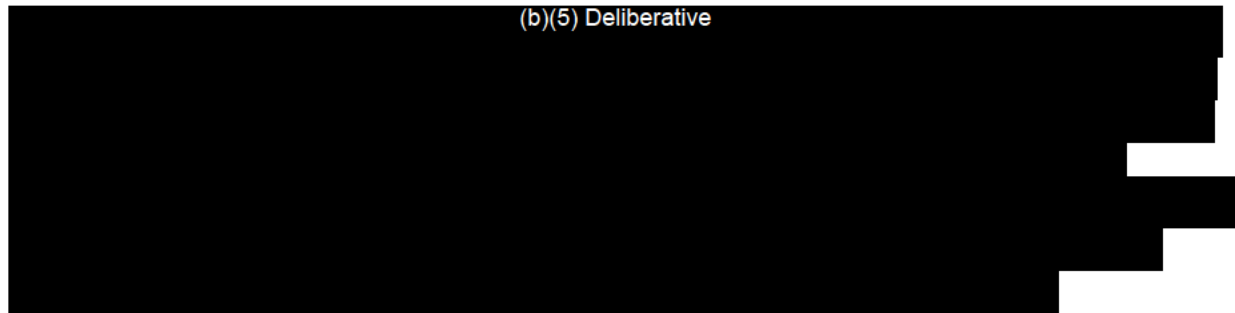
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[Redacted]

(b)(5) Deliberative



-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

01268-EPA-4209

Michael Moats/DC/USEPA/US

To Adora Andy, "Lisa Jackson"

09/17/2010 02:38 PM

cc

bcc

Subject Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

**From:** lisapjackson  
**Sent:** 09/17/2010 06:32 PM GMT  
**To:** Michael Moats; Adora Andy; "Lisa Jackson" <windsor richard@epa.gov>  
**Subject:** Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

Sent via BlackBerry by AT&T

**From:** Moats.Michael@epamail.epa.gov  
**Date:** Fri, 17 Sep 2010 14:16:35 -0400  
**To:** <Andy.Adora@epamail.epa.gov>; <(b)(6) Privacy Richard Windsor<windsor.richard@epa.gov>>  
**Subject:** Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

From: Adora Andy/DC/USEPA/US  
To: "Richard Windsor" <windsor.richard@epa.gov>, (b)(6) Privacy  
Cc: "Michael Moats" <Moats.Michael@epamail.epa.gov>  
Date: 09/16/2010 10:29 PM  
Subject: PLEASE REVIEW: CAA piece for HuffPo

Hi Boss,

[REDACTED] (b)(5) Deliberative

[REDACTED]

[REDACTED] have a good night!

AA

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

**From:** Michael Moats

**Sent:** 09/15/2010 06:24 PM EDT

**To:** Richard Windsor; Lisa Jackson <[REDACTED] (b)(6) Privacy

**Cc:** Adora Andy

**Subject:** FOR REVIEW CAA blog piece for HuffPo

[REDACTED] (b)(5) Deliberative

[REDACTED]

Mike

[attachment "20100914 Clean Air Act OpEd (2).doc" deleted by Michael Moats/DC/USEPA/US]

-----

**DRAFT**

[REDACTED] (b)(5) Deliberative

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5) Deliberative

[Redacted]

[Redacted]

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[Redacted]

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[Redacted]

[Redacted]

(b)(5) Deliberative



-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687

Release 3 - HQ-FOI-01268-12

All emails sent by "Richard Windsor" were sent by EPA Administrator Lisa Jackson

Mobile: 202-527-4436

01268-EPA-4210

**Richard Windsor/DC/USEPA/US**  
09/17/2010 03:08 PM

To Michael Moats, Adora Andy, "Lisa Jackson"  
cc  
bcc

Subject Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

---

**From:** Michael Moats  
**Sent:** 09/17/2010 02:38 PM EDT  
**To:** Adora Andy; "Lisa Jackson" <windsor.richard@epa.gov>  
**Subject:** Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

---

**From:** lisapjackson  
**Sent:** 09/17/2010 06:32 PM GMT  
**To:** Michael Moats; Adora Andy; "Lisa Jackson" <windsor richard@epa.gov>  
**Subject:** Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

Sent via BlackBerry by AT&T

---

**From:** Moats.Michael@epamail.epa.gov  
**Date:** Fri, 17 Sep 2010 14:16:35 -0400  
**To:** <Andy.Adora@epamail.epa.gov>; <(b)(6) Privacy> Richard Windsor<windsor.richard@epa.gov>  
**Subject:** Re: PLEASE REVIEW: CAA piece for HuffPo

(b)(5) Deliberative

-----  
Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

From: Adora Andy/DC/USEPA/US  
To: "Richard Windsor" <windsor.richard@epa.gov>, (b)(6) Privacy  
Cc: "Michael Moats" <Moats.Michael@epamail.epa.gov>



Date: 09/16/2010 10:29 PM  
Subject: PLEASE REVIEW: CAA piece for HuffPo

---

Hi Boss,

[REDACTED] (b)(5) Deliberative

Thanks and have a good night!  
AA

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

**From:** Michael Moats

**Sent:** 09/15/2010 06:24 PM EDT

**To:** Richard Windsor; Lisa Jackson <[REDACTED] (b)(6) Privacy

**Cc:** Adora Andy

**Subject:** FOR REVIEW CAA blog piece for HuffPo

[REDACTED] (b)(5) Deliberative

Mike

[attachment "20100914 Clean Air Act OpEd (2).doc" deleted by Michael Moats/DC/USEPA/US]

-----  
**DRAFT**

[REDACTED] (b)(5) Deliberative

[REDACTED]

[REDACTED]

(b)(5) Deliberative  
[Redacted]

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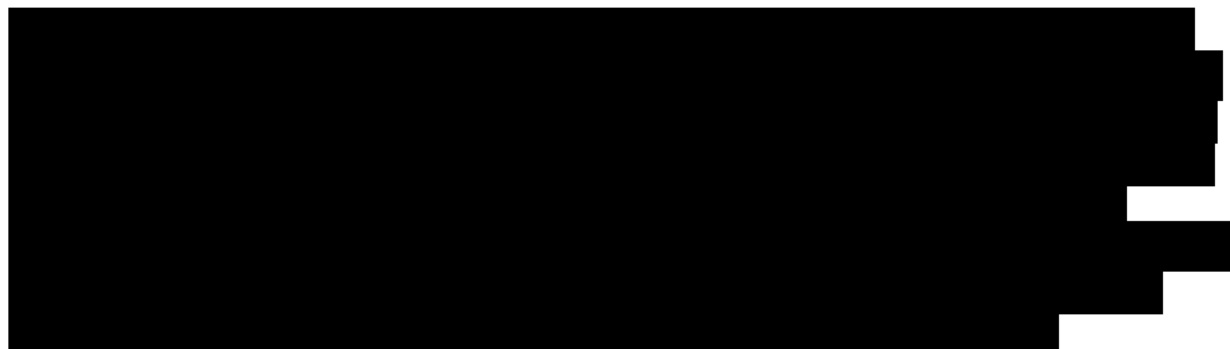
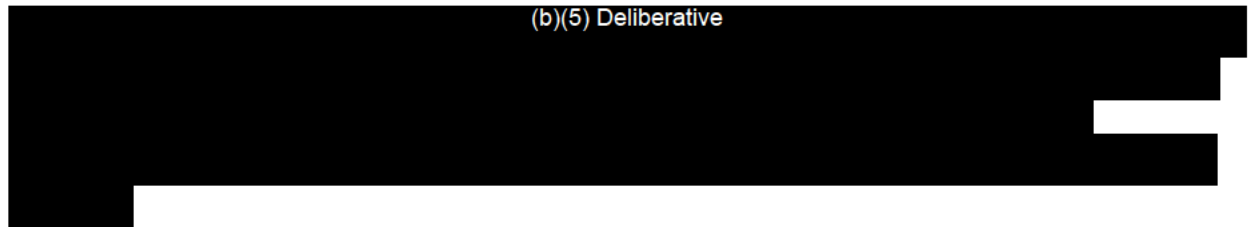
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[Redacted]

[Redacted]

(b)(5) Deliberative



-----

Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

01268-EPA-4212

**Richard Windsor/DC/USEPA/US**  
09/17/2010 04:32 PM

To David McIntosh, Diane Thompson, Bob Perciasepe, Sarah Pallone, Arvin Ganesan, Bob Sussman, Lisa Heinzerling, Seth Oster, Lawrence Elworth, Gina McCarthy, Joseph Goffman, Janet McCabe, Scott Fulton, Avi Garbow

cc

bcc

Subject Re: 12 new Governor letters about boiler MACT

Tx

David McIntosh

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

**From:** David McIntosh  
**Sent:** 09/17/2010 04:24 PM EDT  
**To:** Richard Windsor; Diane Thompson; Bob Perciasepe; Sarah Pallone; Arvin Ganesan; Bob Sussman; Lisa Heinzerling; Seth Oster; Lawrence Elworth; Gina McCarthy; Joseph Goffman; Janet McCabe; Scott Fulton; Avi Garbow  
**Subject:** 12 new Governor letters about boiler MACT

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 09/17/2010 04:16 PM -----

From: Arvin Ganesan/DC/USEPA/US  
To: Sarah Pallone/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA  
Date: 09/17/2010 04:11 PM  
Subject: Fw: Govs Letters

FYI. Boiler MACT

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
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 09/17/2010 04:10 PM -----

From: <rich.gold@hklaw.com>  
To: Arvin Ganesan/DC/USEPA/US@EPA  
Date: 09/17/2010 04:09 PM  
Subject: FW: Govs Letters

Your office does Govs too, right...

**Richard Gold** | Holland & Knight

Practice Group Leader  
Public Policy and Regulation Group  
2099 Pennsylvania Avenue, N.W., Suite 100 | Washington DC 20006  
Phone 202.457.7143 | Cell 202.669.9003 | Fax 202.955.5564  
[rich.gold@hklaw.com](mailto:rich.gold@hklaw.com) | [www.hklaw.com](http://www.hklaw.com)

---

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---

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[attachment "Alabama Governor Bob Riley (R) to EPA.pdf" deleted by Richard Windsor/DC/USEPA/US]  
[attachment "Arkansas Governor Mike Beebe (D) to EPA.pdf" deleted by Richard

Windsor/DC/USEPA/US]

[attachment "California Governor Arnold Schwarzenegger (R) to EPA.pdf" deleted by Richard  
Windsor/DC/USEPA/US]

[attachment "Georgia Governor Sonny Perdue (R) to EPA.pdf" deleted by Richard  
Windsor/DC/USEPA/US]

[attachment "Idaho Governor Butch Otter (R) to EPA.pdf" deleted by Richard Windsor/DC/USEPA/US]

[attachment "Maine Governor John Baldacci (D) Letter to EPA.pdf" deleted by Richard

Windsor/DC/USEPA/US][attachment "Minnesota Governor Tim Pawlenty (R) to EPA.pdf" deleted by

Richard Windsor/DC/USEPA/US][attachment "Mississippi Governor Haley Barbour (R) to EPA.pdf"  
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deleted by Richard Windsor/DC/USEPA/US][attachment "Oregon Governor Ted Kulongoski (D) to  
EPA.pdf" deleted by Richard Windsor/DC/USEPA/US][attachment "Virginia Governor Bob McDonnell (R)

Letter to POTUS.pdf" deleted by Richard Windsor/DC/USEPA/US][attachment "Wisconsin Governor Jim  
Doyle (D) to EPA.pdf" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-4223

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

09/21/2010 05:43 PM

To Richard Windsor, Seth Oster, Gina McCarthy, Joseph  
Goffman

cc

bcc

Subject Fw: Hawkins Letter to AEP Presient Mike Morris re EPA  
Authority to Regulate Greenhouse Gases

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 09/21/2010 05:39 PM -----

From: "Herzog, Antonia" <aherzog@nrdc.org>  
To: David McIntosh/DC/USEPA/US@EPA  
Cc: "Hawkins, Dave" <dhawkins@nrdc.org>  
Date: 09/21/2010 05:24 PM  
Subject: Hawkins Letter to AEP Presient Mike Morris re EPA Authority to Regulate Greenhouse Gases

---

Hi David, I wanted to alert you to this letter that Hawkins just sent to Mike Morris. Can you share it with Joe and Gina too. Thanks! Antonia

-----  
Michael G. Morris  
Chairman of the Board  
President and Chief Executive Officer  
American Electric Power  
1 Riverside Plaza  
Columbus, Ohio 43215-2373

September 17, 2010

Dear Mike,

I am writing about your letter of September 15, 2010, urging the Senate to enact legislation that would prevent EPA from issuing rules under the Clean Air Act to limit greenhouse gases for at least two years. While you sent this letter in your role as Chair of a Business Roundtable task force, I know you well enough to believe that you personally agree with the statements in the letter. With that in mind I want to provide you with my reasons for strongly disagreeing with those claims.

You start by arguing that the Clean Air Act is not well-designed to regulate "ubiquitous pollutants like carbon dioxide emissions, whose impact is global, not local or regional." That argument might apply to the Act's ambient standards programs but EPA has made it clear that it has no intention of applying those provisions of the law to greenhouse gases. Rather, the agency has stated that it will use the law's technology-based provisions to achieve reductions in these pollutants. These provisions are as well-suited to greenhouse gas pollutants as they are to the range of traditional pollutants for which EPA has developed emission performance standards over the past 40 years.

The core boundary on EPA's authority for emission performance standards, including "best available control technology" (BACT) and New Source Performance Standards (NSPS), is that the standards must be supported by a thorough record documenting the technical and economic reasonableness of any standard the agency adopts. These findings of reasonableness are required to be made on a category by category basis, and in the case of BACT, on a source by source basis.

EPA's use of these provisions will implement an entirely sensible policy to apply modern techniques to

reduce emissions from major new investments in our nation's industrial infrastructure, in a manner that is compatible with sustainable economic growth. The claim that implementing these common sense provisions would drive up consumer costs and damage U.S. competitiveness is simply without any factual basis. To the contrary, a path that would encourage investments that will lock our economy into a high carbon pathway is the real threat to consumer well-being and competitiveness.

As CEO of American Electric Power you have recognized that action by the U.S. to cut its emissions is a necessary step to engage other countries in similar efforts. Congressional backtracking on the Clean Air Act--a law it has already enacted and that the Supreme Court has concluded applies to greenhouse gases -- would set back efforts by the U.S. to demonstrate the leadership that is essential to securing the cooperation of other countries in addressing this global threat. I know that you and other Business Roundtable leaders understand that ill-considered actions by the U.S. can damage progress toward our international objectives.

