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Committee on Environment
and Public Works

Washington, D.C.

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THE EPA GOOD NEIGHBOR RULE: HEALTHIER AIR FOR DOWNWIND STATES

Wednesday, March 29, 2023

United States Senate

Committee on Environment and Public Works

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The committee, met, pursuant to notice, at 10:03 a.m. in room 406, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Cardin, Kelly, Lummis, Boozman, Wicker, Ricketts.

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES SENATOR
FROM THE STATE OF DELAWARE

Senator Carper. Good morning, everyone. We are ready to get started, and I am pleased to call this hearing to order.

We are coming together today, as you know, to discuss the Environmental Protection Agency's recently finalized Good Neighbor Plan, a topic that is personal to me and the one million Delawareans I am privileged to represent here in the Senate. I think it is personal to millions of other Americans across our Country, and I will be talking about them in just a minute.

Before examining the specifics of EPA's Good Neighbor Rule, though, let's first take a minute or two to better understand why addressing cross-State air pollution is so important, especially to those of us who live in downwind States. I believe that most Americans realize that air pollution is bad for our health, bad for our planet, bad for business and that it creates real economic hardships for communities that end up breathing dirty air.

In Delaware, we have made great strides in cleaning up our State's air pollution over many years. We have invested millions of dollars in clean air and energy technologies. Yet despite all of our efforts, some parts of Delaware still do not meet the EPA's health standards for air quality. And we are not alone.

Unfortunately, some people have forgotten in this Country that air pollution knows no State boundaries. Pollution from sources in one State does not just stop at the border. The pollution controls or the lack thereof in some States really do impact the air quality in

others.

As it turns out, a number of upwind States have not made the same investments in clean technology as many of us have, or they simply have refused to operate the technology full time that has already been installed in their States. For too long, many Americans living in downwind States have suffered in part because upwind neighboring States refuse to clean up their ozone pollution.

According to the EPA, ozone pollution, also known as smog, is one of the most prevalent cross-State air pollutants in the United States. For those who may not know, ozone pollution chokes and inflames people's airways. Ozone can be particularly dangerous for children, for the elderly, and people with lung diseases, like asthma.

This pollutant can also travel hundreds, sometimes even thousands of miles. Left unchecked, ozone can cost Americans billions, that is billions with a B, every year in health care costs, missed work days, not to mention the lives lost.

The effects of this cross-State pollution on downwind States are staggering. For example, emissions from other States account for 90 percent of ozone pollution in the First State, my State. That means no matter how hard we might work to protect our communities from dirty, smoggy air, the source of the vast majority of the pollution we face lies outside of our State's control.

As my colleagues have heard me say probably more than they care to remember, when I was privileged to serve as governor of Delaware, I could have shut down every emission source in my State and my State's economy, and we would still have been out of attainment of ozone

health standards, air health standards. Just think about that. I could have shut down virtually every source of emission in my State, we could still have been out of attainment for ozone air health standards. That was due to upwind States' dirty emissions. Downwind States need cooperation from our upwind neighbors and EPA if we are ever to have truly healthy air to breathe.

We are not alone. Delaware, like many States on the east coast, including our neighbor, Maryland, sits at the end of what I like to call America's tailpipe. Most of the pollution in our States comes from outside sources, such as power plants, factories and vehicles not located in our State. That is why we need a national strategy to address pollutants like ozone.

Fortunately, when we were writing clean air laws, Democrats and Republicans alike were especially concerned with the plight of downwind States. Under the Clean Air Act's direction, EPA has an obligation to forge partnerships with States in order to make sure that everyone is doing their fair share, their part, to address cross-State pollution.

That is exactly what EPA did earlier this month, when issuing the latest Good Neighbor Plan to help downwind States clean up smog pollution, really to follow the Golden Rule and ensure that States treat their neighbors the way they would like to be treated.

In addition to being justified morally, EPA's science-based rule has well defined economic and health benefits. For example, this rule will create up to \$13 billion in annual health benefits and healthier air for an estimated 80 million people who live downwind. That means

fewer missed days of work and school, fewer emergency room visits and fewer premature deaths.

These reductions are also eminently achievable. In fact, many upwind polluters already have the necessary pollution controls installed. But they have chosen not to run them most of the time.

Under EPA's rules, more than 270 power plant units with these controls will have to run them full time, not like next week or next month, not even this year, but by 2024. To me, that is not an undue burden on upwind States. It is basic fairness. I think it is just basic common sense. My dad always used to say to me, just use some common sense. I think that is what we are asking people to do.

My mom always used to say, treat other people the way you want to be treated. So I got a healthy dose of that. They helped me write this speech. They don't know it, they are long departed.

Let me close by saying that while it is easy to get wrapped up in numbers and statistics when talking about EPA's regulations, the Good Neighbor Rule is about basic fairness. It is about protecting Americans who are breathing dirty air that they didn't create, dirty air that is coming from our neighbors.

As a recovering governor, I know first-hand how deadly and costly out of State air pollution is for us in Delaware. We are not alone. So on behalf of all Americans, especially the more than 25 million children and adults in our Country living with asthma, 25 million living with asthma, I say thanks to the EPA for the Good Neighbor Rule.

As I turn to Senator Capito, one of the things I loved doing as

Governor, I loved economic development. I loved trying to make sure people have a job and the ability to provide for themselves and their families. We were faced with a situation where we ended up with electricity costs, energy costs for our businesses and for families as well, that were higher than they should have been. Those who had the pollution control mechanisms didn't use them, they were able to provide cheaper electricity. That is just not fair. That is not fair, either.

With that, let me turn to Senator Capito for anything that she wants to say. Thank you so much for all your work on this as well.

[The prepared statement of Senator Carper follows:]

STATEMENT OF THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES
SENATOR FROM THE STATE OF WEST VIRGINIA

Senator Capito. Thank you. Thank you, Mr. Chairman, thank all of you for being here today. Common sense sounds like something we definitely agree on, even though I didn't know your dad, I can agree on that.

We look forward to the testimony today. The EPA's so-called Good Neighbor Rule is the latest version of a regulation that has gone by many names. I have been on this committee for eight years, I have seen it in different names. It has previously been called the Cross-State Air Pollution Rule, or CSAPR, the Ozone Transfer Rule, and the NOx Federal Implementation Plan.

But they all refer to the same rule. And this is a topic that we have discussed. While being a good neighbor is great, we all want to be good neighbors, the name is a bit of a misnomer. It is a \$14 billion cost rule, targeting States that are energy suppliers in our Nation and our industrial heartland.

So what does that cost us? What does that \$14 billion in costs get us? Unfortunately, the rule will not change any nonattainment areas to attainment in the downwind States. Instead, it places a burden on States that will help provide our Nation with power, manufactured goods, and building materials as though we are in different economies as we try to make ourselves competitive against rivals like China, bring back and reinforce our supply chains, and make generational investments in our infrastructure, which we are doing now, having our States that provide electricity and manufactured

goods to their neighbors is not just the most sustainable solution. We have to compete as one Nation.

Requirements for the use of American iron, steel, and other materials in the Bipartisan Infrastructure package are directly undercut by this new iteration of the Cross-State Air Pollution Rules that for the first time target those domestic industries and their significantly unionized workforce. I would like to ask unanimous consent to put a letter from the United Steelworkers expressing great concern about this rule into the record.

Senator Carper. Without objection.

[The referenced information follows:]

Senator Capito. As we have heard from those sectors, broader concerns about the retirement of baseload energy generation that may reduce the reliability and cost of energy for plants that were built because of those assets. So perhaps this regulation might be more aptly named the Headwind Rule, because that is what this will be for American workers and consumers.

With that table setting out of the way, let's talk about what States, what the final Headwind Rule would impact. It targets 23 States for interstate transport of air pollution. While that is down from 26 States in the original proposal, there are still two States, Tennessee and Wyoming, in regulatory limbo because the EPA has deferred action on these.

The only State that was dropped from this was Delaware. Now, with all due respect to the Chairman, that is an interesting emission, isn't it? You and somebody else we know well is from Delaware, right?

Senator Carper. Chris Coons.

[Laughter.]

Senator Capito. That is a good one.

As I mentioned earlier, this rule is going after power plants and industries, including iron, steel, cement, concrete, pulp and paper, natural gas pipelines for the very first time. So it is a much broader rule impacting more States which is going to put us in uncharted waters, I believe, as to the implementation.

And the process EPA undertook to develop this rule, the way in which the agency went about denying State implementation plans, which I just talked about, cuts against the Congressional intent in the

Clean Air Act's cooperative federalism approach. For instance, West Virginia's pending State Implementation Plan, or SIP, was denied, along with 18 other States, in January. But this was a legal step that EPA took so they could federalize the issue and require a one size fits all, or FIP, which is a Federal Implementation Plan.

With witnesses representing three different States, I look forward to hearing from them on how the SIP development process typically works, and who knows the intricacies of their States better than the hardworking folks that we have with us today. I am very glad to see Arizona here, because I know they have a unique State, they have a unique case. Being downwind from California, as well as having international transport of pollutants from China and Mexico, that affect its attainment on various air regulations, and facing potential incorporation into this rule, I look forward to hearing Ms. Peters' views on what this may mean for her State.

It would be a shame if the only hypothetical benefits for Arizona are as a result of shuttering or reducing shifts of manufacturing sites in California, because that seems the most likely outcome. It will leave Arizona, if it doesn't happen, to be sanctioned under tightened National Ambient Air Quality Standards for ozone and particulate matter that the EPA is working on.

I am not even sure the EPA knows what the ramifications of this will be for States or the impacted sectors. My office has heard repeatedly from the industries being regulated for the very first time of this rule under the Office of Air that the EPA did not understand the businesses or the technologies that they were attempting to

regulate. That does explain the significant changes in covered facilities and components between the original proposal and the final rule, which we are glad about that.

But even with those changes, there will be hidden costs for Americans in the form of higher prices, delayed or unbuilt infrastructure, particularly lost jobs that could result in litigation.

So I truly hope that the EPA knows when they take action that it is likely to shut down our Nation's industries. It does not mean the need for those products will disappear. Instead, it merely moves the need for these abroad to countries with lower environmental standards, the opposite of what both parties are trying to accomplish in terms of reshoring our manufacturing base.

This rule is just one piece of the Administration's plan to target affordable, reliable baseload power generation. As we know from a presentation in February of 2020, the EPA has been developing a number of new regulations drafted to disproportionately affect coal and natural gas power plants.

The Wall Street Journal editorial board wrote about how these policies, like the Ozone Transport Rule that we are talking about today, are driving power plant retirements and how those plants are shutting down without adequate replacement capacity for the grid. As the Wall Street Journal observed, "The steep costs of complying with EPA regulations, including a proposed Good Neighbor Rule that is expected to be finalized next month, will force about 10,500 megawatts of fossil fuel generation to shut down." Now that this rule has been

finalized, it has actually projected that it will shutter 14,000 megawatts.

In comments to the so-called Good Neighbor Proposal, MISO, which is the Mid-Continent Independent System Operators, stated that the proposal could create significant concerns about MISO's ability to maintain electric reliability. PJM, which covers my State and several other States represented, is also ringing the alarm about the effects that retirements will have, and explains that most upcoming power plant retirements are policy-driven.

The cooperative federalism model under the Clean Air Act has resulted in significant reduction in air pollution over these five decades. More can be achieved in the years to come through coordination between the States and the Federal Government. That is something I expect to hear from our State witnesses today.

But imposing a Federal plan on half the States does nothing to support that spirit of collaboration, and will only, I think, harm our national economy.

Thank you for holding this hearing, Chairman Carper, and I look forward to the witnesses.

[The prepared statement of Senator Capito follows:]

Senator Carper. Thank you so much, Senator Capito.

Now we are going to turn to our esteemed panel of witnesses. Not every panel is termed esteemed. So you guys are in good company. We are lucky that you are here.

I am going to mention the names of the witnesses, and the three who don't have Senators introducing them, I will say a few words about you. First, Dr. David Hill. Dr. Hill is a practicing pulmonary and critical care physician from Waterbury, Connecticut. Dr. Hill serves as chair of the Public Policy Committee of the American Lung Association, and sits on the American Lung Association Board of Directors. Thanks for all of that, and welcome.

The Secretary of the Maryland Department of the Environment, Serena McIlwain, will be introduced by the gentleman to my left, my colleague, as Barbara Mikulski used to say, my DelMarVa buddy. He is going to introduce you. Welcome, Ms. McIlwain.

Third, we are going to hear from the Director of Arizona's Department of Environmental Quality, that is Karen Peters. Nice to see you. Thank you for joining us.

Next, we will hear from the Executive Director of the Mississippi Department of Environmental Quality, Chris Wells, who I had to twist his arm to get Roger Wicker to introduce you, but he has finally agreed to do so.

[Laughter.]

Senator Carper. That is not true.

Last but not least, we will hear from Paul Noe, Vice President, Public Policy, for the American Forest and Paper Association. We

thank you all for appearing before our committee today. Thank you for the preparation for this hearing.

I am going to turn it over now to our colleague Senator Cardin, who is going to introduce Ms. McIlwain.

STATEMENT OF THE HONORABLE BENJAMIN L. CARDIN, A UNITED STATES SENATOR
FROM THE STATE OF MARYLAND

Senator Cardin. Thank you, Chairman Carper, for convening this hearing. I want to welcome Secretary Serena McIlwain, our new Secretary of Health in Maryland. She was recently appointed by Governor Moore, our new Governor in the State.

I do want to observe and acknowledge this is an esteemed panel. The last hearing we had, the last panel we had was made up of members of the Senate. And you didn't that that was an esteemed panel.

[Laughter.]

Senator Carper. But I did say that had real potential.

Senator Cardin. It is very appropriate that we have Secretary McIlwain here. Maryland has a very strong commitment to the environment. We recognize that our responsibilities go beyond our borders. So we are very pleased to have our principal person for the environment as one of our witnesses today.

We do believe we are good neighbors, we think we are good neighbors with Delaware and West Virginia. We work together on Chesapeake Bay issues. We are even good neighbors with Mississippi, with the Appalachian Regional Commission. So we do work together.

So let me just give you a very quick, impressive background about Secretary McIlwain. She was the Under Secretary of the California EPA. She was the Assistant Regional Administrator for EPA Region 9 in San Francisco, California. She holds two master's degrees, one a master's in public administration from George Mason University, and a master's in administration and international studies from Central

Michigan University. She is a key player in Maryland's contribution to clean air and water. I think it is very appropriate that she be one of our witnesses today.

Welcome, Secretary McIlwain.

[The prepared statement of Senator Cardin follows:]

Senator Carper. Did you grow up in Michigan?

Senator Cardin. In Virginia.

Senator Carper. Where?

Ms. McIlwain. In Old Town.

Senator Carper. All right. My sister and I grew up in Danville and Roanoke.

All right, now I think Senator Wicker is going to introduce one of our witnesses from his State. Senator Wicker?

STATEMENT OF THE HONORABLE ROGER WICKER, A UNITED STATES SENATOR FROM
THE STATE OF MISSISSIPPI

Senator Wicker. Thank you, Mr. Chairman. I very much appreciate the opportunity to introduce Chris Wells, Executive Director of the Mississippi Department of Environmental Quality. We are honored to have him here. He is a native of Brandon, Mississippi, and was appointed by our current Governor, Governor Reeves, to be Executive Director of the Mississippi Department of Environmental Quality, or MDEQ in October of 2020.

As the leader of MDEQ, Executive Director Wells is responsible for protecting the State's environment and administers most of the Environmental Protection Agency's programs within the State. He has extensive experience in the field of environmental compliance, and has been with MDEQ since 2007. Throughout his time with the State agency, he has provided legal support for environmental compliance and has also served as chief of staff.

In addition, Executive Director Wells serves as Mississippi's trustee for the Natural Resource Damage Assessment under the Oil Pollution Act. He represents the State on the Gulf Coast Ecosystem Restoration Council. He received his degree in chemical engineering from Mississippi State University, and his juris doctor from Mississippi College School of Law in 1999.

He has important perspectives to provide to the committee today. I might add, as an aside, I was so glad to hear our distinguished Chairman speak of upwind States having an effect on the downwind States. I would join the distinguished Ranking Member in saying I am

glad we are going to talk about common sense. Because Director Wells has the very difficult task of somehow understanding an EPA determination that ozone emissions coming from Mississippi somehow affect an upwind State of Texas, Dallas, Texas, and Houston, Texas, cities who, in and of themselves, have way more population than our entire State of less than three million.

It is as if Delaware were being blamed for ozone pollution in Cincinnati, Mr. Chairman, which I think any of us who have watched weather patterns over the years and watched the way the map works, we certainly realize that Cincinnati is upwind of Delaware, and Houston and Dallas, Texas are upwind of Mississippi. It is hard for us to grasp that somehow our relatively rural State is causing ozone problems for Dallas and Houston.

That is the conundrum that this distinguished witness will be discussing today. I am delighted that the committee has agreed to hear from him.

Thank you, sir.

[The prepared statement of Senator Wicker follows:]

Senator Carper. Thank you, Senator Wicker. My hope is that we will be guided by science here, and at the end of the day we will be better prepared to deal with these issues in a fair and thoughtful way.

With that, we will begin our witness testimony. Dr. Hill, please proceed with your statement. And again, welcome.

STATEMENT OF DAVID G. HILL, M.D., FCCP, CHAIR, PUBLIC COMMITTEE,
AMERICAN LUNG ASSOCIATION BOARD OF DIRECTORS

Dr. Hill. Thank you. Good morning, thank you, Senator Carper, and Ranking Member Capito and the committee for having me here today.

My name is Dr. David Hill. I am a practicing pulmonary and critical care physician in Waterbury, Connecticut. As mentioned, I am a member of the board of directors of the American Lung Association, and I chair its Public Policy Committee.

In my clinical practice, I see adults and children as young as six years of age with severe lung disease. In addition to testifying at this hearing today, I am joining more than 100 turquoise-clad lung cancer advocates, some of whom are in this room, who are meeting with their Senators and members of Congress on the Hill today.

Each April, the American Lung Association releases its State of the Air Report. In our 2022 report, we found that more than 122 million people lived in 156 counties that earned an F grade for ozone, including half of Connecticut's counties. My home county of New Haven earned a failing grade for ozone; our neighbor to the southwest, Fairfield County, has the dirtiest air for ozone pollution in the eastern United States.

So why is the air polluted in Connecticut? In Connecticut, we manufacture champion basketball teams.

Senator Carper. Don't rub it in. Your time may be limited here.

[Laughter.]

Dr. Hill. We don't have oil refineries, coal-fired power plants, or large petrochemical plants. We do have a huge burden of emissions

from the tailpipes of vehicles on our roads. The biggest challenge for Connecticut is our location. We live at the end of another tailpipe, one that brings pollution to us from upwind States. If you reference the EPA's map, all arrows point to Waterbury Hospital, where I practice.

Controlling the sources of pollution in Connecticut alone isn't enough to ensure our air is clean. We need the sources in all the upwind States to clean up their emissions. Our most persistent air pollutant is ozone. Ozone is a power lung irritant. It causes inflammation and can damage multiple body systems. It can also shorten lives.

Short-term exposure causes breathing problems such as chest tightness, coughing, and shortness of breath, and worsens the symptoms for patients with asthma and COPD. Long-term exposure can cause lasting harm to respiratory health.

Ozone exposure also increases the risk of metabolic disorders like diabetes, harms the central nervous system, causes reproductive and developmental harm, including pre-term birth and stillbirth, causes possible cardiovascular effects and leads to premature death.

We also know that air pollution disproportionately affects people of color and socially disadvantaged communities. We show in our 2022 State of the Air report that people of color were 61 percent more likely than white people to live in a county with a failing grade for at least one air pollutant. In my home county, 40 percent of the residents are people of color. Ozone pollution is driving health care disparities.

Last week, I met with a new patient, a 56-year-old marathon runner with allergic rhinitis and new onset asthma. He had moved to Connecticut from northern Vermont, and noted that since moving to our community, he was more short of breath even when exercising on flat ground. He attributed his symptoms to the noticeably worse local air quality. As a former middle school science teacher, he started monitoring air quality himself, so he could better manage his symptoms.

His air pollution story is a very common story among my patients. People in my State, and my patients in particular, are important beneficiaries of EPA's new Good Neighbor Rule. As a lung physician, I am frustrated that not all power plants and large industrial polluters are required to have effective nitrogen oxide controls. I am surprised that power plants don't always run their existing controls. It doesn't make sense to have life-saving effective pollution controls installed and simply turn them off. I am angry that this can occur legally on the hottest days and smoggiest days of the year.

Under the old rules, these plants can comply with their permits by not operating their controls. I am glad that the EPA's Good Neighbor Rule is going to require the installation of pollution controls and require the polluting facilities to run their controls. The Good Neighbor Rule reduces the health burden of ozone exposure. EPA projects that in 2026, the Good Neighbor Rule will prevent 1,300 premature deaths, avoid more than 2,300 hospital and emergency room visits, and cut asthma exacerbations by 1.3 million cases.