The current Administration has tried to break the international log-jam on climate protection by stating the commitment of the U.S. to reduce its emissions by reasonable amounts by 2020. Timely exercise of the Clean Air Act performance standard authorities can contribute to that effort even if the Congress delays in enacting the more comprehensive legislation that you and I agree is needed. Action by EPA would properly be seen as good faith progress by the U.S. and would enhance our ability to secure more action from other countries. In contrast, enactment of the legislation you seek would send a signal that the U.S. cannot be counted on as a reliable partner in a global effort to tackle this problem.

Your letter emphasizes that the delay you seek is for two years and that it would allow time to formulate approaches that to develop needed new technologies. I have several disagreements with this argument. First, investments are being made now and there are a range of available resource choices with quite different greenhouse emissions profiles. Blocking EPA action for the extended time contemplated in this legislation will skew decisions away from alternate, available resources with lower carbon emissions. Second, the legislation you support is not limited to delaying the effectiveness of EPA rules for two years. Rather, it is drafted to prevent EPA from taking any action related to rule development during the proposed two year period. So, in practice, the delay imposed by such a provision would last years longer. Third, such a provision once enacted, will be a convenient predicate for extending the delay with successive enactments of the same provision. This technique was used to bar action to improve fuel economy standards year after year during the 1990s. Indeed, before the legislation you support has even been voted on, influential members of Congress are making public statements about renewing it. Nothing in the legislation itself, nor in the dynamics prevailing in Congress creates meaningful incentives to use the time period when EPA is blocked to develop alternative legislative approaches.

In reality, the most likely result of enactment of such a delay would not be to stimulate increased efforts to develop a legislative consensus on climate protection. Rather, hamstringing EPA would empower those who have succeeded in preventing action by Congress on broad climate legislation for years now. That will serve neither the interests of climate protection nor the interests of the many Business Roundtable members who face genuine problems in making rational business plans as long as U.S. climate policy remains in an unresolved contentious state. Enactment of a provision like the Rockefeller proposal would assure an increase in controversy surrounding U.S. energy policy and every major emitting energy project. That turn of events would make it harder, not easier, to find common ground on how to move forward.

Mike, I know you have worked hard to move AEP from a stance of opposition to public health and environmental progress to a forward-looking posture that emphasizes cooperation. Those efforts have already produced dividends that benefit AEP and the public generally. This effort to handcuff EPA from taking *any* action, no matter how moderate, on greenhouse gases is unnecessary and inconsistent with the approach you have taken up to now. Rather than urging a meat-ax approach by Congress to block EPA from carrying out the law, why don't you join us in working with EPA to develop common-sense



performance standards that will reduce uncertainty while moving us in the right direction on climate protection?

With best wishes,

David G. Hawkins

Director, Climate Programs

---

***Antonia Herzog, Ph.D.***  
***Assistant Director***  
***Climate Center***  
***Natural Resources Defense Council***  
***1200 New York Ave. NW, Suite 400***  
***Washington, DC 20005***

01268-EPA-4224

**Richard Windsor/DC/USEPA/US**  
09/21/2010 05:50 PM

To David McIntosh, Seth Oster  
cc  
bcc  
Subject Re: Hawkins Letter to AEP Presient Mike Morris re EPA Authority to Regulate Greenhouse Gases

V cool  
David McIntosh

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

**From:** David McIntosh  
**Sent:** 09/21/2010 05:43 PM EDT  
**To:** Richard Windsor; Seth Oster; Gina McCarthy; Joseph Goffman  
**Subject:** Fw: Hawkins Letter to AEP Presient Mike Morris re EPA Authority to Regulate Greenhouse Gases

(b)(5) Deliberative

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To: David McIntosh/DC/USEPA/US@EPA  
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With best wishes,

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Director, Climate Programs

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***Antonia Herzog, Ph.D.***  
***Assistant Director***  
***Climate Center***  
***Natural Resources Defense Council***  
***1200 New York Ave. NW, Suite 400***  
***Washington, DC 20005***

01268-EPA-4227

David  
McIntosh/DC/USEPA/US  
09/23/2010 02:04 PM

To Richard Windsor  
cc Aaron Dickerson, Heidi Ellis  
bcc

Subject Re: your call with Senator Merkley at 4:45 today

(b)(5) Deliberative  
[Redacted]

David McIntosh

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

**From:** David McIntosh  
**Sent:** 09/23/2010 01:24 PM EDT  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Heidi Ellis  
**Subject:** your call with Senator Merkley at 4:45 today

Hi Administrator,

This afternoon from 4:45 to 5:00, you are scheduled to speak by phone with Senator Jeff Merkely (D-OR). Senator Merkley requested this call late yesterday (b)(5) Deliberative

[Redacted]

-David

[attachment "psd lincoln.pdf" deleted by David McIntosh/DC/USEPA/US]

Dear Senator \_\_\_\_\_:

(b)(5) Deliberative  
[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]

[Redacted]

(b)(5) Deliberative



(b)(5) Deliberative [Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]

[Redacted]

[Redacted]



01268-EPA-4228

**Richard Windsor/DC/USEPA/US**  
09/23/2010 02:07 PM

To David McIntosh  
cc  
bcc

Subject Re: your call with Senator Merkley at 4:45 today

Tx

David McIntosh

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

**From:** David McIntosh  
**Sent:** 09/23/2010 02:04 PM EDT  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Heidi Ellis  
**Subject:** Re: your call with Senator Merkley at 4:45 today

(b)(5) Deliberative

David McIntosh

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

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(b)(5) Deliberative

-David

[attachment "psd lincoln.pdf" deleted by David McIntosh/DC/USEPA/US]

(b)(5) Deliberative

(b)(5) Deliberative [Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]

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(b)(5) Deliberative

[Redacted]

[Redacted]

(b)(5) Deliberative

[Redacted]

[Redacted]

(b)(5) Deliberative

**(b)(5) Deliberative**

01268-EPA-4231

**Richard Windsor/DC/USEPA/US**  
09/27/2010 02:22 PM

To Seth Oster  
cc Diane Thompson, Heidi Ellis  
bcc  
Subject [REDACTED] (b)(5) Deliberative

Ok  
Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/27/2010 01:42 PM EDT  
**To:** Richard Windsor  
**Cc:** Diane Thompson; Heidi Ellis  
**Subject:** [REDACTED] (b)(5) Deliberative

[REDACTED] (b)(5) Deliberative

[REDACTED]

[REDACTED]

[REDACTED]

Seth

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

01268-EPA-4232

**Richard Windsor/DC/USEPA/US**  
09/27/2010 09:04 PM

To "Jeff Tittel"  
cc  
bcc

Subject Fw: YOU WON SIERRA CLUB AWARD

V cool! Thanks.  
Adora Andy

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

**From:** Adora Andy  
**Sent:** 09/27/2010 04:16 PM EDT  
**To:** Richard Windsor  
**Subject:** YOU WON SIERRA CLUB AWARD

FYI Below

----- Forwarded by Adora Andy/DC/USEPA/US on 09/27/2010 04:16 PM -----

From: Orli Cotel <orli.cotel@sierraclub.org>  
To: Adora Andy/DC/USEPA/US@EPA  
Date: 09/27/2010 03:52 PM  
Subject: Sierra Club Announces 2010 Awards

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+++++

For Immediate Release: September 27, 2010  
Contact: Orli Cotel 415 977 5627

SIERRA CLUB ANNOUNCES 2010 NATIONAL AWARDS

SAN FRANCISCO The Obama administration's new EPA administrator, a congressman who has a long record of advocating for environmental protection and a photographer who helped raise awareness of overconsumption are among those receiving national awards from the Sierra Club this year.

EPA Administrator Lisa Jackson is receiving the club's Edgar Wayburn Award, which honors outstanding service to the environment by a person in government.

"In her first year, Administrator Jackson has established herself as the most consequential and effective EPA Administrator since William Ruckelshaus launched the agency," said Sierra Club President Robin Mann.

"She has reversed in a little over a year the overwhelming majority of the anti-public health and environmental regulations left in place by eight years of Bush appointees. New health standards have been established for conventional air pollutants; the agency had moved aggressively to begin carrying out the Supreme Court decision that the Clean Air Act requires regulations of greenhouse gasses; important progress has been made in establishing stringent restrictions on pollution from mountaintop removal mining; and the federal program to regulate commercial chemicals, which had

been long ignored and languishing, is beginning to move forward again."

Norman Dicks, a congressman from Bremerton, Wash., is receiving the Distinguished Service Award, which recognizes individuals in public service for strong and consistent commitment to conservation. Dicks has represented Washington's 6th Congressional District since 1976 and has used his position on the Interior Appropriations Subcommittee to pass several key pieces of environmental legislation, including a landmark bill that created a new federal lands conservation trust.

Chris Jordan of Seattle, Wash., is receiving the Ansel Adams Award, which honors excellence in conservation photography. His latest book, *Running the Numbers: An American Self-Portrait*, brings to life through photography some of the startling statistics related to American consumerism; statistics such as the fact that 1 million trees are cut down every year and 2 million plastic bottles are used every five minutes.

Jeff Biggers, author of the 2010 book *Reckoning at Eagle Creek*, is receiving the David R. Brower Award, which recognizes outstanding environmental reporting or editorial comment that contributes to a better understanding of environmental issues. Biggers writes extensively on issues related to coal mining and is a regular contributor to the Huffington Post, Grist and Salon.com.

The Club's top award, the John Muir Award, is going to Dick Fiddler of Shoreline, Wash., who has provided outstanding conservation leadership for the Sierra Club at the chapter, regional and national levels for more than 40 years.

The Club's highest honor for administrative work, the William E. Colby Award, will go to Doris Cellarius of Prescott, Ariz., who also has been an active Club leader for more than 40 years at the group, chapter, national and international levels.

Others receiving 2010 Sierra Club awards include the following:

EarthCare Award (Honors an individual, organization, or agency that has made a unique contribution to international environmental protection and conservation): Anna Rose of Sydney, Australia. Rose founded the Australian Youth Climate Coalition, which has been a major partner with the Sierra Student Coalition in its efforts to build an international youth climate movement.

Environmental Alliance Award (recognizes individuals or groups that have forged partnerships with other non-Sierra Club entities): Jose Menendez of San Juan, Puerto Rico. Menendez partnered with other organizations to create an ecotourism micro enterprise that has helped nearly 200 fishermen support their families.

Ida and Denny Wilcher Award (recognizes outstanding achievement in membership development and/or fundraising): The Sierra Club Puerto Rico Chapter, which has recruited 1,300 new members since it was established in 2005.

Joseph Barbosa Earth Fund Award (recognizes a club member under the age of 30): Members of the Washington University Climate Justice Alliance. This group has worked to educate their fellow students and the general public about the hidden costs of "clean coal." The award includes a \$500 prize that they will use to defray the costs of a four-day symposium titled "Global Energy Future" that is being held at Washington University next month.



Madelyn Pyeatt Award (recognizes work with youth): Matt Nelson of Tucson, Ariz., and Chris Bachman of Spokane Valley, Wash. Both have worked with the Sierra Club's Inner City Outings program in their communities. Their local ICO groups will each receive \$250 to continue their outreach.

Oliver Kehrlein Award (for outstanding service to the club's outings program): Susan Estes of Richmond, Calif. Estes is a national outings leader for the Sierra Club.

One Club Award (honors club members who have used outings as a way to protect or improve public lands, instill an interest in conservation, increase membership in the Sierra Club, or increase awareness of the Sierra Club: Norma McCallan of Santa Fe, N.M. McCallan has sponsored outings and hikes to introduce policymakers and activists to several areas in New Mexico that are worth protecting.

Raymond J. Sherwin International Award (honors extraordinary volunteer service toward international conservation): Larry Williams of Washington, D.C. Williams has served as chair of the Club's International Committee and has particular expertise on international banks and the environment. Special Achievement Awards (for a single act of importance dedicated to conservation or the Sierra Club): Lisa Cox of Beaufort, N.C., and Lynn Ryan of Arcata, Calif. Cox served as chair of the club's Chapter Fundraising Task Force and Ryan helped secure passage of the Northern California Coastal Wild Heritage Act, which became law in 2006.

Special Service Awards (for strong and consistent commitment to conservation over an extended period of time): David Dow of East Falmouth, Mass.; Luis Jorge Rivera Herrera of San Juan, Puerto Rico; Barry Kohl of New Orleans, La.; Martin Mador of Hamden, Conn.; and James Rickard of Afton, Minn. Dow has been involved with issues ranging from the cleanup of the Massachusetts Military Superfund Site to offshore renewable energy and ocean and fisheries management. Herrera is working to save a strip of coastal land in Puerto Rico known as the Northeast Ecological Corridor. Kohl has worked to reduce levels of mercury in Louisiana and has been an important science advisor to the Sierra Club and others on the consequences of the BP oil spill in the Gulf of Mexico. Mador has worked with other environmental organizations to further the Connecticut Chapter's legislative agenda. Rickard has been a spokesperson for protection of the St. Croix River, which serves as a natural boundary between Minnesota and Wisconsin.

Susan E. Miller Award (honors administrative contributions to Sierra Club groups, chapters and regional entities): The Angeles Chapter GIS Committee and Betsy Grass of Miami, Fla. The GIS Committee has provided computer-based mapping to support Angeles Chapter conservation and political efforts. Grass has been active in the Miami Group and the Florida Chapter for 35 years.

Most awards were presented Sept. 25 during the Sierra Club's Annual Dinner in San Francisco.

For more information on the Sierra Club awards program, visit [www.sierraclub.org/awards](http://www.sierraclub.org/awards).

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85 Second St., San Francisco, CA 94105  
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01268-EPA-4233

**Richard Windsor/DC/USEPA/US**  
09/27/2010 09:05 PM

To "Eric Wachter", "Darlene Yuhas"  
cc  
bcc

Subject Fw: YOU WON SIERRA CLUB AWARD

Cool. I need a nice thank you. And one for Tittel.  
Adora Andy

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

**From:** Adora Andy  
**Sent:** 09/27/2010 04:16 PM EDT  
**To:** Richard Windsor  
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The Club's highest honor for administrative work, the William E. Colby Award, will go to Doris Cellarius of Prescott, Ariz., who also has been an active Club leader for more than 40 years at the group, chapter, national and international levels.

Others receiving 2010 Sierra Club awards include the following:

EarthCare Award (Honors an individual, organization, or agency that has made a unique contribution to international environmental protection and conservation): Anna Rose of Sydney, Australia. Rose founded the Australian Youth Climate Coalition, which has been a major partner with the Sierra Student Coalition in its efforts to build an international youth climate movement.