This rule is good news for my patients and everyone who lives

downwind from the 23 States who will become better neighbors. It is actually good news for everyone who breathes, because when you can't breathe, nothing else matters.

Thank you.

[The prepared statement of Dr. Hill follows:]

Senator Carper. Thank you very much, Dr. Hill, for that.

Senator Cardin, anything else you want to say about our next witness?

Senator Cardin. I was going to rebut Senator Wicker's comments, but I think I will allow the Secretary to testify.

Senator Carper. All right. Secretary McIlwain, please proceed.

STATEMENT OF SERENA McILWAIN, SECRETARY, MARYLAND DEPARTMENT OF THE ENVIRONMENT

Ms. McIlwain. Good morning, Chair Carper, Ranking Member Capito, Senator Cardin, and members of the Committee. My name is Serena McIlwain. I am the Secretary of the Maryland Department of the Environment, otherwise known as MDE.

Thank you for inviting me here today to discuss this important step by the Environmental Protection Agency to ensure that citizens of every State and every community in America enjoys clean air. Over the past 50 years, the Clean Air Act has benefited millions of Americans, largely through the Federal-State partnership embodied in that landmark environmental law.

While we have enjoyed great progress, interstate transport of air pollution is still a problem for many States, including Maryland. EPA's new Good Neighbor Rule is a significant step in the right direction to address ozone pollution that is carried by wind across State lines.

The State of Maryland, through Governor Moore's administration and MDE, strongly supports EPA's rule. We welcome the promise that its requirements, placed on Maryland as well as other States, will ensure that indeed, we all are good neighbors. Maryland takes its obligations as an upwind State very seriously. Under this rule, Maryland will continue to show leadership in addressing ozone pollution from our State that enters into the New York and Connecticut area downwind.

At the same time, Maryland will benefit from the pollution

reductions in the rule. Research shows that ozone levels in air entering Maryland from upwind States often already approach the health-based standard as it reaches our borders. That means the ozone concentration in our air will exceed the standard and threaten our citizens' health, no matter how well we are controlling our own pollution sources.

The rule requires immediate and long-term pollution reductions from power plants and certain industrial sources. The reductions resulting from the rule will improve air quality, saving lives and improving public health in communities across the Nation. Maryland agrees with EPA's analysis that the rule's proven, cost-effective measures will deliver cleaner air and substantial health benefits, which include prevention of premature deaths, reduced emergency room visits and hospital visits, reduced lost work and school days, and asthma symptoms in millions of Americans.

The rule also provides for a broad range of secondary benefits including improved visibility in national parks and increasing protection for sensitive ecosystems and coastal waterways, including the Chesapeake Bay.

This requires pollution reductions from all 23 States named in the rule, including Maryland. Maryland is a leader in effective and innovative air pollution control programs that have provided substantial pollution reductions both in our State and across State lines.

But the proven programs in place in Maryland are not in place in many other States that are named in this rule. That is not fair; it

is not just. So this rule fixes that. It will put the States on an equal footing. It requires other States to limit pollution from power plants and some industrial sources in a manner that is equally as stringent as the limits already implemented in Maryland and in other leadership States as well.

I don't want to say all of this to brag about the programs in Maryland, although it sounds like I am bragging, but I am demonstrating that it does show that the actions required under this EPA rule are already proven to work. They have been shown to be technically feasible and cost-effective, and it is a way to reduce pollution.

EPA's limits will increase equity between the States that have already incurred costs to reduce pollution and the States that have more cost-effective reductions left to achieve. In the end, it is critical for all of us to reduce our contributions to the unhealthy air that overburdened communities in downwind States are often forced to endure.

To be good neighbors. In closing, Maryland supports EPA's rule as a comprehensive and protective approach to addressing ozone pollution transport. The final rule is reasonable, it is achievable, it is equitable, and it brings much-needed pollution reductions for downwind States and overburdened communities.

Thank you for this opportunity to testify. I have provided more information in the written testimony. I look forward to the discussion. Thank you.

[The prepared statement of Ms. McIlwain follows:]

Senator Carper. We look forward to it as well. Thank you so much. Thanks for joining us.

When were you sworn into your post in Maryland?

Ms. McIlwain. About two weeks ago.

Senator Carper. Congratulations.

Ms. McIlwain. Thank you.

Senator Carper. I appreciate very much those comments, we appreciate very much those comments.

Now we are going to hear from Director Peters from Arizona. Where in Arizona are you from?

Ms. Peters. Phoenix, Arizona.

Senator Carper. We are glad you are here. Please proceed.

STATEMENT OF KAREN PETERS, DIRECTOR, ARIZONA DEPARTMENT OF
ENVIRONMENTAL QUALITY

Ms. Peters. Thank you, Mr. Chairman, members of the committee. My name is Karen Peters. I am the new Director of the Arizona Department of Environmental Quality, having been appointed by Governor Katie Hobbs.

I welcome the opportunity to testify on EPA's newly-adopted Good Neighbor Plan for the 2015 ozone National Ambient Air Quality Standards, or NAAQS. The Good Neighbor Rule is a key provision of the Clean Air Act, as it requires each State implementation plan, or SIP, to ensure that emissions from sources within their State do not contribute significantly to nonattainment or interfere with maintenance of the NAAQS in other States.

As I will explain, the ability of State and local governments to protect public health from the effects of ozone concentrations exceeding the NAAQS is limited. Programs such as the Good Neighbor Plan that provide a mechanism to address pollution originating outside a State's boundaries are therefore a crucial component of the effort to address ozone pollution.

One factor that restricts a State's ability to address ozone pollution is the limit on State regulatory jurisdiction imposed by the Clean Air Act. As we know, ozone is produced by the chemical reaction of oxides of nitrogen, or NOx, and volatile organic compounds, or VOCs, in the presence of sunlight which is abundant in my State of Arizona. In the Phoenix-Mesa ozone nonattainment area, motor vehicles and nonroad engines are responsible for approximately 50 percent of

the local emissions of VOC and 90 percent of the local emissions of NOx.

As you know, States other than California are preempted by the Clean Air Act from adopting emission standards for new motor vehicles or new or existing nonroad engines. Given these restrictions, Arizona has gone about as far as any State can in regulating emissions from mobile sources. The State was an early adopter of a vehicle inspection and maintenance program to reduce emissions from existing motor vehicles. And in 1998, the State obtained a waiver from Federal preemption for its clean burning gasoline program. We were fortunate to do so before 2005 amendments to the Clean Air Act sharply curtailed EPA's authority to grant waivers and made adoption of such programs all but impossible.

Since the implementation of these measures, in order to address ground level ozone, Arizona and its local government partners have had to focus primarily on local industrial sources, but I think it is fair to say we have reached the point of diminishing returns.

The Phoenix-Mesa area has a long history with the ozone problem. The area was classified as a moderate nonattainment area for the one-hour NAAQS after enactment of the Clean Air Act Amendments of 1990. The NAAQS, of course, have been amended three times since then in 1997, 2008, and 2015. Because an old nonattainment designation is not revoked until it is attained, the area at one point found itself classified as serious nonattainment for the one-hour NAAQS and at the same time in moderate nonattainment for the 1997 eight-hour standard. The area later attained both those NAAQS but is currently a moderate

nonattainment area for both the 2008 and 2015 ozone NAAQS.

Every nonattainment designation and reclassification requires submission of a new nonattainment plan. With the exception of a marginal area plan, every nonattainment plan must provide for emission reductions leading to attainment and for annual emission reductions until attainment is reached. Arizona has been through so many iterations of this process that there are very few, if any, remaining emission reductions available from the Phoenix-Mesa industrial sector.

Without continued action by EPA to achieve additional reductions from vehicles and nonroad engines, there is little chance that Phoenix-Mesa will attain healthy air.

I am pleased that Senator Capito recognized the unique position that Arizona is in. Another factor that restricts the ability of a State to attain the NAAQS on its own is that ozone pollution travels. Recognition of this fact lies at the heart of the Good Neighbor provision. In the Phoenix-Mesa nonattainment area, for example, only 40 percent of ozone concentrations are attributable to in-State anthropogenic sources of VOC and NOx. About 6 percent is attributable to anthropogenic sources in neighboring States, and about 2 percent to sources in Mexico. The remainder is attributable to natural background and other international and interstate sources.

These circumstances will make it extremely difficult, if not impossible, to achieve the ozone NAAQS in the Phoenix-Mesa area without programs such as the Good Neighbor Plan. But the situation is even more dire in Yuma, Arizona, a city in southwestern Arizona near the California border with a population of less than 100,000 people.

Yuma was designated as a nonattainment area for the 2015 ozone NAAQS in 2018 and classified as marginal.

Statewide emissions account for only 10 percent of ozone concentrations in Yuma. Local emissions of NOx and VOCs are negligible. So there is virtually nothing that can be done in terms of local emission reductions to reduce ozone pollution in the Yuma nonattainment area.

Yet the enhanced controls that come with nonattainment status apply, imposing costs on businesses and likely limiting opportunities for economic growth. If the ozone standard were to be revised downward, other areas of Arizona, including rural areas, would likely find themselves in Yuma's predicament. The average monitored values used to determine compliance with the NAAQS, for the Arizona monitors, is only 3 to 8 parts per billion below the current 70 parts per billion NAAQS. The margin for compliance throughout our State is very slim.

Fortunately, Yuma monitors showed attainment with the 2015 standard by the marginal area deadline of 2021. But the modeling included in the Good Neighbor Plan shows that the upwind regional reductions included in the plan are the key to keeping the area from falling back into nonattainment in the future.

I appreciate the opportunity to share that experience with you and look forward to the discussion.

[The prepared statement of Ms. Peters follows:]

Senator Carper. Thanks so much for joining us, and good luck to you in your post.

We are now going to hear from Director Wells. Director Wells, delighted to meet you. Please proceed.

STATEMENT OF CHRIS WELLS, EXECUTIVE DIRECTOR, MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

Mr. Wells. Thank you, Chairman Carper, and Ranking Member Capito, for the invitation to be here today. Senator Wicker, thank you for the kind introduction earlier, and thank you for your leadership and representation of our great State.

I am here today with a heavy heart for my fellow Mississippians who were impacted by the devastating tornadoes over the weekend. My prayers are with them.

Senator Carper. Let me interrupt to say that our prayers are with you, Roger, and with your constituents. I can't imagine how hard that is.