Environmental Alliance Award (recognizes individuals or groups that have forged partnerships with other non-Sierra Club entities): Jose Menendez of San Juan, Puerto Rico. Menendez partnered with other organizations to create an ecotourism micro enterprise that has helped nearly 200 fishermen support their families.

Ida and Denny Wilcher Award (recognizes outstanding achievement in membership development and/or fundraising): The Sierra Club Puerto Rico Chapter, which has recruited 1,300 new members since it was established in 2005.

Joseph Barbosa Earth Fund Award (recognizes a club member under the age of 30): Members of the Washington University Climate Justice Alliance. This group has worked to educate their fellow students and the general public about the hidden costs of "clean coal." The award includes a \$500 prize that they will use to defray the costs of a four-day symposium titled "Global Energy Future" that is being held at Washington University next month.

Madelyn Pyeatt Award (recognizes work with youth): Matt Nelson of Tucson, Ariz., and Chris Bachman of Spokane Valley, Wash. Both have worked with the Sierra Club's Inner City Outings program in their communities. Their local ICO groups will each receive \$250 to continue their outreach.

Oliver Kehrlein Award (for outstanding service to the club's outings program): Susan Estes of Richmond, Calif. Estes is a national outings leader for the Sierra Club.

One Club Award (honors club members who have used outings as a way to protect or improve public lands, instill an interest in conservation, increase membership in the Sierra Club, or increase awareness of the Sierra Club: Norma McCallan of Santa Fe, N.M. McCallan has sponsored outings and hikes to introduce policymakers and activists to several areas in New Mexico that are worth protecting.

Raymond J. Sherwin International Award (honors extraordinary volunteer service toward international conservation): Larry Williams of Washington, D.C. Williams has served as chair of the Club's International Committee and has particular expertise on international banks and the environment. Special Achievement Awards (for a single act of importance dedicated to conservation or the Sierra Club): Lisa Cox of Beaufort, N.C., and Lynn Ryan of Arcata, Calif. Cox served as chair of the club's Chapter Fundraising Task Force and Ryan helped secure passage of the Northern California Coastal Wild Heritage Act, which became law in 2006.

Special Service Awards (for strong and consistent commitment to conservation over an extended period of time): David Dow of East Falmouth, Mass.; Luis Jorge Rivera Herrera of San Juan, Puerto Rico; Barry Kohl of New Orleans, La.; Martin Mador of Hamden, Conn.; and James Rickard of Afton, Minn. Dow has been involved with issues ranging from the cleanup of the Massachusetts Military Superfund Site to offshore renewable energy and ocean and fisheries management. Herrera is working to save a strip of coastal land in Puerto Rico known as the Northeast Ecological Corridor. Kohl has worked to reduce levels of mercury in Louisiana and has been an important science advisor to the Sierra Club and others on the consequences of the BP oil spill in the Gulf of Mexico. Mador has worked with other environmental organizations to further the Connecticut Chapter's legislative agenda. Rickard has been a spokesperson for protection of the St. Croix River, which serves as a natural boundary between Minnesota and Wisconsin.

Susan E. Miller Award (honors administrative contributions to Sierra Club groups, chapters and regional entities): The Angeles Chapter GIS Committee and Betsy Grass of Miami, Fla. The GIS Committee has provided computer-based mapping to support Angeles Chapter conservation and political efforts. Grass has been active in the Miami Group and the Florida Chapter for 35 years.

Most awards were presented Sept. 25 during the Sierra Club's Annual Dinner in San Francisco.

For more information on the Sierra Club awards program, visit [www.sierraclub.org/awards](http://www.sierraclub.org/awards).

###

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85 Second St., San Francisco, CA 94105  
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01268-EPA-4234

David  
McIntosh/DC/USEPA/US  
09/28/2010 02:03 PM

To Richard Windsor  
cc  
bcc

Subject Fw: From Greenwire -- AIR POLLUTION: 18 Senate Dems  
join GOP in assault on EPA's boiler proposal

FYI

----- Forwarded by David McIntosh/DC/USEPA/US on 09/28/2010 02:04 PM -----

From: David McIntosh/DC/USEPA/US  
To: Brendan Gilfillan/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA  
Date: 09/28/2010 02:03 PM  
Subject: Fw: From Greenwire -- AIR POLLUTION: 18 Senate Dems join GOP in assault on EPA's boiler proposal

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 09/28/2010 02:02 PM -----

From: David McIntosh/DC/USEPA/US@EPA  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 09/28/2010 02:01 PM  
Subject: From Greenwire -- AIR POLLUTION: 18 Senate Dems join GOP in assault on EPA's boiler proposal

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

Personal message:



An E&E Publishing Service

**AIR POLLUTION: 18 Senate Dems join GOP in assault on EPA's boiler proposal** *(Tuesday, September 28, 2010)*

**Gabriel Nelson, E&E reporter**

In a sign of growing bipartisan opposition to a proposed crackdown on air pollution from industrial boilers, 18 Senate Democrats have joined a slew of Republicans in asking EPA Administrator Lisa Jackson to scale back the agency's plans.

The 41 senators are worried about the proposed "Boiler MACT" rule, which would require operators of the boilers to install maximum achievable control technology (MACT) for toxic air pollutants such as mercury. It could cost tens of billions of dollars to upgrade the nation's roughly 200,000 boilers, which provide power to many industrial facilities, universities and hospitals.

According to the new [letter](#), which was circulated by Sens. Mary Landrieu (D-La.) and Susan Collins (R-Maine), the rule could also hold back progress on environmental protection. "EPA has concluded that no additional large biomass-fired boilers will be built in the United States, indicating the cessation of the domestic biomass industry," the letter says. "As a result, we are rightly concerned that the proposed standards appear to create serious obstacles to the development of biomass energy projects, which have the potential to significantly reduce air pollution and the production of greenhouse gases."

The boiler rule has prompted opposition from trade groups for the forestry industry and other business sectors, who say the rule would be too costly to implement during an economic downturn.

According to a recent study from the Council of Industrial Boiler Owners, every \$1 billion spent on compliance with the rules for boilers would threaten an additional 16,000 jobs.

"For 40 years we have heard predictions of doom and gloom from business groups every time EPA proposes tougher clean air controls," said Frank O'Donnell, president of advocacy group Clean Air Watch, in an e-mail responding to the study. "These predictions are invariably exaggerated" ([E&ENews PM](#), Sept. 15).

Still, the letter could signal a broader lack of support for the rule among the Democratic base. Many of the Democratic senators who signed it -- Ron Wyden and Jeff Merkley of Oregon; Patty Murray of Washington; Amy Klobuchar of Minnesota; Mark Begich of Alaska -- are typically regarded as EPA boosters.

But all of them come from states with large forestry industries. Klobuchar, for one, pressed Jackson on the boiler rule during a recent Senate Agriculture Committee hearing on EPA regulations. Representatives of the American Forest & Paper Association, a trade group, were scheduled to meet today with EPA Deputy Administrator Bob Perciasepe and EPA air chief Gina McCarthy, according to their public schedules.

In a [letter](#) sent to the senators today, EPA said businesses didn't provide enough information when the agency announced its intention to issue a proposed rule.

Although it was difficult to "calculate standards that fully reflected operational reality," the letter says, "the agency nevertheless was legally required to public proposed subcategories and standards based on the information it had at the time."

During the public comment period that followed the release of the proposed rule, the agency received "a lot of information," an EPA spokesman said in a statement 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."

[Click here](#) to read the letter from senators to EPA.

[Click here](#) to read EPA's response.

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01268-EPA-4237

**Richard Windsor/DC/USEPA/US**  
09/29/2010 01:36 PM

To Seth Oster  
cc  
bcc

Subject Re: FORTUNE: EPA's Jackson: The new face of tough regulation

How did I get climate? Oh well. teflon girl strikes again.  
Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/29/2010 01:25 PM EDT  
**To:** "Lisa Jackson" <windsor.richard@epa.gov>  
**Subject:** Fw: FORTUNE: EPA's Jackson: The new face of tough regulation

Alisha Johnson

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

**From:** Alisha Johnson  
**Sent:** 09/29/2010 12:09 PM EDT  
**To:** Adora Andy; Seth Oster; Brendan Gilfillan; Betsaida Alcantara; Michael Moats; Vicki Ekstrom  
**Cc:** Dominique Benns  
**Subject:** FORTUNE: EPA's Jackson: The new face of tough regulation

FORTUNE: Brainstorm Green  
EPA's Jackson: The new face of tough regulation  
[http://money.cnn.com/2010/09/29/news/companies/EPA\\_Lisa\\_Jackson\\_fracking.fortune/](http://money.cnn.com/2010/09/29/news/companies/EPA_Lisa_Jackson_fracking.fortune/)  
By Shelley DuBoisSeptember 29, 2010: 11:56 AM ET

FORTUNE -- The Environmental Protection Agency has only recently had a face. That face has taken the form of Lisa Jackson -- the first African-American EPA administrator, appointed by Barack Obama in 2009. The landmark appointment caused a media stir, not for her race, but for the clean break with the recent past EPA administrators that her appointment represented.

Since then, Jackson has maintained a place in the spotlight and media circuit. Not only has she been a regular figure in the headlines, but she has brought the agency with her. (She's also #6 on Fortune's Most Powerful Woman D.C. Power List.)

0Email Print CommentRecently, the EPA has been front and center in the northeast because it's stepping in to a controversy about natural gas drilling, or fracking. The agency has scheduled hearings across the country where locals could voice their concerns about a fracking to a panel of four EPA members. The hearings brought policy-makers to the people.

Jackson seems keen to do that across the EPA's entire mandate. She's tech-savvy and transparent compared to other people who have been in her position. You can follow her through all kinds of social media, and many of the EPA's activities posted on the webpage call for public participation. She's been on David Letterman and the Daily Show with Jon Stewart. According to the EPA webpage, she's given 125 official speeches and public addresses since she joined the last year. Her predecessor Stephen Johnson made under 90 during his entire four-year term.

0:00 /3:23'Fracking' threatens local water supply

Jackson's credentials have probably prepped her to be more media savvy. Like Johson, Jackson worked

for the EPA before being appointed administrator. But she has also been in the political game-she worked as chief of staff for New Jersey Senator John Corzine, and served as commissioner for the state's Department of Environmental Protection.

She has a science background, which is actually surprisingly new for the administration. The first professional scientist ever hired to head the EPA was Johnson, who made his mark with his work against legislative efforts to curb greenhouse gas emissions. Before him, Michael Leavitt was head administrator. Leavitt served as governor of Utah for a while, and worked as the CEO of an insurance company. He replaced Christine Todd Whitman, who left the EPA mid-term, allegedly because of former Vice President Dick Cheney's push to exempt companies from the pollution standards of the Clean Air Act.

Compared to her predecessors, Jackson has been a strong voice for policy to address climate change-although she's had some major setbacks, too, thanks to the frosty legislative climate. Probably her biggest has been the carbon cap-and-trade bill that Democratic leaders in the Senate threw out this past summer.

The bill would have been a big win for Jackson and the EPA, which would have been tapping into its ability to regulate greenhouse gasses via the Clean Air Act. Now the agency has to figure out how to cut emissions while keeping the industry happy, and re-think its strategy for navigating a sluggish Congress.

The stumble illustrates what may be the downside of being an accessible, even likable EPA leader. Jackson has positioned herself so prominently that she takes much of the heat from environmentalists when the agency falters, and faces resistance from industries to regulation that could actually break ground. It's a problem that has pervaded the entire Obama administration's tenure, as progressive goals repeatedly run into the political realities of doing business in Washington.

Yet with all eyes on Lisa Jackson, she could give the EPA some muscle that it's never had before. Or, if the administration can't get even compromise versions of its signature environmental agenda through Congress, she could end up, even in the eyes of environmentalists who lives through the Bush years, in the unfortunate and unfair role of scapegoat.

01268-EPA-4238

**Richard Windsor/DC/USEPA/US**  
09/29/2010 02:47 PM

To Seth Oster, "Lisa Jackson"  
cc  
bcc

Subject Re: FORTUNE: EPA's Jackson: The new face of tough regulation

Ha  
Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/29/2010 02:35 PM EDT  
**To:** "Lisa Jackson" <windsor.richard@epa.gov>  
**Subject:** Fw: FORTUNE: EPA's Jackson: The new face of tough regulation

Check this out.  
Adora Andy

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

**From:** Adora Andy  
**Sent:** 09/29/2010 02:18 PM EDT  
**To:** Betsaida Alcantara  
**Cc:** Alisha Johnson; Brendan Gilfillan; Dominique Bennis; Michael Moats; Seth Oster; Vicki Ekstrom  
**Subject:** Re: FORTUNE: EPA's Jackson: The new face of tough regulation  
HOLY COW. Moatsy, you should have worked for Steve.

Adora Andy  
Deputy Associate Administrator  
U.S. Environmental Protection Agency  
Office of External Affairs and Environmental Education  
202-564-2715  
andy.adora@epa.gov

Betsaida Alcantara [Amazing!](#) ----- Original Message... 09/29/2010 01:30:14 PM

**From:** Betsaida Alcantara/DC/USEPA/US  
**To:** Michael Moats/DC/USEPA/US@EPA, Alisha Johnson/DC/USEPA/US@EPA  
**Cc:** Adora Andy/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Dominique Bennis/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Vicki Ekstrom/DC/USEPA/US@EPA  
**Date:** 09/29/2010 01:30 PM  
**Subject:** Re: FORTUNE: EPA's Jackson: The new face of tough regulation

Amazing!

Michael Moats

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

**From:** Michael Moats  
**Sent:** 09/29/2010 01:29 PM EDT  
**To:** Alisha Johnson  
**Cc:** Adora Andy; Betsaida Alcantara; Brendan Gilfillan; Dominique Bennis; Seth Oster; Vicki Ekstrom  
**Subject:** Re: FORTUNE: EPA's Jackson: The new face of tough regulation

Let it be noted:

According to the EPA webpage, she's given 125 official speeches and public addresses since she joined the last year. Her predecessor Stephen Johnson made under 90 during his entire four-year term.

I spit hot fire.