Mr. Wells. Thank you. I will refer the committee members to the written testimony that I submitted prior to today's hearing for detailed comments. I wanted to spend or take what little time I have today to kind of focus on some key points.

Mississippians have a proud heritage of enjoying the outdoors, and our beautiful natural resources. We enjoy clean air; we enjoy clean water. The Mississippi Department of Environmental Quality, my agency, we work hard every day to protect those natural resources.

We also recognize that with air in particular, air does not respect the lines drawn on a map. Accordingly, we take our good neighbor obligations under the Clean Air Act seriously.

However, the way EPA has handled this matter not only turned the Clean Air Act on its head but also resulted in the imposition of emissions reductions that are unnecessarily stringent and

disproportionate to Mississippi's alleged downwind impacts to air quality. It is important to keep in mind how the Clean Air Act was structured by Congress and how it is supposed to work. EPA in the first instance has the responsibility to set National Ambient Air Quality Standards and in the context of the Good Neighbor provision, to determine if a State is impacting air quality in another State.

It is the States that are then given the prerogative and the right to establish through its State Implementation Plan how it will meet those standards and how it will address those downwind impacts, if any. And we did just that in this case. We followed EPA's own guidance and information available to us at the time. We submitted what we believed then and we still believe now was an approvable SIP in 2019.

Instead of approving the SIP, EPA sat on it for two and a half years. Then they denied it, based on information and modeling and purported downwind impacts that were not available to us when we developed our SIP. Instead of giving us a reasonable opportunity to evaluate and critique the modeling and to modify our SIP if necessary to try to address our alleged downwind impacts, and signing self-imposed deadlines established through what I can only assume was some kind of sue and settle arrangement with environmental groups, EPA denied the SIP and imposed this FIP. That is not the process that Congress laid out in the Clean Air Act.

As to the modeling in particular, as Senator Wicker alluded to earlier, I will put a little finer point on it. I am not a meteorologist, I don't pretend to be one. I have watched the ones

that are on TV. And I know that whatever happens in Dallas weather-wise hits us about a day or two later, meaning that our weather comes from Texas, not the other way around.

But you know, that is really kind of the problem. The modeling effort, the modeling process is very complex. It involves a lot of uncertainty. The EPA has acknowledged that uncertainty in the final rule.

We simply are not convinced that we have an actual impact to Texas air quality. The process that EPA followed here did not afford us the opportunity that we should have been given to really evaluate that modeling.

But let's set that aside and let's say for argument's sake that the modeling is accurate, which is a leap of faith, given the fact that EPA continued to tweak the modeling, even after the denial of the SIP. They got varying results right up until the time that they issued the FIP.

The process that EPA should have followed as dictated by the Clean Air Act would have allowed Mississippi to determine what emissions reductions and by which facilities would meet our obligations as good neighbors. Instead, EPA imposed requirements that we believe are more stringent than what would be required to address our purported downwind impacts.

One thing I want to be clear about is I am not here trying to avoid Mississippi's Good Neighbor obligations. We want healthy air for all. If we are impacting another State's air quality, we will do what is required. However, we should have in this case, number one,

been given a reasonable opportunity to critique the modeling and to ensure some level of certainty regarding our purported downwind impacts, and/or we should have been given the opportunity to modify our State Implementation Plan before having EPA's judgment substituted for our own.

Again, thank you for the opportunity. I look forward to the discussion.

[The prepared statement of Mr. Wells follows:]

Senator Carper. Director Wells, thank you very much for joining us. Thanks very much for your testimony.

Now we are going to hear from Mr. Noe. Mr. Noe, please proceed. Thank you for coming today.

STATEMENT OF PAUL NOE, VICE PRESIDENT, PUBLIC POLICY, AMERICAN FOREST
AND PAPER ASSOCIATION

Mr. Noe. Thank you, Chairman Carper, and Ranking Member Capito, and distinguished members of the committee. Thank you so much for hearing our concerns about EPA's Good Neighbor Plan.

AF&PA represents manufacturers of paper products made in the United States. Our forest products industry employes about 925,000 hard-working people producing 5 percent of our Nation's GDP. Paper products support sustainable living. Paper mills support the American workforce, and they produce carbon-neutral bioenergy and support our recycling. The paper industry works hard every day to be a good neighbor in communities large and small.

Our goal is sustainable regulation that satisfies legal requirements and supports environmental and economic progress. Congress enacted the Clean Air Act to enhance air quality with dual purposes, to promote public health and welfare and the productive capacity of our Nation. Unfortunately, we don't think that the Good Neighbor Plan, and especially our inclusion in it, meets that goal.

AF&PA has a long track record of working with EPA. We recognize that all Americans benefit when EPA crafts sustainable rules. For example, during the Obama Administration, EPA proposed an unachievable boiler MACT rule. But EPA engaged stakeholders, and EPA listened. We defended EPA's final rule in court. Our industry could go on and compete in our highly competitive global marketplace.

By stark contrast, the Good Neighbor Plan rulemaking process felt rushed and broke down. First, EPA erred in concluding that paper

boilers, as a group, met EPA's emissions threshold by significantly impacted ten nonattainment areas. Second, EPA incorrectly concluded that our industry could reduce NOx emissions below its \$7,500 per ton threshold, claiming that our cost was \$3,800 per ton. The real cost is ten times higher.

In the final rule, EPA bypassed these errors by moving the goalposts. They lumped our industry together with all the others, and they claim as a whole the non-utility industries can install cost-effective controls and meet the limits.

But EPA made unrealistic technology assumptions. EPA implies that selective catalytic reduction is a proven technology for boilers, for our boilers. And it is not. In trying to make SCR work would actually increase our greenhouse gas emissions by 166,000 tons annually. That is over the emissions of 35,000 gasoline powered cars.

The paper industry can continue to be a leader in sustainable manufacturing. Our mills have reduced their NOx emissions by 50 percent since 2000. Our goal is to cut our greenhouse gas emissions in half by 2030, which aligns with President Biden's goals.

EPA offers a vague promise of a case by case alternative if a facility can prove technical impossibility or extreme economic hardship. This converts a Congressionally-granted authority to consider costs and promote the productive capacity of our Nation into an impossibility standard. It is vague, and it is unfair.

After compliance costs of almost \$14 billion, the final rule will not result in a single nonattainment coming into compliance. The Good Neighbor Plan is not a sustainable regulation. This is only the tip

of the iceberg.

An enormous cumulative regulatory challenge now faces the U.S. manufacturing sector. Many rulemakings disregard costs and unintended outcomes and stray beyond the bounds of the law. I am deeply concerned that an undisciplined regulatory deluge threatens high-paying union jobs, especially in rural America. This comes just as our Country is trying to encourage on-shoring of essential manufacturing industries, including our own. We must change this trajectory. It threatens United States' manufacturing, including our forest products industry.

Ultimately, it threatens the American worker, men and women in high-paying, high-skilled manufacturing jobs, both rural and urban, red and blue States. These are proud, hard-working people who only ask for the right to compete. Our goal should be sustainable regulation. This requires bipartisan work. We must keep and create sustainable manufacturing jobs in America. There is no better place for a robust manufacturing sector.

Thank you for the opportunity to be heard. I look forward to your questions.

[The prepared statement of Mr. Noe follows:]

Senator Carper. Thanks for those comments.

This is a committee that is pretty good at finding the middle, a committee that is pretty good at bipartisan solutions. We believe that bipartisan solutions are lasting solutions. We are a committee that likes working together. We are still going to work on this, we are going to work with the States, we are going to work with EPA until we get to the right place.

I am going to telegraph my pitch. Baseball season is about to get underway. Ben and I are huge fans, he is an Orioles fan, I am a Tigers fan. Others in the room probably have their own teams. In baseball they have a saying about a pitcher who, by the way they deliver their pitch, hold the baseball, they telegraph their pitch so the hitters know what is coming. So I am going to telegraph my pitch.

The last question I am going to ask at the end of this hearing of all of you will be, where do you think the consensus lies. Whatever State you happen to be from, where do you think the consensus lies. So just know that that is coming, and that will give you something to look forward to.

Before I recognize Senator Capito for her questions, let me ask a couple of questions. I want to start off with Secretary McIlwain and Dr. Hill. The question deals with economic costs for downwind States.

As you know, when EPA issued the Good Neighbor Rule earlier this month, we heard some complaints about the economic burdens these new emissions reductions would have on downwind States. We know that downwind States have long paid the health and economic costs of upwind pollution.

Briefly explain if you will, Secretary McIlwain, Dr. Hill, briefly explain to us the health and economic burdens on downwind States when there is a lack of cooperation and investment by upwind States. In your answer, please explain how the Good Neighbor Rule helps to alleviate some of those burdens on downwind States. Secretary McIlwain, then Dr. Hill.

Ms. McIlwain. Thank you. When we are not being good neighbors downwind States are exposed to ozone pollution. So it does cause and create serious health concerns. You have parents who are not allowed to go to work because they have sick children who were playing outside. You have parents calling into work. So when your family is sick all the time because of pollution, that creates health care costs.

With this rule, it is reducing health care and those economic burdens. Because it is requiring that the power plants use the controls, most of them have them already, use those controls and turn them on. As a result, it reduces ozone pollution.

EPA's analysis, it proves that the benefits of pollution reduction outweighs the cost.

Dr. Hill. I spoke during my testimony in detail about the health effects of air pollution. In listening to the other testimony here, I believe all the panelists recognize that ozone is a harmful pollutant, particularly in terms of its respiratory effects. As I understand the Good Neighbor Rule, it is going to require that power plants and industrial polluters install and operate effective nitrogen oxide controls during ozone season. This means that air pollution coming to

my downwind State is going to be lessened. That is good news for my patients who suffer from chronic lung disease.

Two-thirds of the cost of caring for chronic obstructive pulmonary disease in this Country has to do with acute exacerbations, patients going to emergency rooms and being hospitalized. A significant burden of the cost of asthma is also for acute deterioration. This makes the patient sicker over time.

The Good Neighbor Rule will reduce the health burdens. EPA has projected that it will prevent premature deaths, that it will avoid hospitalizations, that it will cut asthma exacerbations. School absences will be decreased by over 400,000, and when kids miss school, parents miss work. Over 25,000 lost work days will be avoided. So there will be significant health care and economic benefits by instituting the rule.

Senator Carper. Thank you for that response.

Let me ask Ms. Peters, I am going to ask you for a follow-up. Same question, without the Good Neighbor Rule and other Federal policies to help reduce cross-State smog pollution, would Arizona be forced to make more costly emission reductions within the State to meet air pollution standards? If the answer is yes, would you explain why?

Ms. Peters. Thank you, Mr. Chairman. The answer is yes. If we don't have controls such as the Good Neighbor Rule, our local emissions sources, our local industrial emissions sources are those that would feel the brunt of new controls. I will give you an example of that. In the Phoenix-Mesa area, we are in the midst of preparing a

SIP because of a redesignation to moderate nonattainment status. In the discussions about that SIP, one of the things that is being discussed is implementing exactly the controls that are called for here in the Good Neighbor Rule, but on much smaller sources, boilers and smaller EGUs than this rule would control.

So you can see that the squeeze on local industrial sources from upwind emissions is causing our areas very much more than they ordinarily would. I would also point back to Yuma, where the local emissions are so negligible that there is really none to reduce. So what will be required there is likely to be very costly and difficult.

Senator Carper. Thank you. Most people know what a SIP is. Tell us what an EGU is.

Ms. Peters. That is an Electric Generating Unit, power plants.

Senator Carper. If we learn nothing else today, we have learned that.

Ms. Peters. I just learned it recently.

Senator Carper. Senator Capito?

Senator Capito. Thank you, Mr. Chairman. Thank all of you.

Director Wells, the Clean Air Act is built on the principle of cooperative federalism, where you work together. We have three State regulators here who know their States very well, know the different regions, and know the different impacts of all kinds of environmental impacts and other impacts.

Normally, when you are developing a State Implementation Plan, do you get, in your written testimony you say basically that the EPA air quality, the head of EPA's Air Quality policy division basically said,

I don't care what you write, you are not going to get there. Was that the message that was received by Mississippi? Is that the norm when you are developing your own State Implementation Plan to be able to meet the Good Neighbor Rule challenges?

Mr. Wells. I think that, I included that in my testimony because I think it was a candid admission on the part of EPA that they were hell-bent on imposing this rule without the typical cooperative federalism approach that is taken.

As I alluded to, we put together what we thought was an approvable SIP based on information that we had at the time. EPA changed the rules on us after the game was started. That was the problem. So typically, yes, we would have an opportunity to reach a consensus, if you will, on what the modeling should say or what the impacts might be or really are. And then let's address it, once we have a common understanding.

Senator Capito. Ms. Peters, was your State Implementation Plan rejected as well?

Ms. Peters. Thank you, Mr. Chairman, Ranking Member Capito. We are awaiting a final determination from the EPA.

Senator Capito. How long have you had that in?

Ms. Peters. I would have to get back to you on that. I am not exactly sure.

Senator Capito. I know there is a time window that it is supposed to be met.

Mr. Noe, we talk about social costs of carbon, we talk about pollutants and sometimes it is difficult, I think, to understand how

some of these calculations are being made. I guess I would say, as the representative sort of industrial resources, you have 90,000 people that work in your industry, is that what you said?

Mr. Noe. Nine hundred and twenty-five thousand.

Senator Capito. Oh, I dropped a zero there. Sorry about that. That is a big difference.

Mr. Noe. Let's not do that.

Senator Capito. Let's not do that.

[Laughter.]

Senator Capito. I heard the nine. Anyway, how do you envision, most of the paper mills and everything in my State, they are smaller companies, many of them family-owned, they have been in business for a long time, or at least the ones that are, they are not the large paper mills, they are getting the lumber ready for the paper mills, preparations. How are people going to be able to, number one, interpret this, but also to meet those challenges, to put the anti-pollutant devices on, in and around your factories? What is the calculation of the cost? Fourteen billion dollars for the whole rule, but for a paper mill, for instance.

Mr. Noe. Thank you for the question, Senator Capito. I guess I would say, you raise a lot of very important points, which is, our industry, to be successful, has to compete in a highly competitive global marketplace. We don't dispute at all the issue that we are and will continue to be a heavily regulated industry. We have cut our NOx emissions by 50 percent under nine other EPA rules and programs.

Senator Capito. And I assume you would continue doing that?

Mr. Noe. We will continue to make progress.

Senator Capito. Right.

Mr. Noe. And that is our goal. But it is so critical to the point the Chairman raised, both of you, that we have to have balance, we have to have common sense here. In the case of this rule, there are a number of problems with its application to our industry. There were a number of EPA errors about our industry which we tried to correct and frankly, were ignored.

But let me tell you just one fundamental one. I think we could all agree that industry should be proven technologies. That is what EPA said was happening here. But in our case, the technology, selective catalytic reduction just isn't proven for our industry. They made a mistake in that regard. And that is a fundamental mistake.

So that is what we are here for, is common sense. So I embrace both what the Chairman and you said about that, Senator. I thank you for the opportunity to be heard on that.

Senator Capito. Thank you.

Senator Carper. Senator Cardin.

Senator Cardin. Thank you, Mr. Chairman. Let me thank all of our witnesses.

Mr. Wells, I agree with you, process is important. I appreciate your testimony.

There is a challenge whenever we go from one Administration to another in doing the adjustments. I know the Administration tries to get it right. But I think your points are very powerful and something

that we will certainly be following up on.

The Federal Government, as you acknowledge, has the responsibility under the Clean Air Act to make sure that we achieve what science tells us we can achieve in a cost-effective manner. That is the Federal Government's responsibility under the Clean Air Act. Our States are doing their responsible actions. But because of the downwind issues, we are dependent upon what other States are doing in order to reach our attainment areas.

So when I look at the State of Maryland, which is included in this rule, I find that in the Baltimore area, just about every one of our counties are nonattainment areas because of downwind issues. In the Washington area, every one of our counties are nonattainment because of downwind problems. By the way, Mr. Chairman, the Wilmington area, Cecil County, is a nonattainment area because of downwind issues.

These are areas that we cannot control in Maryland in order to reach the attainment. When you listen to Dr. Hill's testimony and you look at the science, non-attainment has major consequences. So science tell us we can get there. I think that Secretary McIlwain's testimony about proven technologies that have been demonstrated in States that can achieve these reductions in a cost-effective manner that we need to find, as Chairman Carper says, the sweet spot as to how we can move forward on the Good Neighbor issues.

So I hope that we can find that during this process. I think this hearing has been very helpful.

I want to add one more dimension to this before I get to the cost

issues. We have been talking about the costs of dirty air from the point of view of our health care system. Representing the State of Maryland, I am going to bring up the Chesapeake Bay. That is not going to be a surprise to anybody on this committee. I bring it up at just about every hearing. I have been at many meetings on trying to reach our goals on the Chesapeake Bay watershed, and am told that one of the major areas that we have not been able to deal with is air pollutants coming into the Bay.

That has very costly consequences, which I don't believe have been calculated in the cost benefit analysis. I think it has been more dealing with direct health issues related to pollutants. So it goes beyond just the public health issues that have been brought up today.

Mr. Chairman, as I understand it, the cost benefit analysis shows like a \$13 billion annual cost by the Good Neighbor Rule. This seems like science is telling us we can achieve this and there is a huge cost benefit. Mr. Noe, I appreciate your concerns, and if the technology is wrong, we should correct that technology. I agree with you completely on that. But we have to find that sweet spot, because the risk factors to our population and the cost factors to our population indicate that the Federal Government today is not carrying out its responsibility to make sure that we implement these issues.

So I want to give my Secretary an opportunity to talk a little bit about the other impacts that this has. Dr. Hill has done a really effective job in regard to public health. Talk a little bit about the other environmental risks that we have as a result of the

nonattainment areas in Maryland.

Ms. McIlwain. Well, you mentioned the Chesapeake Bay, so I will talk about that just quickly. Air quality and water quality, they go hand in hand. So when we are trying to control nitrogen oxide pollution in the air, we are controlling the water as well. I just wanted to make sure I made that connection.

Just to continue on the Chesapeake Bay, one-third of the nitrogen pollution that is in the Chesapeake Bay comes from atmospheric deposition from the air that drops into the water. So this rule helps us with our goals in Maryland to restore the Chesapeake Bay.

The health benefits, you named them very well. Again, you have families who are impacted by this pollution that is coming from upwind States. This rule will help us to control that and reduce costs and reduce health.

Senator Cardin. Let me just underscore for everyone's benefit. The nitrogen levels in the Bay are critically important to achieving our goals. We have dead zones, we have so many areas that are impacted, the vegetation issues. All of that is impacted by the amount of pollutants that come into the Bay. One-third is coming from airborne. So I just want people to recognize that. We talk about the Chesapeake Bay and protections, we talk about farmers, and we talk about how we handle our wastewater and how we handle development and all those issues. We also need to be talking about clean air.

Thank you, Mr. Chairman.

Senator Carper. Thank you, Senator Cardin.

We have been joined by one of our colleagues from Wyoming,

Senator Lummis. Delighted to see you. Please proceed.

Senator Lummis. Thank you, Mr. Chairman. Thank you, witnesses, for being here and discussing this consequential interstate transport rule.

According to the regulatory impact analysis, the final rule is anticipated to close more than 14,000 megawatts generated by coal-fired power plants. Now, let me state this clearly. The premature forced closure of coal-fired power plants in this Nation is a danger to American energy security and grid reliability. This rule and other regulatory actions taken by the EPA cripple our ability to provide affordable, reliable baseload energy to power our Nation.

For this reason alone, not to mention the 90,000 direct coal-mining jobs in 26 States, including Arizona, Oregon, and Pennsylvania, just to name a few, this Administration must reverse course.

Now to my questions. Director Wells, in the proposed rule, in the final EPA rule, EPA included a provision called dynamic budgeting. This provision would have EPA adjusting each State's emission budget in the future years to ratchet down the amount of emissions that power generators could use to comply with the rule, eventually driving more and more sources to tighter and tighter emissions limits, or toward closure.

EPA received comments that the dynamic budgeting made the proposed rule overly stringent, more so than what was needed to ensure downwind State compliance with the National Ambient Air Quality Standards, and that dynamic budgeting was effectively generation shifting. The Supreme Court in the case of West Virginia v. EPA

invalidated the Clean Power Plan because of its reliance on generation shifting.

So, how is generation shifting now okay in this Cross-State Air Pollution Rule, and how is the continued forcing of more and more stringent emission limits not over control?

Mr. Wells. Senator, thank you for the question. I think you are exactly right, that the problem is in the uncertainty, not only in terms of the controls and the emission reductions that a particular facility might have to deal with, but also the uncertainty in just how the initial emission reductions were set by the rule. I think that is one of the main problems that we have with the rule, is that we have not had an opportunity to really evaluate whether or not a State like Mississippi is actually having an impact, and whether the facilities in our State are actually having an impact on air quality elsewhere.