-----

Michael Moats  
Chief Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

Alisha Johnson    FORTUNE: Brainstorm Green EPA's J...    09/29/2010 12:09:55 PM

From: Alisha Johnson/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Vicki Ekstrom/DC/USEPA/US@EPA  
Cc: Dominique Benns/DC/USEPA/US@EPA  
Date: 09/29/2010 12:09 PM  
Subject: FORTUNE: EPA's Jackson: The new face of tough regulation

FORTUNE: Brainstorm Green  
EPA's Jackson: The new face of tough regulation  
[http://money.cnn.com/2010/09/29/news/companies/EPA\\_Lisa\\_Jackson\\_fracking.fortune/](http://money.cnn.com/2010/09/29/news/companies/EPA_Lisa_Jackson_fracking.fortune/)  
By Shelley DuBoisSeptember 29, 2010: 11:56 AM ET

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0:00 /3:23'Fracking' threatens local water supply  
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01268-EPA-4248

**Richard Windsor/DC/USEPA/US**  
10/06/2010 10:13 AM

To Adora Andy  
cc  
bcc

Subject e: POLITICO: RAHM TAKES LABOLT

!!!

Adora Andy

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

**From:** Adora Andy  
**Sent:** 10/06/2010 10:13 AM EDT  
**To:** Richard Windsor; David McIntosh; Seth Oster; Arvin Ganesan; Brendan Gilfillan; Betsaida Alcantara; Alisha Johnson; Michael Moats  
**Subject:** POLITICO: RAHM TAKES LABOLT

## Emanuel takes LaBolt with him

By: [Carol E. Lee](#)  
October 6, 2010 12:00 AM EDT

A member of President Barack Obama's close-knit team is leaving the White House to work for former chief of staff Rahm Emanuel's mayoral bid in Chicago, POLITICO has learned.

Ben LaBolt, a native Chicagoan and one of Obama's longest-serving press aides, will serve as Emanuel's campaign's communications director, according to sources with knowledge of the hire. LaBolt will leave his job as an assistant White House press secretary by the end of October, sources said.

Emanuel was looking for someone with Chicago roots and a combative side for the campaign he launched Sunday, just two days after leaving his White House post. LaBolt, 29, was born and raised in the Chicago area and understands the city's media and political worlds. He's also known for his push-back on reporters writing stories he perceives as unflattering and for serving as the point person on thorny issues. The hire has been in the works for days, with the final details ironed out Tuesday.

LaBolt is a veteran in the Obama press operation who served as Obama's press secretary when he was in the Senate and worked on his presidential campaign from the start. In January 2009, he became one of a handful of spokesmen to work under White House press secretary Robert Gibbs.

LaBolt has been tasked with handling several high-profile controversies for Obama. During the campaign it was speculation about the authenticity of Obama's birth certificate, and later it was questions about the indictment and subsequent trial of former Illinois Gov. Rod Blagojevich.

His official White House portfolio includes issues that fell within the departments of Energy, Interior, Commerce and Justice. So he's handled press for Obama's Supreme Court nominees and worked on the BP oil spill – the politics of it, not the nitty-gritty details of the response. His duties have also at times included acting as spokesman for the White House Counsel's office and Carol Browner, Obama's top adviser on energy and climate change.

Prior to his time with Obama, LaBolt served as press secretary and legislative assistant to Rep. Jan Schakowsky (D-Ill.). A graduate of Middlebury College, he's also worked at the Democratic National Committee, on Howard Dean's 2004 presidential campaign and as press secretary for Sherrod Brown's successful 2006 Senate campaign in Ohio.

LaBolt's departure will be a loss for his White House colleagues, with whom he has close friendships and has shared tight working quarters on a daily basis since the beginning of the Obama campaign in 2007. He will be the first of the small circle of press aides – “the boys” as they're known – to leave the White House.

Not that Obama's communications shop hasn't seen its share of change.

Former EMILY's List executive director Ellen Moran left her position as White House communications director less than three months after Obama took office after it became clear the job wasn't the right fit. Veteran Democratic strategist Anita Dunn took over in the interim until Dan Pfeiffer was permanently given the job in November 2009.

Deputy communications director Jen Psaki was promoted from deputy press secretary shortly after Pfeiffer moved up. Psaki was replaced by Amy Brundage, who had been regional communications director. And Caroline Hughes became a press assistant when Priya Singh left to become an aide to United Nations ambassador Susan Rice.

LaBolt's replacement has not been named.

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-4252

**Richard Windsor/DC/USEPA/US**  
10/13/2010 04:17 PM

To Adora Andy, Bob Perciasepe, Diane Thompson, Bob Sussman, David McIntosh, Arvin Ganesan, Sarah Pallone, Seth Oster, Stephanie Owens, Paul Anastas, Mathy Stanislaus, Dana Tulis, Al Armendariz, Gwendolyn KeyesFleming, Stan Meiburg, Janet Woodka  
cc Michael Moats, Brendan Gilfillan, Betsaida Alcantara, Alisha Johnson, Vicki Ekstrom, Dru Ealons  
bcc  
Subject Re: HEADS UP: DISPERSANT PETITION

(b)(5) Deliberative



Adora Andy

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

**From:** Adora Andy  
**Sent:** 10/13/2010 11:42 AM EDT  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Bob Sussman; David McIntosh; Arvin Ganesan; Sarah Pallone; Seth Oster; Stephanie Owens; Paul Anastas; Mathy Stanislaus; Dana Tulis; Al Armendariz; Gwendolyn KeyesFleming; Stan Meiburg; Janet Woodka  
**Cc:** Michael Moats; Brendan Gilfillan; Betsaida Alcantara; Alisha Johnson; Vicki Ekstrom; Dru Ealons  
**Subject:** HEADS UP: DISPERSANT PETITION

**FYI: We have already gotten a call from the Times-Pic looking for a response.**

---

**From:** Kathleen Sutcliffe [ksutcliffe@earthjustice.org]  
**Sent:** Wednesday, October 13, 2010 10:48 AM  
**To:** Kathleen Sutcliffe  
**Subject:** NEWS: On Heels of Lifted Drilling Moratorium, Groups Press EPA to Determine Dispersant Toxicity

FOR IMMEDIATE RELEASE  
October 13, 2010

CONTACT:  
Marianne Engelman Lado, Earthjustice, (212) 791-1881, ext. 228, (917) 608-2053 (cell)  
Clint Guidry, Louisiana Shrimp Association, (504) 952-4368  
Cynthia Sarthou, Gulf Restoration Network, (504) 525-1528 ext 202, [cyn@healthygulf.org](mailto:cyn@healthygulf.org)  
Manley Fuller, Florida Wildlife Federation, (850) 567-7129 (cell), [wildfed@gmail.com](mailto:wildfed@gmail.com)  
Bob Shavelson, Cook Inletkeeper, (907) 235-4068, ext. 22, 907.299.3277 (cell) [bob@inletkeeper.org](mailto:bob@inletkeeper.org)  
Pamela K. Miller, Alaska Community Action on Toxics, [pkmiller@akaction.net](mailto:pkmiller@akaction.net)  
Scott Edwards, Waterkeeper, (914) 674-0622, ext. 13, [sedwards@waterkeeper.org](mailto:sedwards@waterkeeper.org)  
Kristina Johnson, Sierra Club (415) 977-5619 [kristina.johnson@sierraclub.org](mailto:kristina.johnson@sierraclub.org)

How Toxic are Oil Dispersants? Groups Press EPA to Find Out Before Next Spill  
*Shrimpers, community groups petition agency for info, clear rules before OK'ing future use*

Washington, D.C. — Gulf coast shrimpers and affected community groups from Alaska to Louisiana to Florida pressed the federal government today to better regulate dispersants -- the chemicals that oil



companies routinely use to break up oil slicks on water – before these chemicals are used in future spill cleanups.

The non-profit environmental law firm Earthjustice filed a [petition \(PDF\)](#) on behalf of the Louisiana Shrimp Association, Florida Wildlife Federation, Gulf Restoration Network, the Alaska-based Cook Inletkeeper, Alaska Community Action on Toxics, Waterkeeper and Sierra Club asking the U.S. Environmental Protection Agency (EPA) to write rules that would set out exactly how and when dispersants could be used in the future.

The move comes just one day after the Obama administration announced it was lifting a moratorium on Gulf Coast oil drilling.

"Unprecedented use of toxic dispersants during the BP Deepwater Horizon Disaster without prior scientific study and evaluation on the effect to Gulf of Mexico marine ecosystems and human health was a horrific mistake that should *never* have been allowed to happen," said Clint Guidry of the Louisiana Shrimp Association. "Potential ecosystem collapse caused by toxic dispersant use during this disaster will have immediate and long term effects on the Gulf's traditional fishing communities' ability to sustain our culture and heritage."

The groups are also calling on the EPA to require dispersant makers both to disclose the ingredients of their products and to better test and report the toxicity of those products.

"Industry executives would like us to think that dispersants are some kind of fairy dust that magically removes oil from water," said Earthjustice attorney Marianne Engelman Lado. "The fact is we have very little idea how toxic dispersants are, what quantities are safe to use or their long term effects on everything from people who work with the chemicals to coral in the water. We have little information about their long-term impact on life in the Gulf, or even whether the mix of oil and dispersants is more harmful than oil alone."

EPA Administrator Lisa Jackson herself has raised concerns about this lack of information, calling for more data and better testing of dispersants so that officials don't have to make "judgment calls on the spot."

"We need to make sure that we understand the full effects of dispersants on the environment and human health," said Florida Wildlife Federation President Manley Fuller. "And when dispersants are used, we need to be sure they are as safe as possible."

The groups' petition comes on the heels of draft [report](#) issued last week by the federal Oil Spill Commission that acknowledged that federal agencies were unprepared for the tough decisions they faced over whether to allow some 1.84 million gallons of chemical dispersants to be dumped in the Gulf of Mexico during the record-breaking BP Deepwater Horizon spill. The requested rules would ensure the agency never again be forced to make such decisions without sufficient information and guidelines.

"Never again should the oil industry be allowed to dump hundreds of thousands of gallons of dispersant into the sea as their preferred method of response to an oil spill," said Cynthia Sarthou, of the Gulf Restoration Network. "Because so little is currently known by EPA -- or anyone else for that matter -- about the long-term impact to fish and wildlife, the use of dispersants is a dangerous and potentially devastating experiment."

The summer's catastrophe in the Gulf is not the first time the use of chemical dispersants has come under fire. Workers involved in the cleanup of Exxon Valdez spill in Alaska reported health problems -- including blood in their urine and kidney and liver disorders -- believed to have been linked to dispersant exposure.

"In Alaska, we have witnessed the long-term adverse health consequences of the use of dispersants on the health of cleanup workers," said Pamela Miller, Executive Director of Alaska Community Action on Toxics. "The indiscriminate use of toxic dispersants also threatens the health of subsistence and commercial fisheries that are essential to the culture and economy of Alaska."

"Oil corporations in Alaska now reach for dispersants as one of their first tools for oil spill response," said Cook Inletkeeper Bob Shavelson. "Countless Alaskans rely on our wild, healthy fisheries, and we have a right to know about the toxic dispersants used in our waters."

The group also filed a [60-day-notice of intent to file a lawsuit \(PDF\)](#) prodding the agency to provide information long required by the Clean Water Act identifying exactly where dispersants may be used and how much is safe.

"The largely unregulated use of dispersants is another example in the all-too-long list of ways that oil, coal and gas industries act with an open disdain for environmental and human health," stated Scott Edwards, Director of Advocacy for Waterkeeper Alliance. "Coal companies dumping mine waste in our streams, gas extractors injecting harmful chemicals in our drinking water and the oil industry poisoning our coastal communities first with oil and now with untested dispersants all point to one thing – it's time to end our irresponsible addiction to harmful fossil fuels and move onto cleaner, renewable energy sources."

The Clean Water Act requirements have been in place for decades, but administration after administration has failed to comply with the law, and there was scant data available to EPA officials when they were confronted with the devastating Gulf Coast spill this summer.

"The BP oil disaster painfully showed just how little is known about these chemicals. We should not be gambling with the health of our coastal waters or the people who make their life from them. If dispersants are going to be part of the toolbox for responding to future emergencies, we need to be certain they're not doing more harm than good. We call on EPA to pledge that never again will oil spill response turn into an uncontrolled experiment in our nation's waters," said Sierra Club Louisiana Representative Jill Mastrototaro.

###

Background Material:

To see the petition filed pressing EPA to establish new rules requiring dispersant manufacturers to reveal the toxicity and ingredients of their projects see:

<http://www.earthjustice.org/documents/legal-document/pdf/dispersant-petition>

To see the 60-day notice of intent to sue over long required Clean Water Act requirements, please visit:

<http://www.earthjustice.org/documents/legal-document/pdf/dispersant-notice>

To view the federal Oil Spill Commission report, please visit:

<http://www.oilspillcommission.gov/document/use-surface-and-subsea-dispersants-during-bp-deepwater-horizon-oil-spill>

01268-EPA-4253

**Bob Sussman/DC/USEPA/US**

10/13/2010 07:50 PM

To Adora Andy

cc "Dru Ealons", "Arvin Ganesan", "Shawn Garvin", "Brendan Gilfillan", "David McIntosh", "Seth Oster", "Stephanie Owens", "Bob Perciasepe", Sarah Pallone, "Peter Silva", "Bob Sussman", "Diane Thompson", "Richard Windsor"

bcc

Subject Re: The Hill: 50 Dems urge EPA to continue fight against mountaintop removal mining

Nice.

Robert M. Sussman  
 Senior Policy Counsel to the Administrator  
 Office of the Administrator  
 US Environmental Protection Agency

From: Adora Andy/DC/USEPA/US  
 To: "Peter Silva" <Silva.Peter@epamail.epa.gov>, "Shawn Garvin" <Garvin.Shawn@epamail.epa.gov>, "Richard Windsor" <windsor.richard@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Bob Sussman" <sussman.bob@epa.gov>, "David McIntosh" <McIntosh.David@epamail.epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Arvin Ganesan" <ganesan.arvin@epa.gov>, "Stephanie Owens" <Owens.Stephanie@epamail.epa.gov>, Sarah Pallone/DC/USEPA/US@EPA, "Dru Ealons" <Ealons.Dru@epamail.epa.gov>  
 Cc: "Brendan Gilfillan" <gilfillan.brendan@epa.gov>  
 Date: 10/13/2010 07:12 PM  
 Subject: The Hill: 50 Dems urge EPA to continue fight against mountaintop removal mining

---

 Pls see below

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

**From:** Brendan Gilfillan  
**Sent:** 10/13/2010 07:07 PM EDT  
**To:** Seth Oster <oster.seth@epa.gov>; Adora Andy; Betsaida Alcantara; Alisha Johnson; Michael Moats; Vicki Ekstrom  
**Cc:** Bob Sussman; Arvin Ganesan  
**Subject:** The Hill: 50 Dems urge EPA to continue fight against mountaintop removal mining

removal mining

## 50 Dems urge EPA to continue fight against

# mountaintop removal mining

By Mike Lillis - 10/13/10 06:07 PM ET

Fifty House Democrats are encouraging the Environmental Protection Agency (EPA) to continue its efforts to rein in [mountaintop removal coal mining](#).

In a letter sent Friday to EPA Administrator Lisa Jackson, the lawmakers said [new mining rules](#) designed to protect the health of neighboring residents "represent significant progress for communities struggling in the shadow of mining."

"When scientific research shows that surface mining routinely violates downstream water quality standards," the Democrats wrote, "it is critical for EPA to ensure that states and mining companies are aware of the pollution levels that cause harm, that discharge permits incorporate adequate safeguards, and that the permits are enforced."

Among those endorsing the letter were Reps. Frank Pallone (N.J.), Earl Blumenauer (Ore.), Henry Waxman (Calif.), Pete Stark (Calif.) and Debbie Wasserman Schultz (Fla.).

The letter arrived just two days after West Virginia Gov. Joe Manchin — the Democrat in a surprisingly tough race to replace the late-Sen. Robert Byrd (D-W.Va.) — [sued the EPA](#) over the new rules. The House Democrats didn't mention Manchin or the suit, but the timing of their letter is likely not a coincidence.

Mountaintop removal mining — in which companies blast away Appalachian peaks and push the debris into adjacent valleys — has been a boon to the industry, cutting labor costs and eliminating the need to truck the waste to more distant dumping grounds. But many scientists say the dollar savings for companies comes at the expense of human health.

[A study](#) published in the journal *Science* in January, for instance, noted that "adult hospitalizations for chronic pulmonary disorders and hypertension are elevated as a function of county-level coal production, as are rates of mortality; lung cancer; and chronic heart, lung, and kidney disease.

"Health problems are for women and men, so effects are not simply a result of direct occupational exposure of predominantly male coal miners," the researchers wrote.

Commenting on the study, lead author Margaret Palmer, a scientist at the University of Maryland, said "the scientific evidence of the severe environmental and human impacts from mountaintop mining is strong and irrefutable."

"Its impacts are pervasive and long lasting and there is no evidence that any mitigation practices successfully reverse the damage it causes."

More recently, researchers at Virginia Tech and West Virginia University [found](#) that people living near streams poisoned by mines are at higher risk of getting cancer.

Responding to concerns raised by health advocates, environmentalists and community activists, the EPA in April said it won't approve permits for mountaintop removal mines projected to raise stream toxicity above a certain level.

The [new guidelines](#) gauge the health of streams based on their conductivity, which is a good indicator of water's purity. The runoff from Appalachian mines tends to contain toxins like magnesium, sulfate, bicarbonate, and potassium — all ions that raise conductivity levels. The higher the conductivity, the more harmful the water is to living things.

EPA says it will reject mining projects expected to raise stream conductivity more than five times the normal level. Effectively, the agency attached hard numerical standards to environmental protections more vaguely outlined in the Clean Water Act.

Jackson in April said there are "no or very few valley fills that will meet standards like this."

The guidelines came under immediate attack from the mining industry and many coal country lawmakers, who argued that the restrictions will hobble an industry that's vital for creating Appalachian jobs. Arguing that same point last week, Manchin, a former coal broker, sued the EPA over the new rules.

"We are asking the court to reverse EPA's actions before West Virginia's economy and our mining community face further hardship and uncertainty and weaken the strength of this country," Manchin told reporters.

Two days later, the 50 House Democrats penned their letter offering full support of the EPA rules.

"Surface mining in the steep slopes of Appalachia has disrupted the biological integrity of an area about the size of Delaware, buried approximately 2,000 miles of streams with mining waste, and contaminated downstream areas with toxic and bio-accumulative selenium," the lawmakers wrote.

"The ultimate success of the new guidance depends upon effective implementation by EPA and its regional offices. Mining companies and some state agencies may reject this guidance, but we strongly urge the EPA to carry it out aggressively."

The Democrats also vowed to continue their support for [legislation](#) — sponsored by Pallone and GOP Rep. Dave Reichert (Wash.) — that would prohibit mine companies from dumping debris in streams altogether. Similar legislation has been introduced by Sens. Ben Cardin (D-Md.) and Lamar Alexander (R-Tenn.).

The idea is to eliminate mountaintop removal by making the process economically unfeasible to companies that would be forced to truck the waste off-site.

"Nothing less," the Democrats wrote to Jackson, "will protect Appalachia from the devastation

of mountaintop removal mining."

01268-EPA-4254

**Bob  
Perciasepe/DC/USEPA/US**  
10/13/2010 07:57 PM

To Bob Sussman, Adora Andy  
cc Dru Ealons, "Arvin Ganesan", Shawn Garvin, "Brendan Gilfillan", David McIntosh, "Seth Oster", Stephanie Owens, Sarah Pallone, Peter Silva, "Bob Sussman", Diane Thompson, "Richard Windsor"  
bcc  
Subject Re: The Hill: 50 Dems urge EPA to continue fight against mountaintop removal mining

50/435 = 12%

I guess it is a start.  
Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c)(b)(6) Privacy

---

**From:** Bob Sussman  
**Sent:** 10/13/2010 07:50 PM EDT  
**To:** Adora Andy  
**Cc:** Dru Ealons; "Arvin Ganesan" <ganesan.arvin@epa.gov>; Shawn Garvin; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; David McIntosh; "Seth Oster" <oster.seth@epa.gov>; Stephanie Owens; Bob Perciasepe; Sarah Pallone; Peter Silva; "Bob Sussman" <sussman.bob@epa.gov>; Diane Thompson; "Richard Windsor" <windsor.richard@epa.gov>  
**Subject:** Re: The Hill: 50 Dems urge EPA to continue fight against mountaintop removal mining

Nice.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

From: Adora Andy/DC/USEPA/US  
To: "Peter Silva" <Silva.Peter@epamail.epa.gov>, "Shawn Garvin" <Garvin.Shawn@epamail.epa.gov>, "Richard Windsor" <windsor.richard@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Bob Sussman" <sussman.bob@epa.gov>, "David McIntosh" <McIntosh.David@epamail.epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Arvin Ganesan" <ganesan.arvin@epa.gov>, "Stephanie Owens" <Owens.Stephanie@epamail.epa.gov>, Sarah Pallone/DC/USEPA/US@EPA, "Dru Ealons" <Ealons.Dru@epamail.epa.gov>  
Cc: "Brendan Gilfillan" <gilfillan.brendan@epa.gov>  
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Subject: The Hill: 50 Dems urge EPA to continue fight against mountaintop removal mining

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Pls see below

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Alisha Johnson; Michael Moats; Vicki Ekstrom  
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01268-EPA-4256

Richard  
Windsor/DC/USEPA/US  
10/20/2010 07:02 AM

To "David Cohen", Seth Oster  
cc  
bcc  
Subject Re: assume that you've long seen. . .

(b)(5) Deliberative

---

**From:** "Cohen (b) " [REDACTED] (b)(6) t]  
**Sent:** 10/20/2010 05:47 AM AST  
**To:** Seth Oster; Richard Windsor  
**Subject:** assume that you've long seen. . .

. . .but just in case:

# POLITICO

## EPA in the cross hairs

By: [Robin Bravender](#)

October 19, 2010 07:09 PM EDT

Congressional Republicans planning an assault on the Obama administrations environmental record aim to turn [Lisa Jackson](#) into public enemy No. 1.

On the campaign trail, [Republicans](#) have adopted the Environmental Protection Agency as a favorite symbol of the White Houses regulatory overreach. And behind the scenes in Washington, GOP staffers and K Street lobbyists who say they've been dissed by [the EPA](#) administrator are looking forward to getting some revenge.

Like other senior administration officials, Jackson can expect to be chained to a witness chair on Capitol Hill if Republicans win either chamber. There, they hope to make her defend policies the GOP contends are unpopular and anti-business.

I think she'll be very much in demand on the Hill, at times not of her choosing, said a former staffer on the House Energy and Commerce Committee. It will diminish her free time, shall we say.

With Democrats holding the reins in Congress, and White House energy and [climate adviser Carol Browner](#) taking many of the arrows from the GOP, Jackson has had enough of a political buffer zone to issue some of the strictest environmental rules in history. Republicans have decried the EPA at each step along the way but have been unable to do much about it.

Some of the animosity is personal: Republicans in both chambers and K Street attorneys say Jackson and her staff are too dismissive of opposing views and other stakeholders.

When we write a letter to them, well get a form letter back, said a Republican aide. We have seen no real indication that they hear or understand our concerns. Shes loyal to the White House, and beyond that, theyre just totally in sync with the view that we need a lot more regulations.

Rep. Joe Barton (R-Texas), ranking member of the energy committee, said Jackson isnt rude or uncivil but appears to be on some sort of a mission, come heck or high water."

Mrs. Jackson does not appear to be overly concerned about a cooperative relationship with the Congress or, at least, with the minority members of the Energy and Commerce Committee, Barton told POLITICO.

Rep. Shelley Moore Capito (R-W.Va.) complained earlier this year after a contentious meeting with Jackson over coal mining. Jackson told her that the EPA is not required, and they do not consider, jobs or economic impact when evaluating permits," Capito told the Charleston Daily Mail.

"We had a good give and take. It wasn't adversarial, Capito said. But there was no door opening where she said she might consider something. There was no door opening for me to say, 'Are you open to some change? Maybe you could come down to the coal fields.' I kept trying to, but there wasn't that possibility."

The showdown on Capitol Hill could be reminiscent of 1995, when Republicans reclaimed both chambers of Congress in the middle of President Bill Clintons first term.

The impact on EPA was significant, said a former agency official who worked under then-Administrator Browner. There was more oversight, and it was more intense.

Republicans will try to use hearings to discredit the administration and the EPA, that person said. It can have its nastier side.

Rep. Fred Upton (R-Mich.), the favorite to chair the Energy and Commerce Committee if Democrats lose the House, hopes to investigate the Obama administrations poisonous regulations and the role of policy czars in the White House, including energy adviser Browner.

If we have the gavel, I can assure you that the oversight subcommittee will be very busy, Upton told POLITICO, adding that Browner can also expect frequent invitations to testify. Well have a seat reserved for her, he said.

Energy and Commerce wont be the only panel on Jacksons dance card: Rep. Darrell Issa (R-Calif.) said he wants to use the Oversight and Government Reform Committee

to lead a probe into the science underpinning the EPAs climate regulations. And Rep. Jim Sensenbrenner (R-Wis.) hopes to keep the Select Committee on Energy Independence and Global Warming alive so he can examine the administrations climate and energy policies.

Jackson, 48, is no shrinking violet. New Orleans raised, she earned her chops as an enforcer at both the EPA and New Jerseys Department of Environmental Protection before becoming the states top environmental official. She has declared she has no plans to leave her post anytime soon.

Under her watch, the EPA has pushed through the nations first-ever climate rules aimed at curbing emissions from large industries and automobiles. The agency has also come under fire for its efforts to limit toxic coal ash, ozone and soot and smog emissions from power plants.

One industry attorney complained that Jackson sees everything as a mythic struggle between right and wrong, rather than looking to compromise.

Its definitely anti-lobbyist rhetoric, Jackson told POLITICO earlier this month. Its definitely meant to reflect the fact that when I go around the country, people want clean air. They are as passionate about clean air and clean water as [about] any of a number of issues; they want protection for their families and their children.

"I do very much believe that its time for us to get past this tired dance, where folks inside this Beltway get paid a lot of money to say things that arent true about public health initiatives that this agency is charged by law with undertaking," she added.

Democratic staffers, meanwhile, are quick to praise the agency. Eben Burnham-Snyder, a spokesman for House energy bill author Rep. Ed Markey (D-Mass.), said the EPA has been very helpful, especially during the process of passing the energy bill through the committee, in providing reports and analyses.

EPA spokesman Brendan Gilfillan said Jackson's "commitment to openness compares particularly well to the lack of transparency during the previous administration.

EPA is not always legally able to answer every question a member of Congress might ask, he added. But we have responded or are in the process of responding to every letter sent to us, regardless of the merits of the arguments made in the letters themselves.

And Jacksons supporters say she wont relent under pressure. Shes up to whatever comes, said Dan Becker, director of the Safe Climate Campaign.

Becker warned that Republicans would pay a price for dragging officials to hearings to score political points. Merely subpoenaing people and hauling them up to answer the same questions will get them nowhere, he said. The American people dont want

nothing to happen; they want the right things to happen.

But not every hearing will produce fireworks, suggested former Rep. Thomas Bliley Jr. (R-Va.), who led the renamed House Commerce Committee from 1995 to 2001.

Bliley said the White House could find creative ways to avoid some GOP attacks. When reluctant officials do appear, he said, they come in and generally read a long statement; announce in advance that they have another meeting they have to attend, and so they wont be there very long.