And to force the early retirement of equipment and facilities before, the retirements of those facilities is planned for a reason, it is so the grid can be, and we don't regulate, I am getting a little bit out of my lane, which EPA is not afraid to do, but I am not an energy regulator. But I know that the people that will have to bear the costs of the early retirement of those facilities are the folks that are some of the same folks that others are concerned about in terms of their health. We are concerned about everybody's health.

So the costs that we talk a lot about, there is a lot of costs involved there that have to be considered, not just the purported health costs of a contribution to air quality that is not even certain that Mississippi is causing.

Senator Lummis. So if you plan to retire baseload, and then retire it earlier, before a replacement source of baseload energy is identified to replace it, what happens?

Mr. Wells. Well, the grid becomes unreliable.

Senator Lummis. There you go.

Mr. Wells. Electricity becomes unreliable.

Senator Lummis. Thank you. One more question. Mr. Noe, as you shared in your testimony, while the EPA does the work to write the rules, it is the regulated community that does the work to actually reduce the emissions.

How has the EPA changing the goalposts throughout this process impacted the ability of the regulated community to make meaningful improvement to our air and environment?

Mr. Noe. Thank you for the question, Senator. As we said, our goal is sustainable regulation. I love what Chairman Carper said, we need common sense to work here. So we need regulations that are achievable. When we brought the EPA's attention to the fact that, look, in your proposed rule you had two thresholds, are you a significant emissions contributor and do you have cost-effective reductions and the proven technologies to get you there. We said, look, you are mistaken on all of those issues. And yet the final rule has us in a situation where we in theory would be required to put a technology in our facilities that has never been proven to us. And that is in direct contrast to what EPA said in their fact sheet, which is, this rule relies on proven, cost-effective technologies.

There are other industries where this technology is proven. I

want to make that clear. But it is not for us. So we just want to achieve what Chairman Carper said, let's have common sense. We want rules that work. We have many, many rules we comply with, and we work with EPA all the time on making sure that the rules they produce are achievable and are going to be successful. That is key.

Senator Lummis. Thank you. I really, really appreciate it.

Thank you all, witnesses. We appreciate your being here. Thank you, Mr. Chairman.

Senator Carper. We appreciate your being here and raising all those questions. You are going to be followed by Senator Kelly, and if no one else pops up, Senator Ricketts, you will be next after Senator Kelly.

Senator Kelly, welcome.

Senator Kelly. Thank you, Mr. Chairman.

Before I start my questions, I wanted to give a warm welcome to the brand new Director of the Arizona Department of Environmental Quality, Karen Peters. Thank you, all of you, for being here.

Director Peters previously served as the Deputy City Manager for the City of Phoenix, and has worked on environmental and water policies in Arizona for more than 30 years. I am grateful for her willingness to serve in this new role, and look forward to working with her in the months and years to come. I am especially grateful that she is joining us today.

The Good Neighbor Rule is important to Arizona. As I have discussed in this committee before, many parts of Arizona are designated as nonattainment areas for ozone pollution. One of those

areas is Yuma County, which borders California to the west and Mexico to the south. Because the air exceeds EPA's air quality standards for ozone, there are limits imposed on the region's economic growth.

But Director Peters, how much of Yuma's ozone concentrations are caused by emission sources within Yuma County as opposed to emission sources from Mexico and California?

Ms. Peters. Thank you, Mr. Chairman, and Senator Kelly, for the welcome. I want to reiterate that Yuma nonattainment area for ozone is in a very unique situation. Statewide emissions, not just in Yuma County, but statewide emissions of VOC and NOx account for only 10 percent of the ozone concentrations in Yuma.

So what does Yuma itself contribute to this problem? It is negligible. NOx and VOC emissions in Yuma are virtually none.

Senator Kelly. So to summarize here, 90 percent comes from Mexico and California, 10 percent comes from somewhere within Arizona, but basically nothing comes from Yuma County.

Ms. Peters. Thank you, Senator Kelly. I don't think I could accurately state that 90 percent comes from California and Mexico. There are a lot of other natural background and other international sources that contribute to the problem. But certainly, it is very significant from California.

Senator Kelly. But the majority comes from outside the State?

Ms. Peters. Absolutely, the majority comes from out of State. That is correct.

Senator Kelly. So how will EPA's actions like the Good Neighbor Rule help ensure that Yuma isn't held accountable for emissions that

they have zero control over?

Ms. Peters. Thank you, Mr. Chairman, Senator Kelly. The Good Neighbor Rule is essential for Yuma to stay out of nonattainment. They recently were declared in attainment, which is a happy accident, and we are very pleased that that has occurred.

Senator Kelly. What was the accident that caused that to occur?

Ms. Peters. Just that they were able to maintain attainment for the three-year period.

Senator Kelly. They were under the limits?

Ms. Peters. They did attain the standard, and were designated to be in an attainment very recently. But because Yuma has no control over the emissions that come into its area, it is very likely that without the Good Neighbor Rule or other controls on interstate transport of ozone precursors, they will go right back and those nonattainment restrictions on economic activity will return.

Senator Kelly. What do we do about that?

Ms. Peters. Thank you, Senator Kelly. I think what we do about that, unfortunately, if we are declared to be in nonattainment, we have to look to local emissions sources which are negligible.

Senator Kelly. Why would we even look? If we already know that it contributes almost nothing to the problem, and the problem comes from somewhere else, we either have to fix the problem somewhere else or we have to come up with the rationale to allow them to achieve their economic growth goals.

Ms. Peters. Thank you. So, earlier, I did mention that the States are preempted from emissions standards on new motor vehicles

and on-road engines. So to the extent that we have additional controls in that area, that could absolutely help Yuma. It would help also if EPA could help with international transport of ozone.

So there are things that can be done, but they are not things that are within the State and local jurisdiction.

Senator Kelly. Okay, thank you. I am out of time, but my office will follow up some more on this. We want to get to a point where Yuma can achieve its goals and not be penalized by what is happening outside of its control.

Then, Mr. Chairman, I want to submit another similar question about Maricopa County for the record.

Senator Carper. Without objection.

[The referenced information follows:]

Senator Kelly. Thank you.

Senator Carper. Senator Kelly, thanks for joining us today.

Thanks for inviting Ms. Peters to join us as well.

Senator Lummis. Mr. Chairman, may I ask a question of Senator Kelly and his witness while they are here?

If you are able to determine or whether EPA --

Senator Carper. Let me just ask, Senator Kelly, can you stay?

Senator Kelly. Yes.

Senator Carper. Okay.

Senator Lummis. If either of you or the EPA is able to help us understand whether some of that pollution is coming from China, which is building coal-fired power plants without the same environmental controls that the U.S. has, and they are building them like crazy, I think that would be very helpful information.

Senator Kelly. Senator Lummis, I am sure some of it is. I have flown around this planet from an altitude of above 200 miles 853 times. It is remarkable what you can see from Earth orbit. You can see sand from the Sahara being blown across the Atlantic Ocean, you can visibly see it. You can see pollution from China winding up in other countries, very clear.

Now, to quantify exactly how much that is, I think that is more complicated. But I imagine the EPA has looked into this. My guess is it is substantial.

Senator Carper. Yes.

Senator Lummis. Thank you, Senator Kelly. It is great to have your perspective from space on this. Truly, truly fascinating. Thank

you.

Thank you, Mr. Chairman.

Senator Carper. He was out of this world.

[Laughter.]

Senator Carper. One of my favorite songs, one hit wonder, Thomas Dolby, She Blinded Me with Science. I see some people nodding in the audience. We need to be not blinded by science, we need to be guided by science, and hopefully in this regard we will be.

Thanks for that exchange you had with Senator Kelly.

Okay, I think I am going to do a UC, Senator Ricketts, then I will turn right to you. I want to ask unanimous consent to enter into the record a March 2023 fact sheet by the Environmental Protection Agency. It is titled The Good Neighbor Plan and Reliable Electricity. This fact sheet describes how in crafting the final Good Neighbor Rule the EPA made several adjustments in the proposed emission reduction requirements for power plants. These changes reflect input received from grid operators across the Country and other stakeholders to ensure that the power sector can continue to deliver reliable electricity while also achieving cleaner and healthier air.

I ask unanimous consent. Without objection, so ordered.

[The referenced information follows:]

Senator Carper. Senator Ricketts, you are on.

Senator Ricketts. Thank you very much, Chairman Carper. I appreciate it. I want to thank our witnesses for joining us here today. Certainly, Director Wells, again, my condolences on the tornadoes in Mississippi. Nebraska suffers those as well. So we can understand how devastating those can be. Know that Mississippi is in our thoughts and prayers.

One of the things that I heard today is, how we are implementing the Clean Air Act. I don't think anybody is arguing the Clean Air Act is something that we ought to do away with, that we all want to have clean air. In fact, Nebraska, according to U.S. News and World Report, has the sixth best natural environment. We are not actually subject to the Good Neighbor Rule right now.

But I am concerned about when the EPA is implementing these rules how it is being done, not only because we there are ramifications for how they do these things, but also I think it just undermines people's faith in government, that if the EPA isn't doing a good job and doesn't seem to be reasonable and is not following good processes, I think Senator Cardin mentioned, that it just kind of undermines everybody's belief that the Government can actually work in rule of law. I think that is harmful to our Republic in general.

One of the things I would like to do is ask unanimous consent to enter into the record a letter I sent along with six other governors to the Southwest Power Pool regarding our concerns about the premature closures of gas- and coal-fired generation, kind of along the lines of what Senator Lummis was talking about.

Senator Carper. I object.

[Laughter.]

Senator Carper. We never object to this stuff. Go ahead. We don't object.

[The referenced information follows:]

Senator Ricketts. Thank you very much. Because it says in my script here you are supposed to say, "without objection."

[Laughter.]

Senator Carper. Well, I was close. You got the point.

Senator Ricketts. Thank you very much. So I am concerned about some of the consequences here, of what would happen if we do have a bad rule, especially if the EPA is not approving any State Implementation Plans, it seems to suggest that there is something broken in the system.

Mr. Wells, I would like to start with you. With electricity rates likely to rise from this rulemaking, what is your level of concern for consumers that struggle to keep up with increasing prices? Over the last two years, energy prices alone are up 37 percent. I know you are not an energy regulator, you are environmental quality. But what are your thoughts?

Mr. Wells. First of all, I have had the pleasure of experiencing that natural beauty of your State. I hope to get back soon.

Senator Ricketts. Are you a turkey hunter, by any chance?

Mr. Wells. Absolutely.

Senator Ricketts. You have a great barber, and you are a turkey hunter.

Mr. Wells. How did you guess?

I would say that I am very concerned. I think the cost of everything keeps hitting us all, the increasing costs of everything. Any time you inject additional uncertainty the way this rule would do that exacerbates that problem.

Senator Ricketts. So this rule is intended to speed the transition away from fossil electricity production. What level of concern do you have with regard to grid reliability?

Mr. Wells. Repeat the last part?

Senator Ricketts. The grid reliability.

Mr. Wells. Oh, very much. As we discussed with Senator Lummis, I think that any time you inject uncertainty into that power generation industry with the regulatory burden that that industry already suffers and couple that with the fact that technology on other fronts and other methods of generating electricity is still evolving, it is sort of shooting ourselves in the foot by jeopardizing the current method of generating power.

Senator Ricketts. And your understanding is that it is the EPA's purview under the Clean Air Act to make rules that control the means of electricity production in the U.S. and force generation shifting?

Mr. Wells. I am an environmental regulator, and so is EPA. We should stay in our lane.

Senator Ricketts. Since I am running out of time here, I just want to kind of emphasize that as well. We have obviously the folks in environmental quality from a number of States here. As a former governor yourself, you know that we hire people to make sure they are doing a good job of protecting our environment.

One of the things I just want to emphasize as we wrap up here is that it is incredibly important that we have a collaborative relationship with the EPA and the States that we want to protect, nobody wants to protect our environment more than anybody in the State

wants to protect it. Certainly, when I was Governor of Nebraska, we wanted to make sure we had a clean environment for our fellow Nebraskans. Nobody cared more about it than Nebraskans.

That is why it is really important that we have a good relationship with the EPA as to how to actually attain these goals and make sure we have good modeling and good process so people believe in it.

With that, my time is expired. Thank you, sir.

Senator Carper. Thanks. From one recovering governor to another, delighted that you are on this committee. Thanks for being part of this hearing.

Senator Boozman is next. We have a real focus on recycling in this committee. Nobody does more on that than Senator Boozman.

Senator Boozman. Nobody more than you and I. But nobody more than yours and my staff does a tremendous job.

Thank you all for being with us. Mr. Wells, on February 13th, 2023, the EPA announced its disapproval of the Arkansas State Implementation Plan for the 2015 Rule regarding ozone and National Ambient Air Quality Standards. Instead, Arkansas is now required to follow the Federal Implementation Plan, which will put roughly 50 Arkansas businesses at risk of closure. I understand again, after listening to your testimony, you are in the same situation.

The impacted businesses include power plants, natural gas pipelines, cement producers, steel factories, glass and paper and chemical manufacturers, paper mills, et cetera.

The EPA has refused to let Arkansas revise the plan. The Clean

Air Act was intended to prescribe a cooperative federalism model of regulation between the States and the Federal Government.

Do you feel EPA treated your State fairly in this way, the way it handled and ultimately rejected your SIP plan?

Mr. Wells. No, sir, I don't. I believe they moved the goal post on us after we submitted our SIP. We believe it was approvable at the time we submitted it. For them to reject the SIP based on information that was not available to us at the time we developed it, and not give us an opportunity to revise it and to have say-so in terms of the emission reductions that would be placed on Mississippi facilities I think was circumvention of the Clean Air Act.

Senator Boozman. So, Director Peters, you don't know if yours is going to be approved or not. Do you feel like it is appropriate if it is not approved that you are put in the same situation as Arkansas and Mississippi and I am sure other States in the sense of not being able to revise your plan, instead the Federal Government sitting here in Washington implements a plan for you?

Ms. Peters. Thank you, Mr. Chairman, Senator Boozman. Of course, we are awaiting EPA's decision and we will evaluate very closely what it is that they decide and how it impacts our State. Until we see that, it is really difficult for me to speak to it. Of course, I am concerned about the potential impacts to businesses, and sources in our State.

But we recognize our shared responsibility for clean air.

Senator Boozman. I understand, and I think we all want to get to the same point. As the Chairman indicated, he is going to ask you a

question about where the middle ground is. But certainly the idea that you, being on the ground, your State, you guys want clean air as much as anybody, the idea that the EPA is great until you disagree with them. They talk about federal cooperation and all this stuff. But again, once you disagree, then it tends to be their way.

So the point I am trying to make is, as we go forward, for this to work, for it to be fair nationwide, that again the States need to have the ability to be a part of that. That hasn't been the case in Mississippi and Arkansas. I assume that both of you all as administrators would agree, that is not appropriate.

Mr. Noe, in your testimony you said that the Good Neighbor Plan is just one piece of a massive regulatory agenda that concerns you. Can you provide further details of regulations that are going to impact pulp and paper mills?

Mr. Noe. Yes, thank you for the question, Senator Boozman.

Senator Boozman. Tell us about the communities that the pulp and paper mills are in, rural America, what that would do to these communities.

Mr. Noe. Yes. First, I want to thank you for giving voice to our industry and the over 23,000 workers we have in Arkansas, and 84 facilities. There are a whole series of regulations that are coming at us, and they are coming very soon. One example is EPA's PM Max rule. We are not questioning EPA's, whether they ought to regulate here. But the problem is, they are moving so fast, which is also why they made the mistakes they made in this rule that they are not going to have an implementation plan ready for when it kicks in.

We are in kind of a Catch-22 under the Clean Air Act. Because we are in these remote, rural communities where the air is clean, we are in attainment. Ironically, the requirements kick in immediately. It is the dirtier areas that are in nonattainment that get extensions, that can trade with other sources, do offsets, and all of that.

What does this mean? It means there is going to be a permit gridlock problem. We are not going to be able to get the permits we need to modernize our mills, which by the way makes them both cleaner and competitive.

There is a bunch of other rules I noted in my statement, and there are a whole lot more, Senator. I have never seen a regulatory agenda this massive in my career, and I have worked on these issues for many years.

Senator Boozman. Dr. Hill, you mentioned the impact this has on your patients. Just out of curiosity, what are the top four or five, when you see patients, what are the top four or five? You mentioned this is a causal factor in them having problems. What are the top four or five causal problems of the patients you see besides this?

Dr. Hill. When we are looking at asthma, frequently allergies and allergens play a role.

Senator Boozman. Like air pollution.

Dr. Hill. It has a cumulative effect on allergens. So both ozone and particulate matter tends to make allergens more harmful to the lungs. So there is an additive effect between --

Senator Boozman. So allergens, what else?

Dr. Hill. Cigarette smoking and other forms of smoking in this

Country are still a significant cause of lung disease. Infectious disease, obviously, triggers exacerbations in this population. Those are the real big factors. But air pollution plays a significant role. In my own practice, in our electronic health record, we actually for our asthma and COPD patients have specific check boxes because patients will tell us, they can't go outside on hot, humid days. They have trouble breathing, they can't exercise as normal.

Senator Boozman. It drives up the cost of everything dramatically. What role does poverty play?

Dr. Hill. It is a challenge. I don't think this is the right venue to talk about the cost of health care in general.

Senator Boozman. I am talking about the cost of electricity and everything else.

Dr. Hill. It plays a role. Being unable to breathe, as the Lung Association says, is the one thing that really matters. The EPA's estimates say that this will increase the cost of electricity by about 1 percent. That is probably not our biggest concern in rising electricity costs.

So I think any increase in costs to my patients, particularly those who are economically challenged. But the downstream health effects of this make it a worthwhile investment. I have this conversation with my patients all the time in terms of the cost of care. Taking their preventive medicines is expensive. Getting sick and going to the hospital is much more expensive. So sometimes you have to spend the money up front to save the money down the road.

Senator Boozman. Thank you. Thank you, Mr. Chair.

Senator Carper. Senator Boozman, thanks as always for joining us today and for your questions.

I have a couple of questions here. For the entire panel, a question dealing with the importance of heavy-duty NOx rule. Many of you mentioned in your testimony the need for EPA to also act on transportation emissions to help States meet the ozone standards. Transportation sources are not covered under the Good Neighbor Rule, but do remain one of the largest contributors to smog and climate pollution in this Country of ours. Often just like upwind pollution just blowing across State lines, transportation pollution is very difficult for States to reduce on their own.

In December, EPA finalized a rule reducing nitrogen oxide emissions from heavy duty vehicles by 48 percent by 2045. That is 48 percent by 2045. EPA is also poised to propose additional vehicle emission standards in the coming months. Briefly, do you support EPA's actions to reduce heavy duty vehicle nitrogen oxide emissions? In your answer, if you would, please let us know if you support further EPA actions to address vehicle emissions to help reduce smog, soot, and climate pollution.

Dr. Hill, I am going to ask you to lead off, then Secretary McIlwain. We will come right down the line.

Dr. Hill. Briefly, speaking as chair of the Public Policy Committee for the Lung Association, we strongly support EPA's Heavy Duty Vehicle Rule. It is estimated to prevent nearly 3,000 deaths a year by 2045. We also strongly support stronger rules controlling vehicle emissions, including a transition to zero-emission vehicles,

in order to prevent premature death.

Senator Carper. Thank you. Secretary McIlwain?

Ms. McIlwain. We absolutely strongly support EPA's action to reduce NOx emissions from vehicles. Just in general, we continue to need and rely on strong Federal vehicle standards. That is the only way we are going to ensure that we have clean air.

It is especially important when we think about overburdened communities that have been impacted by pollution from heavy duty trucks. So yes, full support.

Senator Carper. All right. Thank you.

Director Peters?

Ms. Peters. Thank you. Yes, absolutely, we support the rule. As I alluded earlier, in the Phoenix-Mesa nonattainment area, 90 percent of the NOx emissions are vehicle-based. So reductions in heavy duty will absolutely assist. Not soon enough for us to avoid potential downgrade, but will absolutely assist. I applaud EPA stepping up on that.

Senator Carper. Mr. Wells, please.

Mr. Wells. Mr. Chairman, I will answer the question by saying that I think that there is no single cause for any nonattainment issues that a particular area may have. I think part of what we would ask is that instead of imposing the FIP that has been imposed here without giving us adequate opportunity, us and EPA, to fully evaluate all of the different factors that may be coming into play, that that's what we would ask for, is we take the time to really determine what is causing the nonattainment in a particular area, and whether or not

contributions from outside the State, of that particular State are causing or contributing to that nonattainment. Whether those factors include mobile sources, I think that is certainly a factor that needs to be looked at just in terms of what a local area that is potentially in nonattainment can do to help themselves, but also in terms of how the modeling that underpins this rule is evaluated and applied.

Senator Carper. All right, thank you. Mr. Noe, same question.

Mr. Noe. Mr. Chairman, as I said at the beginning, we support sustainable regulation. I am not an expert on mobile sources, but as I indicated in my statement, my understanding is that there are cost-effective reductions available there.

Senator Carper. Okay, thank you. Second question. We have been joined by Senator Whitehouse. I am going to ask these two questions and then yield to him.

Secretary McIlwain, this will be for you and Director Peters as well. Sharing high quality and transparent, reliable information is vital in fulfilling EPA's mission to protect human health and our environment, especially as the agency works with States to develop rulemakings. EPA has told my staff, maybe other staff here, that the agency provided modeling information in the public docket and has provided themselves to meet with all State agencies who may have questions.

Secretary McIlwain and Director Peters, do you believe that the Environmental Protection Agency has been transparent and proactive in sharing information and data regarding updated modeling results for the proposed Federal Implementation Plan and final Good Neighbor Plan?

Secretary McIlwain?

Ms. McIlwain. Yes, I do believe that. Do you want me to expand?

Senator Carper. Just a little bit, please.

Ms. McIlwain. We have worked with USEPA; they have been very open. Several States and I, we came together, well, before me, but my State was involved, and we had some feedback in terms of creating the rule. One of the feedback that we gave was we wanted them to include municipal waste combustion in the rule, and they did.

That is just an example of the collaboration that we have had with USEPA.

Senator Carper. That is a good example.

Same question, Director Peters.

Ms. Peters. Thank you. I would agree that we have a very good working relationship with EPA. As was discussed earlier, our SIP is still being evaluated, and we are looking forward to a final decision. But our relationship is very strong, and we are very satisfied with the communication we have had.

So yes, the answer is yes.

Senator Carper. A follow-up question for you, Director Wells. Did EPA ever meet, to your knowledge, with the Mississippi Department of Environmental Quality to discuss EPA's modeling and the basis for the State's linkage to downwind receptors?

Mr. Wells. Mr. Chairman, I would say that we did have meetings with them. I think they were transparent in terms of providing the results of their modeling and telling us that we were impacting Texas air quality. What I don't think we, a way that I do not think they

were cooperative as they should have been was giving us an opportunity, adequate time to evaluate, let me say this. We do not have on staff at Mississippi DEQ the expertise that it takes to dig into this modeling in the period of time that we were given. So while we were provided the results and told what our impacts were based on that modeling result, we were not given adequate opportunity to evaluate that, contradict or dispute it, maybe is the better word to use, or to counter it in any way. And while EPA would probably say the data was available to us, the amount of time that we had to do so was inadequate.

Senator Carper. All right. I am going to give you questions for the record. In your question for the record, I will allow you to amplify on that response, if you would.

I am going to take a quick break. Senator Whitehouse has joined us. He is going to hold the gavel, and I will be right back. We have started on the Floor, so we have a lot going on here. Don't go away. I will come back and we will ask the consensus question that I telegraphed earlier on.

Sheldon, thanks for being here.

Senator Whitehouse. [Presiding.] Thanks, Chairman. Thanks for this hearing. As a fellow small downwind coastal State, we have a lot in common.

Senator Carper. Just for the record just note we punch above our weight.

Senator Whitehouse. We do punch way above our weight, exactly. Small but mighty.

I wanted to explore a little bit some of the recent evidence we have had out of Rhode Island with respect to ozone. Dr. Hill, I will ask you. The ozone levels in Rhode Island, in Providence County, have earned us an F. In Kent County, which is more rural, a D. In Washington County, also more rural, a D.

What kind of news is an F and two Ds for Rhode Island lungs?

Dr. Hill. Those are not the report cards I would want to bring home to my parents. It is not good news for your constituents, particularly children, the elderly, those with chronic lung disease. What those nonattainment levels mean is that on bad air quality days, people with chronic lung disease are going to suffer.

Young children are going to be put at higher risk. Children spend more time outside exercising. I was a high school athlete, and the world is a hotter place, within many places worse ozone levels sometimes, due to the changing climate than it was 30 years ago or maybe more, when I was a high school athlete.

So those nonattainment grades, those Fs and Ds, mean we are failing the public and they are breathing unhealthy air. As was said earlier here, air is not partisan, respects no boundaries. We all breathe it in this room and we all breathe it out in the world.

Senator Whitehouse. I can recall, to your point, driving in to work and on drivetime radio hearing the local announcement that today is a bad air day in Rhode Island. Perfectly beautiful day, as you drive along ozone is not visible. Perfectly beautiful day. And the warnings were exactly as you said, if you have an infant, if you have a child with asthma, if you have a breathing difficulty or if you are

elderly, you should stay inside today. On a beautiful day, the kind of day that would have a kid scratching at the door to get out and run around. But no, supposed to stay inside if you have any breathing difficulties because of the ozone.

To your point about boundaries, a great of this ozone does not originate in Rhode Island. The chemicals that sunlight turns into ozone come from elsewhere. One of the things that I find very tiresome is how the State of Rhode Island has difficulty defending itself against out of State pollution.

This is where I think the Good Neighbor Rule comes into play. Because Rhode Island's Department of Environmental Management cannot regulate a smokestack in Ohio or Pennsylvania or West Virginia. We are stuck with it. For a while, the solution in those places was higher smokestacks, jet the stuff higher up so it lands on Rhode Island instead of us. There were times when I wished that the rule was, no smokestacks. Then you have to own your mess, and you can't just export it to other States, letting the wind do your dirty work.

Director Peters, is that frustration an experience of yours, and do we depend on EPA to provide those remedies when States simply can't?

Ms. Peters. Thank you, Senator Whitehouse. I discussed earlier the very limited jurisdiction and ability to regulate that States and local jurisdictions have under the Clean Air Act. That is a source of some frustration, when so much of the emissions that are generated that result in ozone pollution come from elsewhere, come from background levels, come from mobile sources that we do not regulate.

So yes, absolutely, there is so little that we can do at the State and local level to effect that on behalf of our residents. It can be frustrating.

Senator Whitehouse. Dr. Hill, say a closing word about the health and health care costs of Fs and Ds, and what that means, not just for ruining a kid's day, but for local budgets and health care costs.

Dr. Hill. Those health care costs are in the tens of billions of dollars. That is why this Good Neighbor Plan is so cost-effective, because preventing those downwind effects is going to pay health care dividends down the road.

Senator Whitehouse. So a good Good Neighbor Rule will pay huge dividends.

Thank you very much, Chairman.

Senator Carper. [Presiding.] Thanks so much for joining us, Senator Whitehouse. And thanks for your great work on these issues.

I want to go back to, I quoted Thomas Dolby, I quoted my Mom, I quoted my Dad. And I won't repeat Dolby again, about being blinded by science. But I will mention again the words of my mother, who raised my sister and me from little kids that we should abide by the Golden Rule, treat other people the way we want to be treated.

For me, it is my default. If I am trying to figure out what is the right thing to do, I try to put myself in other people's shoes and say, how would I want to be treated. Turns out that is in every major religion in the world. I don't care if you are Protestant, Catholic, Buddhist, Jew, Hindu, there is a golden rule in everybody's, it is the

one thing we all agree on. When that happens, I say, maybe we should follow it. So we want to try to keep that in mind as we go forward.

I mentioned a couple of things. I should ask all of you to share with you some of the things your parents always said to you over and over again. But one of the things my dad always said to my sister and me over and over again was, when we would do some bonehead stunt, he would say, just use some common sense. He didn't say it so nicely, but he said it a lot. We must not have had any common sense.

I hope we have some now. And we need to put it to work.

Another thing my dad said a lot is, if a job is worth doing, it is worth doing well. If a job is worth doing, it is worth doing well. And for me, that means if it isn't perfect, make it better. Everything I do I know I can do better.

The closing question here is, just take some time in days to come, we will send you a request for sort of a formal response. But I am really interested in an area or two where you think there is consensus. That would be great. I talk to our majority staff and minority staff and say, if we can't figure this out, we need to find a new job. That does not suggest it is easy. But some of the most important things are some of the hardest things to do. We need to get this right.

It is a blessing to have these responsibilities, and sit in these chairs and help make decisions for our Country. We want to be proactive and we want to be constructive. We need your input on that.

In closing, I want to thank you all for your time and for your testimony today. Thank you for what you do in your own States. I

hope your work gives you great joy. I love helping people. And my guess is that you do, too. One of the best ways we can help is to make sure that in all of the Country, all 50 States, we have air that we can safely breathe, and make sure our kids are well, our grandchildren are well, and people are able to go to work and not be sick. And try to hold down, rein in our health care costs. I think we can get this right, we can do literally all of those things.

The Good Neighbor Rule is about making sure that all States do their part to clean up the air we breathe, as you know. We heard today that the new rule is long overdue. We also heard how more often than not, downwind States generally bear the burden of air pollution from their upwind neighbors.

Without the help of the EPA, there is not much that downwind States can do to relieve the economic and health burden of cross-State air pollution. I know that is especially true in my own home State, where more than 90 percent of the air pollution in our State comes from outside of our State.

We also heard some good news today. We also heard some good news today. We heard that the Good Neighbor Rule is achievable and in many circumstances upwind polluters will just have to consistently operate the technology that they have already installed. For me, it seems like a small price to pay to protect those of us who are downwind.

I am going to ask unanimous consent to submit into the record a variety of materials related to today's hearing. This includes public comments on the proposed Good Neighbor Rule from the Ozone Transport Commission, a multi-State organization made up of 12 mid-Atlantic and

northeast States, and it also includes D.C. The Ozone Transport Commission expressed overall support for the rule, support for the inclusion of industrial sources, and providing data on similar actions already being taken by member States. Hearing no objection to that.

[The referenced information follows:]

Senator Carper. I am going to move on to a little bit of housekeeping. Senators will be allowed to submit written questions for the record through the close of business on Wednesday, April 12th. That is when my colleagues have to submit their colleagues, Wednesday, April 12th, close of business. We will compile those questions and send them on to each of you and ask you, if you will, to respond to us by the next morning.

[Laughter.]

Senator Carper. How about Wednesday, April 26th? April 26th.

Again, this has been encouraging. I am a glass-half-full guy. I found this encouraging. We appreciate you coming in from all over the Country, giving us your perspective and background. We want to find good solutions that are fair and equitable. I think we can do that.

Henry Ford used to say, if you think you can or you think you can't, you are right. In this case, I think we can, and I think we must.

With that, this hearing is adjourned. Thank you all.

[Whereupon, at 12:06 p.m., the hearing was adjourned.]