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01268-EPA-4260

Richard Windsor/DC/USEPA/US  
10/21/2010 06:05 PM

To Seth Oster  
cc Diane Thompson  
bcc

Subject Re: Proposed Next Speakers Series

(b) (5), (b) (6)

Seth Oster Administrator, We have the next idea fo... 10/21/2010 04:37:26 PM

From: Seth Oster/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA  
Date: 10/21/2010 04:37 PM  
Subject: Proposed Next Speakers Series

Administrator,

We have the next idea for our EPA@40 Speakers Series for November: (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

- [REDACTED] (b)(5) Deliberative

| [REDACTED]

| [REDACTED]

[REDACTED]

[REDACTED]

Seth

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



01268-EPA-4264

**Richard Windsor/DC/USEPA/US**  
10/24/2010 05:40 PM

To Arvin Ganesan  
cc  
bcc  
Subject Re: TSCA testimony

(b)(5) Deliberative

---

**From:** Arvin Ganesan  
**Sent:** 10/24/2010 09:16 AM EDT  
**To:** Richard Windsor  
**Subject:** TSCA testimony

You're scheduled to testify in Newark for FRL on Tuesday. I'm pasting the text of your testimony. (b)(5)

Deliberative

[Redacted]

[Redacted]

Thanks

----

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

[Redacted]

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[Redacted]

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(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



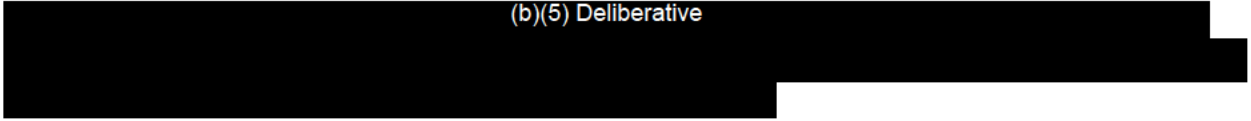
[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative



01268-EPA-4265

**Richard Windsor/DC/USEPA/US**  
10/24/2010 06:01 PM

To Arvin Ganesan  
cc  
bcc  
Subject Re: TSCA testimony

Cool

---

**From:** Arvin Ganesan  
**Sent:** 10/24/2010 05:59 PM EDT  
**To:** Richard Windsor  
**Subject:** Re: TSCA testimony

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Sent from my Blackberry Wireless Device

---

**From:** Richard Windsor  
**Sent:** 10/24/2010 05:40 PM EDT  
**To:** Arvin Ganesan  
**Subject:** Re: TSCA testimony

(b)(5) Deliberative  
[Redacted]

---

**From:** Arvin Ganesan  
**Sent:** 10/24/2010 09:16 AM EDT  
**To:** Richard Windsor  
**Subject:** TSCA testimony

You're scheduled to testify in Newark for FRL on Tuesday [Redacted] (b) (5)  
[Redacted]

(b)(5) Deliberative



lf

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(b)(5) Deliberative



(b)(5) Deliberative





01268-EPA-4266

David  
McIntosh/DC/USEPA/US  
10/25/2010 06:46 PM

To Richard Windsor  
cc Seth Oster  
bcc

Subject Fw: Dow Jones: New EPA Rules Could Weaken Power Grid,  
Report Says

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 10/25/2010 06:44 PM -----

From: Brendan Gilfillan/DC/USEPA/US  
To: Seth Oster <oster.seth@epa.gov>, Adora Andy/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Alisha Johnson/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  
Cc: David McIntosh/DC/USEPA/US@EPA  
Date: 10/25/2010 06:02 PM  
Subject: Dow Jones: New EPA Rules Could Weaken Power Grid, Report Says

(b)(5) Deliberative

## New EPA Rules Could Weaken Power Grid, Report Says

Tennille Tracy  
Of DOW JONES NEWSWIRES

WASHINGTON (Dow Jones)--The reliability of the U.S. power grid could be weakened by a set of environmental rules being developed by the Obama administration, according to a new report by the North American Electric Reliability Corp.

The report, which will be released Tuesday but was obtained early by Dow Jones Newswires, identifies four rules at the Environmental Protection Agency that could force utility companies to retire older units or install environmental controls that suck up power to operate.

These moves, the report says, could drain 50 to 75 gigawatts of power capacity from the grid by 2015, representing 7% of the total national capacity.

Capacity in several U.S. regions, meanwhile, could drop below levels that the North American Electric Reliability Corp. believes necessary to maintain reliability. States in the middle of the country could be particularly hard hit, the report said.

"I think this is pretty unprecedented," said John Moura, technical analyst with the reliability group and an author of the report. "I'm not aware of a time where [power companies] have had to act in such a timely fashion with such massive projects."

The North American Electric Reliability Corp. is an industry-funded organization that oversees grid reliability and enforces reliability standards.

The EPA has been quick to criticize the report because it predicts outcomes for rules that haven't yet been finalized. Of the four rules identified in the report, only two have been proposed and none have been completed.

"Despite the fact that the substance of those rules remains open to a range of possible outcomes, this report only assumes the worst-case scenarios," said EPA spokesman Brendan Gilfillan. "In reality, EPA has some discretion and will be more sensitive to reliability than NERC gives us credit for."

The reliability group says it made educated guesses about potential outcomes and tried to account for regulatory uncertainty by presenting two different scenarios -- one based on a stringent set of standards and one based on a more moderate set of assumptions.

The four rules being crafted by EPA involve national emission standards for hazardous air pollutants, the transportation of ozone pollution, coal combustion residuals and cooling water intake structures.

The last rule, regarding cooling water intake structures -- which are structures that use billions of gallons of water to cool down power-plant equipment -- is likely to have the greatest impact on grid capacity, the report finds.

The report surfaces at a time when lawmakers have started to take a closer look at the effects of environmental rules. Earlier this month, two influential Republicans in the U.S. House of Representatives asked the EPA to identify the cost of complying with roughly 40 new or pending rules under the Clean Air Act.

The EPA has regulated power plants for several years, but the agency is now taking the rare step of imposing several costly measures at once, the report's authors say. And that could place pressure on the grid.

If the grid does lose capacity, it shouldn't cause blackouts because there are a number of safeguards to prevent such an event, the authors say. Nevertheless, reduced capacity levels could force power plants to expedite the installation of new units or prompt grid operators to import power from other regions.

The North American Electric Reliability Corp. is urging the EPA and state regulators to be flexible with compliance deadlines and rule requirements. It is also asking power companies and other industry players to start preparing for the new rules now.

"The situation we are trying to avoid is the loss of flexibility," said Mark Lauby, director of reliability assessment and performance analysis. "When the margins get tighter, the operators have to take certain actions and procedures that stress the [system]."



01268-EPA-4267

**Richard Windsor/DC/USEPA/US**  
10/25/2010 06:55 PM

To David McIntosh  
cc Seth Oster  
bcc  
Subject Re: Dow Jones: New EPA Rules Could Weaken Power Grid, Report Says

(b)(5) Deliberative

David McIntosh

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

**From:** David McIntosh  
**Sent:** 10/25/2010 06:46 PM EDT  
**To:** Richard Windsor  
**Cc:** Seth Oster  
**Subject:** Fw: Dow Jones: New EPA Rules Could Weaken Power Grid, Report Says

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 10/25/2010 06:44 PM -----

From: Brendan Gilfillan/DC/USEPA/US  
To: Seth Oster <oster.seth@epa.gov>, Adora Andy/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Alisha Johnson/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  
Cc: David McIntosh/DC/USEPA/US@EPA  
Date: 10/25/2010 06:02 PM  
Subject: Dow Jones: New EPA Rules Could Weaken Power Grid, Report Says

(b)(5) Deliberative

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Tennille Tracy  
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01268-EPA-4269

Lisa Garcia/DC/USEPA/US  
10/26/2010 07:42 AM

To "Richard Windsor", "Lisa Heinzerling", "Bob Sussman"  
cc  
bcc  
Subject RTR for ship building

[REDACTED] (b)(5) Deliberative [REDACTED]

++++

Hi Gina and Janet:

[REDACTED] (b)(5) Deliberative [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

01268-EPA-4270

David McIntosh/DC/USEPA/US  
10/26/2010 08:07 AM

To lisapjackson, Richard Windsor, Seth Oster  
cc  
bcc  
Subject Re: Fw: Google Alert - EPA Lisa jackson

(b)(5) Deliberative  
[Redacted]

(b)(6) See last story below. Sent via BlackBe... 10/26/2010 07:06:56 AM

From: (b)(6) Privacy  
To: David McIntosh/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA  
Date: 10/26/2010 07:06 AM  
Subject: Fw: Google Alert - EPA Lisa jackson

See last story below.

Sent via BlackBerry by AT&T

**From:** Google Alerts <googlealerts-noreply@google.com>  
**Date:** Tue, 26 Oct 2010 10:41:02 +0000  
**To:** <(b)(6) Privacy>  
**Subject:** Google Alert - EPA Lisa jackson

**Blogs** 4 new results for EPA Lisa jackson

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01268-EPA-4271

**Richard Windsor/DC/USEPA/US**  
10/26/2010 08:14 AM

To David McIntosh, "Lisa At Home", Seth Oster  
cc  
bcc

Subject Re: Fw: Google Alert - EPA Lisa jackson

Can I add - "Red my lips" to the front of that?  
David McIntosh

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

**From:** David McIntosh  
**Sent:** 10/26/2010 08:07 AM EDT  
**To:** (b)(6) Privacy Richard Windsor; Seth Oster  
**Subject:** Re: Fw: Google Alert - EPA Lisa jackson

(b)(5) Deliberative  
[Redacted]

(b) (6) See last story below. Sent via BlackBe... 10/26/2010 07:06:56 AM

**From:** (b)(6) Privacy  
**To:** David McIntosh/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA  
**Date:** 10/26/2010 07:06 AM  
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**Date:** Tue, 26 Oct 2010 10:41:02 +0000  
**To:** <(b)(6) Privacy>  
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01268-EPA-4272

David McIntosh/DC/USEPA/US  
10/26/2010 08:14 AM

To Richard Windsor, "Lisa At Home", Seth Oster  
cc  
bcc

Subject Re: Fw: Google Alert - EPA Lisa jackson

Not unless you want to tempt fate!  
Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 10/26/2010 08:14 AM EDT  
**To:** David McIntosh; "Lisa At Home" <(b)(6) Privacy> Seth Oster  
**Subject:** Re: Fw: Google Alert - EPA Lisa jackson

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01268-EPA-4273

**Richard Windsor/DC/USEPA/US**  
10/26/2010 08:16 AM

To David McIntosh, "Lisa At Home", Seth Oster  
cc  
bcc

Subject Re: Fw: Google Alert - EPA Lisa jackson

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**From:** David McIntosh  
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**From:** (b)(6) Privacy  
**To:** David McIntosh/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA  
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01268-EPA-4274

**Richard Windsor/DC/USEPA/US**  
10/26/2010 08:16 AM

To "Brendan Gilfillan", "Alisha Johnson", "Adora Andy"  
cc  
bcc

Subject Fw: Fw: Google Alert - EPA Lisa jackson

David McIntosh

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

**From:** David McIntosh  
**Sent:** 10/26/2010 08:14 AM EDT  
**To:** Richard Windsor; "Lisa At Home" <(b)(6) Privacy> Seth Oster  
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**Subject:** Re: Fw: Google Alert - EPA Lisa jackson

(b)(5) Deliberative  
[Redacted]

lisapjackson See last story below. Sent via BlackBerry... 10/26/2010 07:06:56 AM

**From:** (b)(6) Privacy  
**To:** David McIntosh/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA  
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01268-EPA-4275

David McIntosh/DC/USEPA/US  
10/26/2010 08:22 AM

To Richard Windsor  
cc "Lisa At Home", Seth Oster  
bcc

Subject Re: Fw: Google Alert - EPA Lisa jackson

Deal

Richard Windsor Ok - I will settle for "Listen very careful... 10/26/2010 08:16:05 AM

From: Richard Windsor/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA, "Lisa At Home" <(b)(6) Privacy> Seth Oster/DC/USEPA/US@EPA  
Date: 10/26/2010 08:16 AM  
Subject: Re: Fw: Google Alert - EPA Lisa jackson

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**Date:** Tue, 26 Oct 2010 10:41:02 +0000

**To:** <[REDACTED]> (b)(6) Privacy

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[EPA Administrator Names Executive Director for New Gulf Coast ...](#)

By Imalle

He will play an instrumental role in fulfilling our commitment to a full and lasting restoration of this area," said EPA Administrator **Lisa P. Jackson**. "John's longtime experience with these issues and this region, along with his proven ...

[Lynn Miller Associates - http://lmalle.wordpress.com/](http://lmalle.wordpress.com/)

[New Executive Director for New Gulf Coast Ecosystem Restoration ...](#)

By Editor

October 26, 2010, WASHINGTON (Coal Geology)— U.S. Environmental Protection Agency (**EPA**) Administrator **Lisa P. Jackson** has named John H. Hankinson, Jr. to be the executive director of the newly established Gulf Coast Ecosystem ...

[Coal Geology - http://coalgeology.com/](http://coalgeology.com/)

[FloridaEnvironments.com: EPA taps Florida's Hankinson as director ...](#)

By Bruce Ritchie

**EPA** Administrator **Lisa Jackson**, a New Orleans native, was named as chair of the task force, which will hold its first meeting in Pensacola on Nov. 8. Hankinson is chairman of Audubon of Florida and served as regional **EPA** administrator ...

[FloridaEnvironments.com - http://bruceritchie.blogspot.com/](http://bruceritchie.blogspot.com/)

[AFP Releases Paper Detailing How EPA Could Force Cap-and-Trade ...](#)

By James Valvo

AFP is releasing the paper amidst a spate of **EPA** actions to move GHG regulations under the Clean Air Act. **EPA** Administrator **Lisa Jackson** remains resolute about regulating large stationary sources beginning in January 2011, ...

[Americans for Prosperity: National feed - http://americansforprosperity.org/?p=1264](http://americansforprosperity.org/?p=1264)

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[Manage](#) your alerts.



01268-EPA-4277

**David  
McIntosh/DC/USEPA/US**  
10/26/2010 03:25 PM

To Richard Windsor  
cc Brendan Gilfillan, Seth Oster  
bcc

Subject Fw: Politico: EPA: Enviro regs won't affect grid

Administrator, you might consider calling FERC Chairman Wellinghoff to thank him for his very helpful comments in this Politico story.

----- Forwarded by David McIntosh/DC/USEPA/US on 10/26/2010 03:24 PM -----

From: Brendan Gilfillan/DC/USEPA/US  
To: Seth Oster <oster.seth@epa.gov>, Michael Moats/DC/USEPA/US@EPA, Vicki Ekstrom/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA, Dru Ealons/DC/USEPA/US@EPA  
Cc: David McIntosh/DC/USEPA/US@EPA  
Date: 10/26/2010 03:16 PM  
Subject: Politico: EPA: Enviro regs won't affect grid

---

## **EPA: Enviro regs won't affect grid**

By: [Robin Bravender](#)

October 26, 2010 02:52 PM EDT

The Obama administration is pushing back against projections that the reliability of the domestic power supply is threatened by a series of environmental rules.

A [report issued Tuesday](#) by the North American Electric Reliability Corp. found that that up to 75 gigawatts — about 7 percent of the national power capacity — could be forced offline by 2015 as companies either shutter plants or install new energy-consuming pollution controls.

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“We understand that there are certain problems that could occur if these regulations do in fact cause the closing of a number of coal plants,” Wellinghoff said, “but it doesn’t mean that they can’t be dealt with.”

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The administration is working to ensure that the EPA rules have no effect whatsoever on domestic power supply, Wellinghoff said, including boosting supply side resources

like wind and natural gas, in addition to finding ways to operate the grid more efficiently to reduce congestion. "The sky isn't falling," he added.

Meanwhile, EPA is questioning the report's projections, which are based in part on rules that haven't yet been issued.

"By NERC's own admission, its projections about electricity supply impacts rest on its own fortune-telling about future regulations that have not even been proposed yet," said agency spokesman Brendan Gilfillan. "In reality, EPA has some discretion and will be more sensitive to reliability than NERC gives us credit for."

But industry attorney Joe Stanko warned that the report drastically underestimates the impact on the power supply.

"It's great that NERC looked at reliability, but the impact is really much greater than the report claims because of one-size-fits-all assumptions on cost," Stanko said.

01268-EPA-4278

**Richard Windsor/DC/USEPA/US**  
10/26/2010 03:29 PM

To David McIntosh  
cc Brendan Gilfillan, Seth Oster, "Aaron Dickerson"  
bcc

Subject Re: Politico: EPA: Enviro regs won't affect grid

Aaron - please set up a call with Chairman Wellinghoff today. Tx. Lisa  
David McIntosh

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01268-EPA-4279

**Richard Windsor/DC/USEPA/US**  
10/26/2010 03:45 PM

To Aaron Dickerson  
cc  
bcc

Subject Re: Politico: EPA: Enviro regs won't affect grid

Tx

Aaron Dickerson

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

**From:** Aaron Dickerson  
**Sent:** 10/26/2010 03:39 PM EDT  
**To:** Richard Windsor  
**Cc:** Brendan Gilfillan; David McIntosh; Seth Oster  
**Subject:** Re: Politico: EPA: Enviro regs won't affect grid

The Chairman is available at 4:00. He can be reached at (b)(6).

Richard Windsor	Aaron - please set up a call with Chair...	10/26/2010 03:29:36 PM
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**From:** Richard Windsor/DC/USEPA/US  
**To:** David McIntosh/DC/USEPA/US@EPA  
**Cc:** Brendan Gilfillan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, "Aaron Dickerson" <dickerson.aaron@epa.gov>  
**Date:** 10/26/2010 03:29 PM  
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01268-EPA-4280

**Aaron  
Dickerson/DC/USEPA/US**  
10/26/2010 04:01 PM

To Richard Windsor  
cc  
bcc

Subject Reminder - Call Chairman Wellinghoff. 2(b)(6)

Richard Windsor Tx ----- Original Message ----- 10/26/2010 03:45:01 PM

From: Richard Windsor/DC/USEPA/US  
To: Aaron Dickerson/DC/USEPA/US@EPA  
Date: 10/26/2010 03:45 PM  
Subject: Re: Politico: EPA: Enviro regs won't affect grid

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Cc: Brendan Gilfillan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, "Aaron Dickerson" <dickerson.aaron@epa.gov>  
Date: 10/26/2010 03:29 PM  
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**Subject:** Fw: Politico: EPA: Enviro regs won't affect grid

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Cc: David McIntosh/DC/USEPA/US@EPA  
Date: 10/26/2010 03:16 PM

Subject: Politico: EPA: Enviro regs won't affect grid

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01268-EPA-4281

**Richard Windsor/DC/USEPA/US**  
10/26/2010 04:07 PM

To Aaron Dickerson  
cc "David McIntosh", "Heidi Ellis"  
bcc

Subject Re: Reminder - Call Chairman Wellinghoff. 20(b)(6)

Done. David - please give me a buzz. Aaron - he and I agreed to have a monthly coffee. I'll go there for the first one in say mid November (on my eay home?).

Aaron Dickerson

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

**From:** Aaron Dickerson  
**Sent:** 10/26/2010 04:01 PM EDT  
**To:** Richard Windsor  
**Subject:** Reminder - Call Chairman Wellinghoff. 20(b)(6)

Richard Windsor Tx ----- Original Message ----- 10/26/2010 03:45:01 PM

From: Richard Windsor/DC/USEPA/US  
To: Aaron Dickerson/DC/USEPA/US@EPA  
Date: 10/26/2010 03:45 PM  
Subject: Re: Politico: EPA: Enviro regs won't affect grid

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01268-EPA-4283

Heidi Ellis/DC/USEPA/US  
10/26/2010 06:29 PM

To [REDACTED] (b)(6) Jose  
Lozano, Richard Windsor, Diane Thompson, Ryan Robison  
cc  
bcc

Subject UPDATED: Wednesday, October 27, 2010 Schedule for Lisa  
P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Wednesday, October 27, 2010**

Notes:

Drivers

Shift Leaders

Staff Contact

[REDACTED] (b)(6) Heidi Ellis 202-355-5212

08:00 AM - 08:30 AM	430 S Capitol St SE Washington, DC 20003	Drive Time Radio
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:45 AM - 10:15 AM	Administrator's Office	1 on 1 with Larry Elworth Ct: Cheryl Woodward (OA) 564-1274
10:30 AM - 11:00 AM	Administrator's Office	Interview with John Hankinson (Gulf Coast) Ct: Sharnett Willis (OEX) 564-7866
11:15 AM - 11:30 AM	Administrator's Office	Performance Review with Gladys Stroman Ct: Veronica Burley (OA) 564-7084
11:30 AM - 11:45 AM	Administrator's Office	Performance Review with Aaron Dickerson Ct: Veronica Burley (OA) 564-7084
11:45 AM - 12:15 PM	Administrator's Office	Performance Review with Diane Thompson Ct: Veronica Burley (OA) 564-7084
12:15 PM - 01:00 PM	Administrator's Office	No Meetings
01:00 PM - 01:45 PM	Bullet Room	Meeting with Administrator Shah Ct: Beatina Theopold, USAID, [REDACTED] (b) (6) Advance Ct: Marcus McClendon

Staff:

Michelle DePass, Shalini Vajjhala, Walker Smith, Neilima Senjalia  
(OITA)

Gina McCarthy, Joe Goffman (OAR)

Optional: Gary Waxmonsky, Elle Beard (OITA)

Diane Thompson (OA)

USAID Attendees:

Administrator Rajiv Shah  
Maura O'Neill, Chief Innovation Officer  
Christian Holmes, Senior Advisor on Environment  
Michael Yates, Senior DAA for Economic Growth, Agriculture, and Trade  
James Hester, Environment Coordinator  
William Breed, Climate Change Coordinator

---

02:00 PM - 02:30 PM	Administrator's Office	RA Orientation Ct: Sharnett Willis (OEX) 564-7866
02:45 PM - 03:15 PM	Administrator's Office	1 on 1 with Peter Grevatt Ct: Peter Grevatt (OCHP)  Optional: Bob Perciasepe, Bob Sussman, Diane Thompson (OA)
03:30 PM - 04:30 PM	Bullet Room	Senior Policy Meeting Staff: AA's, RA's, DAA's  Hookup to Administrator's conference line needed
05:00 PM - 06:00 PM		HOLD

---

\*\*\* 10/26/2010 06:08:24 PM \*\*\*

01268-EPA-4284

David  
McIntosh/DC/USEPA/US  
10/27/2010 12:33 PM

To Richard Windsor  
cc  
bcc

Subject Fw: NRDC: Health and Other Groups Urge EPA to Save  
Thousands of Lives With Stronger Smog Standards

FYI

----- Forwarded by David McIntosh/DC/USEPA/US on 10/27/2010 12:33 PM -----

From: "Walke, John" <jwalke@nrdc.org>  
To: undisclosed-recipients;;  
Date: 10/27/2010 12:17 PM  
Subject: NRDC: Health and Other Groups Urge EPA to Save Thousands of Lives With Stronger Smog Standards

---

FOR IMMEDIATE RELEASE

Contact: Mary Havell, American Lung Association, 202-715-3459, [mhavell@lungusa.org](mailto:mhavell@lungusa.org)  
Eric Young, NRDC, 703-217-6814, [eyoung@nrdc.org](mailto:eyoung@nrdc.org)

## 69 Health and Other Groups Urge EPA to Save Thousands of Lives With Stronger Smog Standards

WASHINGTON, D.C., (October 27, 2010) – Sixty-nine organizations representing health, environmental, Latino and faith constituencies are urging the U.S. Environmental Protection Agency (EPA) to protect public health by issuing strong standards for smog (ground-level ozone). Polluters and their allies are pushing heavily to block the standards, which would save as many as 12,000 lives and prevent tens of thousands of asthma attacks and heart attacks each year.

"It is critically important that EPA strengthen the ozone standard to protect millions of Americans who are currently exposed to unsafe levels of toxic ozone," said Charles D. Connor, President and CEO of the American Lung Association. "This is an important step towards safer and healthier air across the United States."

The standard is the official "limit" on ground level ozone air pollution—at a level that protects public health with an adequate margin of safety. The standard drives all the action to get rid of ozone air pollution, commonly known as smog, at the national, state and local levels.

Overwhelming scientific evidence shows that the smog standard must be much stronger to protect public health from serious harm. The Clean Air Scientific Advisory Committee, EPA's independent science advisors, reviewed the evidence from more than 1,700 studies of the health impacts of ozone. They

concluded unanimously that the standard should be revised downward to between 60-70 parts per billion

(ppb).

"Science should be our guide, and there's no doubt that adopting a stronger standard will protect health

and save lives,” said Georges C. Benjamin, MD, Executive Director of the American Public Health Association. “People with asthma, seniors, outdoor workers and especially children are at greatest risk. A stronger standard will help ensure that those who are most vulnerable are more adequately protected.”

A strong ozone pollution standard will prevent life-threatening health effects. Ozone burns lungs and airways, causing them to become inflamed, reddened, and swollen. Children and teens, senior citizens, and people with lung diseases like asthma, chronic bronchitis, emphysema, and others are particularly vulnerable to the health effects of ozone. When inhaled even at low levels, ozone can cause chest pain and coughing, aggravate asthma, reduce lung function, increase emergency room visits and hospital admissions for respiratory problems, and lead to irreversible lung damage. Ozone can even cause premature death.

“Polluters are attacking the clean air laws that have saved tens of thousands of lives and prevented millions of cases of illnesses over the past 40 years,” said Peter Lehner, Executive Director of the Natural Resources Defense Council. “The Clean Air Act has done a remarkable job of reducing pollution and protecting our health but there is more work to be done. Millions are suffering from asthma attacks and heart and lung disease. We need the EPA to follow the science and enact stronger standards to reduce the amount of smog we breathe.”

The [ad](#) runs in The Hill today and in Politico on Thursday and reads as follows:

“It's our air, but big polluters treat it like they own it. They dump millions of tons of dangerous pollution into our air, threatening the health of all Americans.

Now they're also dumping millions of dollars into a lobbying war against America's clean air laws -- even as millions suffer from asthma attacks and other health impacts, especially the young and the elderly.

By setting stronger air quality standards for smog, the EPA can take a stand against big polluters and their lobbyists – and stand up for all Americans, including the most vulnerable.

Overwhelming evidence shows that stronger smog standards will save thousands of lives and prevent tens of thousands of respiratory emergencies each year. Why would anyone oppose that?

Administrator Jackson, we are counting on you to fight for our air so America's most vulnerable don't have to.

The following national organizations are listed on the ad:

American Academy of Pediatrics, American Lung Association, American Public Health Association, Center for Biological Diversity, Clean Air Watch, Earth Day Network, Earthjustice, Environment America, Environmental Defense Fund, Environmental Health Fund, Friends of the Earth, Greenpeace USA, Labor Council for Latin American Advancement, League of Conservation Voters, Mineral Owners for Responsible Action and Land Safety, National Alliance for Drilling Reform NA4DR, National Latino Coalition on Climate Change, National Parks Conservation Association, National Puerto Rican Coalition, Inc., National Wildlife Federation, Natural Resources Defense Council, NETWORK-A National Catholic Social Justice Lobby, Physicians for Social Responsibility, Safe Climate Campaign, Sierra Club, The Center for the Celebration of Creation, Trust for America's Health, Union of Concerned Scientists, Unitarian Universalist Association of Congregations, Unitarian Universalist Ministry for Earth and Voces Verdes.

In addition, an ad with a complete list of all 69 national, state and local signers will be available [here](#).

###

**About the American Lung Association:**

Now in its second century, the American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease. With your generous support, the American Lung Association is "Fighting for Air" through research, education and advocacy. For more information about the American Lung Association, or to support the work it does, call 1-800-LUNG-USA (1-800-586-4872) or visit [www.LungUSA.org](http://www.LungUSA.org).

**About the Natural Resources Defense Council:**

The Natural Resources Defense Council is a national, non-profit organization of scientists, lawyers and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has more than 1.3 million members and e-activists nationwide, served from offices in New York, Washington, Los Angeles, San Francisco and Beijing. More information is available at [www.nrdc.org](http://www.nrdc.org).

01268-EPA-4286

**Richard Windsor/DC/USEPA/US**  
10/28/2010 12:57 PM

To Seth Oster  
cc Bob Perciasepe, David McIntosh  
bcc  
Subject Re: ACTION NEEDED: Response to Wall Street Journal

(b)(5) Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 10/28/2010 12:45 PM EDT  
**To:** Richard Windsor  
**Cc:** Bob Perciasepe; David McIntosh  
**Subject:** ACTION NEEDED: Response to Wall Street Journal

Administrator,

(b)(5) Deliberative

## Wall Street Journal

### The Unseen Carbon Agenda

#### The EPA wants to take away 7% of U.S. power generation.

Anyone who cares about the U.S. economy is breathing easier now that cap and tax appears to be on the political garbage barge, but don't be so sure. The White House is still pursuing its carbon agenda through regulation, albeit with almost no public attention, and a new study shows the damage that is already being done.

Yesterday the North American Electric Reliability Corporation, a highly regarded federal energy advisory body, released an exhaustive "special assessment" of this covert program. NERC estimates that the Environmental Protection Agency's pending electric utility regulations will subtract between 46 and 76 gigawatts of generating capacity from the U.S. grid by 2015. To put those numbers in perspective, the worst-case scenario would amount to a reduction of about 7.2% of national power generation, and almost all of it will hit coal-fired plants, the workhorse that supplies a little over half of U.S. electricity.

The EPA's battery of new rules is mostly obscure, ranging from traditional pollutants such as mercury and sulfur to new regulation of coal ash and even water intake structures, which power plants use to cool down equipment.

NERC notes that the "pace and aggressiveness" of issuing so many new rules at once is unprecedented. Keep in mind, too, that these are conservative estimates and don't even include the EPA's looming carbon "endangerment" rules.

Supposedly all this is separate from greenhouse gasses, but the White House and the EPA are clearly targeting fossil fuels and coal in particular to achieve via rule-making what even the Democratic 111th Congress has rejected as legislation. As much as a fifth of the perfectly functioning coal-fired fleet will be forced into early retirement, to be replaced with a largely more expensive energy mix, especially natural gas.

Some plants can be retrofit with new environmental controls like scrubbers, but this is nearly as costly as building new plants from scratch. And just as you can't replace an engine while heading down the highway at 75 mph, this will still require shut downs in the interim, for at least five years.

In a recent research note, Credit Suisse estimates that compliance will cost as much as \$150 billion in capital investment by the end of the decade. All of this will flow through to rising electricity prices, which is the same as a tax increase on businesses and consumers.

NERC also warns of "deteriorating resource adequacy" and of the logistical reality that replacing or upgrading so much capacity so fast may lead to brownouts and shortages. The danger is greatest throughout the Midwest in states like Ohio, Pennsylvania and West Virginia, where the costs will also be concentrated.

The larger point is that instead of debating a carbon program on the merits, the Obama Administration is now trying to impose the same burden step by step on the sly. At this point, the only way voters can stop the EPA is to install a check in one of the other branches of government. Election Day is Tuesday.

(b)(5) Deliberative





(b)(5) Deliberative



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

01268-EPA-4287

**Bob Perciasepe/DC/USEPA/US**  
10/28/2010 01:16 PM

To Richard Windsor  
cc David McIntosh, Seth Oster  
bcc

Subject Re: ACTION NEEDED: Response to Wall Street Journal

(b)(5) Deliberative

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

Richard Windsor (b)(5) Deliberative 10/28/2010 12:57:55 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Cc: Bob Perciasepe/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA  
Date: 10/28/2010 12:57 PM  
Subject: Re: ACTION NEEDED: Response to Wall Street Journal

(b)(5) Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 10/28/2010 12:45 PM EDT  
**To:** Richard Windsor  
**Cc:** Bob Perciasepe; David McIntosh  
**Subject:** ACTION NEEDED: Response to Wall Street Journal

Administrator,

(b)(5) Deliberative

### Wall Street Journal

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(b)(5) Deliberative



(b)(5) Deliberative



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

01268-EPA-4288

David  
McIntosh/DC/USEPA/US  
10/28/2010 01:55 PM

To Richard Windsor, Seth Oster, Bob Perciasepe, Diane  
Thompson, Bob Sussman, Lisa Heinzerling, Scott Fulton,  
Arvin Ganesan

cc

bcc

Subject Fw: From Greenwire -- CLIMATE: All states but Texas on  
track to issue GHG permits -- report

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 10/28/2010 01:53 PM -----

From: David McIntosh/DC/USEPA/US@EPA  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 10/28/2010 01:53 PM  
Subject: From Greenwire -- CLIMATE: All states but Texas on track to issue GHG permits -- report

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

Personal message:



An E&E Publishing Service

**CLIMATE: All states but Texas on track to issue GHG permits -- report** *(Thursday, October 28, 2010)*  
**Gabriel Nelson, E&E reporter**

With state regulators required to start issuing Clean Air Act permits next year for large stationary sources of greenhouse gas emissions, the Lone Star State will be the lone holdout, according to a report released today by an association of state and local air agencies.

The states are scrambling to align their own rules with U.S. EPA's new regulations, which are set to take effect on Jan. 2, 2011.

Thirty-six states have already gotten federal approval to begin issuing greenhouse gas permits. Of the remaining states, which have been required to explain their plans to EPA, Texas is the only one that won't revise its rules or accept a federal implementation plan, according to the [analysis](#) by the National Association of Clean Air Agencies (NACAA).

Air officials in seven of those 14 states say their rules will be changed by Jan. 2 or "very shortly thereafter," the report says. Another six states have told EPA they are willing to adopt the federal program, but some of them would like to issue the permits themselves.

The permits will require large facilities to install the best available control technology (BACT) for greenhouse gases. EPA still hasn't given the states guidance on those standards, and business groups have raised concerns that a delay in the federal approval of state permitting programs would hold up the pre-construction permits needed to move forward with projects.

Bill Becker, executive director of NACAA, said he doesn't anticipate many delays. Even if the states don't have programs in place for weeks or months after Jan. 2, there won't be many permit applications because businesses that expect to need a permit next year are rushing to submit their applications before the new greenhouse gas emissions rules take effect, he told reporters today.

"The rhetoric and the exaggerations that opponents of this program are spewing are getting out of hand," Becker said. "They would lead you to believe that state and local permitting programs will be paralyzed, that individual sources will not be able to obtain permits in a timely fashion, and that state and local authorities simply won't have authority to act on the large number of permit applications starting Jan. 2. That simply isn't the case."

"I'm not saying this is going to be a totally perfect implementation schedule over the first couple of months," Becker added, "but it will not be unlike any other major program that is being implemented for the first time."

Texas, which has filed several legal challenges to EPA's climate program, has refused to change its permitting program. EPA is moving too quickly and forcing states to comply with a "scheme that short-circuits the statutory process for regulating major stationary sources," the Texas Commission on Environmental Quality wrote in a letter to EPA earlier this month.

[Click here](#) to read the NACAA report.

[Click here](#) to read the letters from the 14 states.

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01268-EPA-4295

**Richard Windsor/DC/USEPA/US**  
11/01/2010 08:39 AM

To "Diane Thompson"  
cc  
bcc

Subject Fw: FYI -- Discussion w/Oil Spill Commission ew: Berm

Fyi

Janet Woodka

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

**From:** Janet Woodka  
**Sent:** 11/01/2010 08:35 AM EDT  
**To:** Bob Perciasepe; Richard Windsor  
**Cc:** Seth Oster  
**Subject:** Fw: FYI -- Discussion w/Oil Spill Commission ew: Berm

RYI - The commission is looking into the berms...

Janet

Janet Woodka  
Senior Advisor to the Deputy Administrator  
Director of Regional Operations  
U.S. EPA  
email: woodka.janet@epa.gov  
phone: 202-564-7362  
cell: 202-360-7465

----- Forwarded by Janet Woodka/DC/USEPA/US on 11/01/2010 08:35 AM -----

From: Denise Keehner/DC/USEPA/US  
To: "Peter Silva" <Silva.Peter@epamail.epa.gov>, "Janet Woodka" <Woodka.Janet@epamail.epa.gov>  
Date: 10/30/2010 02:25 PM  
Subject: Fw: FYI -- Discussion w/Oil Spill Commission ew: Berm

Keeping you in loop\$

-----  
Sent by EPA Wireless E-Mail Services

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**From:** William Honker  
**Sent:** 10/29/2010 06:26 PM EDT  
**To:** Paul Cough  
**Cc:** Denise Keehner  
**Subject:** Fw: FYI -- Discussion w/Oil Spill Commission ew: Berm

FYI

Bill Honker, P. E.  
Senior Policy Advisor for Coastal Restoration, Climate Change, and Public Outreach  
Deputy Director, Water Quality Protection Division  
EPA Region 6  
214-665-3187 office  
214-551-3619 cell

Sent by EPA Wireless E-Mail Services

---

**From:** John Ettinger

**Sent:** 10/29/2010 01:07 PM CDT

**To:** Timothy Landers; Clay Miller; Jane Watson; Karen McCormick; Sharon Parrish; William Honker

**Subject:** FYI -- Discussion w/Oil Spill Commission ew: Berm

FYI -- Here are notes from my discussion yesterday with David Weiss and Jessica O'Neill of the Oil Spill Commission. The subject was the berm.

Background: The Commission will produce a report by mid January. It will cover three areas: (1) Why the rig exploded, (2) Response measures (including the berm), and (3) Restoration. My discussion with David and Jessica will be background for the response portion of the report. No quotes will be attributed to me.

(b)(5) Deliberative



John Ettinger  
U.S. EPA Region 6  
(504) 862-1119  
[ettinger.john@epa.gov](mailto:ettinger.john@epa.gov)



01268-EPA-4297

**Richard Windsor/DC/USEPA/US**  
11/01/2010 05:38 PM

To Steve Owens  
cc Bob Perciasepe, Bob Sussman, Lawrence Elworth  
bcc  
Subject Re: Call from Sec. Locke re ESA Biological Opinions

(b)(5) Deliberative  
Steve Owens

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

**From:** Steve Owens  
**Sent:** 11/01/2010 05:18 PM EDT  
**To:** Richard Windsor  
**Cc:** Bob Perciasepe; Bob Sussman; Lawrence Elworth  
**Subject:** Call from Sec. Locke re ESA Biological Opinions

Lisa,

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative

Please let me know if you have any questions.

Steve

01268-EPA-4298

**Lisa  
Heinzerling/DC/USEPA/US**  
11/01/2010 05:38 PM

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

Subject meeting with SBA's Office of Advocacy

We met this morning with people from SBA's Office of Advocacy. Present at the meeting from the Office of Advocacy were the Chief Counsel (the one political appointee in the Office of Advocacy), his acting career deputy, and several career staffers. EPA folks included several members of my staff and me, plus an attorney from OGC.

(b)(5) Deliberative



01268-EPA-4299

Lawrence  
Elworth/DC/USEPA/US  
11/01/2010 05:46 PM

To Richard Windsor, Steve Owens  
cc Bob Perciasepe, Bob Sussman  
bcc

Subject Re: Call from Sec. Locke re ESA Biological Opinions

(b)(5) Deliberative  
[Redacted]

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 11/01/2010 05:38 PM EDT  
**To:** Steve Owens  
**Cc:** Bob Perciasepe; Bob Sussman; Lawrence Elworth  
**Subject:** Re: Call from Sec. Locke re ESA Biological Opinions

(b)(5) Deliberative  
[Redacted]

Steve Owens

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

**From:** Steve Owens  
**Sent:** 11/01/2010 05:18 PM EDT  
**To:** Richard Windsor  
**Cc:** Bob Perciasepe; Bob Sussman; Lawrence Elworth  
**Subject:** Call from Sec. Locke re ESA Biological Opinions

Lisa,

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

Please let me know if you have any questions.

Steve

01268-EPA-4300

**Richard Windsor/DC/USEPA/US**  
11/01/2010 05:56 PM

To Lawrence Elworth, Steve Owens, "Peter Silva"  
cc Bob Perciasepe, Bob Sussman  
bcc  
Subject Re: Call from Sec. Locke re ESA Biological Opinions

Looping in Pete  
Lawrence Elworth

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

**From:** Lawrence Elworth  
**Sent:** 11/01/2010 05:46 PM EDT  
**To:** Richard Windsor; Steve Owens  
**Cc:** Bob Perciasepe; Bob Sussman  
**Subject:** Re: Call from Sec. Locke re ESA Biological Opinions

(b)(5) Deliberative  
[Redacted]

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 11/01/2010 05:38 PM EDT  
**To:** Steve Owens  
**Cc:** Bob Perciasepe; Bob Sussman; Lawrence Elworth  
**Subject:** Re: Call from Sec. Locke re ESA Biological Opinions

(b)(5) Deliberative  
[Redacted]

Steve Owens

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

**From:** Steve Owens  
**Sent:** 11/01/2010 05:18 PM EDT  
**To:** Richard Windsor  
**Cc:** Bob Perciasepe; Bob Sussman; Lawrence Elworth  
**Subject:** Call from Sec. Locke re ESA Biological Opinions

Lisa,

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

A large black rectangular redaction covers the majority of the page's content. The text "(b)(5) Deliberative" is centered within the top portion of this redacted area.

Please let me know if you have any questions.

Steve

01268-EPA-4302

**Richard Windsor/DC/USEPA/US**  
11/03/2010 01:01 PM

To Karl Brooks  
cc  
bcc

Subject Re: Rod Bremby of Kan

[REDACTED] (b) (6)

Karl Brooks

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

**From:** Karl Brooks  
**Sent:** 11/03/2010 12:58 PM EDT  
**To:** Richard Windsor  
**Subject:** Rod Bremby of Kan

[REDACTED] (b) (6)

[REDACTED]

Cheers

Karl

Sent by EPA Wireless E-Mail Services

01268-EPA-4304

**Bob Sussman/DC/USEPA/US**

11/05/2010 05:31 AM

To "Lisa P. Jackson", "Bob Perciasepe"

cc

bcc

Subject Fw: Boiler MACT

(b)(5) Deliberative

Gina McCarthy

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

**From:** Gina McCarthy

**Sent:** 11/04/2010 09:58 PM EDT

**To:** "Bob Sussman" <Sussman.bob@EPA.GOV>; "Bob Perciasepe" <perciasepe.bob@epa.gov>

**Cc:** "Peter Tsirigotis" <Tsirigotis.Peter@EPA.GOV>; Janet McCabe; Joseph Goffman; "Steve Page" <Page.Steve@Epa.GOV>; "Scott Fulton" <Fulton.Scott@EPA.GOV>; "Avi Garbow" <garbow.avi@epa.gov>

**Subject:** Boiler MACT

(b)(5) Deliberative



01268-EPA-4308

**David  
McIntosh/DC/USEPA/US**  
11/08/2010 09:06 PM

To "Richard Windsor", thompson.diane, perciasepe.bob,  
oster.seth, "Bob Sussman", "Scott Fulton", "Arvin Ganesan",  
"Lisa Heinzerling", "Lawrence Elworth"

cc

bcc

Subject Fw: draft OCIR script for Hill notification calls about the BACT  
guidance

FYI

David McIntosh

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

**From:** David McIntosh

**Sent:** 11/08/2010 08:29 PM EST

**To:** Joseph Goffman

**Subject:** draft OCIR script for Hill notification calls about the BACT  
guidance

Hi Joe,

(b)(5) Deliberative

Thanks,  
David

(b)(5) Deliberative

(b)(5) Deliberative



01268-EPA-4313

**Richard Windsor/DC/USEPA/US**  
12/30/2010 03:19 PM

To Betsaida Alcantara, Bob Perciasepe  
cc Mathy Stanislaus, Seth Oster  
bcc

Subject Re: BP waste data

(b)(5) Deliberative

Betsaida Alcantara

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

**From:** Betsaida Alcantara  
**Sent:** 12/30/2010 02:22 PM EST  
**To:** Bob Perciasepe  
**Cc:** Mathy Stanislaus; Richard Windsor; Seth Oster  
**Subject:** Re: BP waste data

(b)(5) Deliberative

(b)(5) Deliberative

Bob Perciasepe

(b)(5) Deliberative

12/30/2010 02:10:10 PM

From: Bob Perciasepe/DC/USEPA/US  
To: Betsaida Alcantara/DC/USEPA/US@EPA  
Cc: Mathy Stanislaus/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth

Oster/DC/USEPA/US@EPA  
Date: 12/30/2010 02:10 PM  
Subject: Re: BP waste data

---

Thanks Betsaida:

[Redacted] (b)(5) Deliberative

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

Betsaida Alcantara LPJ and Bob P, Seth asked me to s... 12/30/2010 02:05:37 PM

From: Betsaida Alcantara/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 12/30/2010 02:05 PM  
Subject: BP waste data

---

LPJ and Bob P,

[Redacted] (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative