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Committee on Environment
and Public Works

Washington, D.C.

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HEARING ON THE NOMINATION OF JOSEPH GOFFMAN TO BE ASSISTANT
ADMINISTRATOR FOR THE OFFICE OF AIR AND RADIATION AT THE
ENVIRONMENTAL PROTECTION AGENCY

Wednesday, May 25, 2022

United States Senate

Committee on Environment and Public Works

Washington, D.C.

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, Whitehouse,
Markey, Kelly, Padilla, Inhofe, Cramer, Lummis, Boozman,
Sullivan, Ernst.

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

Senator Carper. Good morning, everyone. I want to welcome our nominee, and I want to welcome our colleague, Senator Casey. I want to welcome especially the wife of Joe Goffman. Thank you for sharing your husband with all of us in this Country. I told her, I am going to be watching to see if your lips move while he speaks, so we will know who is calling the shots.

I was communicating into the night last night with John Cornyn. John and I were supposed to be chairing another hearing this afternoon on our Trade Committee dealing with supply chain resilience. He texted me last night and said he was on his way back to Texas. I think I would like to start with a moment of silence.

[Pause.]

Senator Carper. Amen, thanks.

Today, we are here to consider the nomination of one Joe Goffman to serve as Assistant Administrator for the Office of Air and Radiation at the Environmental Protection Agency.

Joseph, welcome back to the EPW Committee, a place you know well. While I know this hearing room brings back memories, both probably good and bad, from your time working with us on this committee, today you join us as a nominee. I want to thank you for being here and for your willingness to serve our Nation at

this critical point in our history.

Before I talk a little bit about Mr. Goffman's experience and qualifications, I want to call on Senator Casey. Bobby, they didn't write you in my script. I want to call on you just to make some comments, and then once you have done that, we want you to sit with us for the next three hours.

[Laughter.]

Senator Carper. No, I am kidding. We are delighted that you are here and welcome your comments on Joe. Thank you.

STATEMENT OF THE HONORABLE BOB CASEY, JR., A UNITED STATES
SENATOR FROM THE STATE OF PENNSYLVANIA

Senator Casey. Mr. Chairman, thank you very much. I want to thank you and the Ranking Member for the privilege of appearing before the committee. Today, I come here proud, as a Pennsylvanian, to introduce Joe Goffman, who is, as the Chairman mentioned, the nominee to serve as Assistant Administrator for Air and Radiation at the Environmental Protection Agency.

Joe grew up in Philadelphia in the Olney section of Philadelphia, a community that I know, having worked as I did as a young man in North Philadelphia as a volunteer. Olney is just kind of at the other end, the higher end, of North Philly. I know of his personal experience when he was working as a young man and also his academic background.

I think, if I had to encapsulate, or if he were to encapsulate his 40-year career, it is a career that is centered on public service and his dedication to protecting the health and the environment of the American people. He has worked in the Senate, of course, as well as the Executive Branch. He knows that the best results for our Nation's health, environment, and economy happen through public engagement and a collaborative, open-minded problem-solving approach. We can be sure that he will listen to all sides of the issues before him while faithfully adhering to the law, the science, and expert

technical advice.

Joe Goffman's nomination has broad and diverse support. He has secured this support from labor organizations, from the Mine Workers to the Steel Workers to the United Auto Workers and to the AFL-CIO overall. Many of America's farmer and biofuels organizations have supported his nomination, including the National Corn Growers Association, the National Farmers Union, the American Soybean Association, just to name a few.

As well, leading voices in the environmental community, whether it is environmental NGOs, the environmental justice community, including the Evangelical Environmental Network, Earthjustice, the National Resource Defense Council, Moms Clean Air Force, as well as the American Public Health Association all support the swift confirmation of Joe as Assistant Administrator of the Office of Air and Radiation.

His decades of legal, legislative policy, and practical experience has helped craft and shape the clean air programs that American enjoys. The first was the landmark Acid Rain Program, which is widely recognized for its innovation, effectiveness, and durability. In 1989 and 1990, when Joe served as Associate Counsel for this committee, he worked on the provisions of the 1990 Clean Air Act amendments that established the first-of-its-kind cap-and-trade program to cut pollution that was harming our lakes and streams, clouding the

Appalachians with haze, and threatening millions of Americans.

After President George H.W. Bush signed the amendments in to law, Joe took the experience he has gained and put it to work with the talented and dedicated career staff at the EPA to implement the legislation. Fast forward 30 years, and that program has reduced acid rain pollution to a fraction of 1990 levels, affordably better protecting our treasured mountains, lakes, and streams while helping millions of Americans live longer, healthier lives breathing cleaner air.

That type of experience, helping to write the law, putting it into practice, and then ensuring that it is working as intended was reflected in the major air pollution programs Joe helped to develop when he held senior positions during the Obama Administration with programs that have improved both air quality and protected people's health. That is why he is uniquely qualified to serve as Assistant Administrator.

Joe Goffman has an abiding commitment to public service. He has dedicated his career to environmental laws and policy aimed at safeguarding and improving Americans' health and their prosperity.

I respectfully ask the members of the Environment and Public Works Committee to support his nomination. Chairman Carper and Ranking Member Capito, I ask unanimous consent to add letters of support from the aforementioned stakeholders into the

record.

Senator Carper. Without objection.

[The referenced information follows:]

Senator Casey. Thank you, Mr. Chairman.

[The prepared statement of Senator Casey follows:]

Senator Carper. Thank you very much. Joe, you could not have a better advocate sitting at this table. We are grateful that he would come and spend this time and share these thoughts with us. Thank you. Thank you, Bob.

Before I talk a bit about Mr. Goffman's experience and qualifications, let me begin by setting the table for what is at stake with his nomination. Senator Casey, we understand you have a million other responsibilities. You are more than welcome to stay to the bitter end. It won't be bitter, but you are more than welcome to stay, but if you have to go do your day job, feel free to slip out.

Make no mistake, we have come a long way in terms of reducing air pollution and doing so without harming our Nation's economy. Since Congress passed the historic Clean Air Act of 1970, we have reduced our Nation's soot and smog pollution by nearly 80 percent. Let me say that again. Since the passage of the Clean Air Act of 1970, we have reduced our Nation's soot and smog pollution by nearly 80 percent, while our gross domestic product grew by more than 250 percent, more than 250 percent, adjusted for inflation.

Along the way, we found that cleaner air is an enormous benefit to all Americans, with the benefits outweighing the costs by nearly 30 to one. Yet, despite all of our successes, many of the most vulnerable Americans still breathe air that is

unhealthy, especially those living in disadvantaged and low-income communities in all of our States, all of our States. According to EPA's research, non-white children today are much more likely to die from air pollution than white children in our Country.

We have a moral imperative to do more to help all Americans breathe healthy air, and we can no longer turn a blind eye to downwind and frontline communities.

At the same time, we have a moral imperative to do all we can to save this planet that we call home from the perils of climate change. We are running out of time to change course before it is too late.

Last month, the United Nation's Intergovernmental Panel on Climate Change warned us that it is "now or never" if we are going to limit global warming to 1.5 degrees Celsius and avoid a future with disastrous, irreversible climate impacts. Communities across our Country and the planet are already feeling the impacts of climate change in the form of rising sea levels, historic droughts, and other extreme weather.

Just last week, the National Weather Service released its seasonal outlook. It predicted that the drought gripping the American West and fueling record-breaking wildfires would persist throughout the summer. As we gather here today, the State of New Mexico continues to battle the worst forest fire in

its history.

To put it simply, the climate crisis is here. We are at a critical point when it comes to addressing this crisis and mobilizing our Nation towards a better future by transitioning away from fossil fuels and deploying, over time, cleaner technologies.

Fortunately, we have an EPA under the Biden Administration, in particular, the Office of Air and Radiation, that is willing to follow the law and tackle these great clean air and climate challenges that lay in front of us. With all of this said, it is clear that the Assistant Administrator for the Office of Air and Radiation has an outsized impact on our lives, from protecting Americans from planet-warming pollution to cleaning up air toxics to improving vehicle emissions standards.

President Biden selected Joe Goffman to lead this office because he knows that Mr. Goffman is up to the task. Throughout his time at EPA, Joe Goffman has demonstrated his commitment to following the law in a way that provides cleaner air and a safer climate for all of us, while also providing predictability and certainty for industry. Predictability and certainty are always top priorities for businesses.

A great example of this is Mr. Goffman's integral role in the crafting of the Mercury and Air Toxics Rule while he was at EPA under the Obama Administration. This rule helped reduce

mercury and other air toxic emissions from our Nation's power plants by 90 percent, protecting the health of pregnant women and children across our Nation.

Despite early industry concerns the rule would cause blackouts, there were not any. In fact, the rule was achieved by every utility in the Country on time and under budget. Today, every major utility organization supports the rule. It has enabled us to achieve major health benefits across this Country, which is fundamental to job creation and job preservation. This is just one example of why Joe Goffman is so deeply respected and highly qualified for the job at hand.

Joe has garnered broad support from the environmental community and industry. That probably comes as no surprise. I would add to that, this support includes utility organizations like the Edison Electric Institute, biofuel groups such as Renewable Fuels Association, tribal organizations like the National Tribal Air Association, as well as some of our largest unions, including the AFL-CIO.

To my amazement, even the United Mine Workers, our Nation's largest union of coal miners, have voiced their support for Mr. Goffman's nomination to lead the Office of Air and Radiation. The list goes on.

Having worked a bit with Mr. Goffman, I know he is well prepared for this role. He is a lifelong public servant with

nearly a decade of experience at the Office of Air and Radiation as well as several stints serving on this committee, the EPW Committee, that we are privileged to serve on today. He also spent time as a staffer for former Senator Joe Lieberman. We look forward to hearing from Joe today.

Before we hear from you, though, we are going to hear from this good lady to my right, who brought today a young seven-year-old with her. Maybe she would like to mention who that is, but we are happy to welcome her, and delighted to be with you. Senator Capito?

[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. Well, thank you, Mr. Chairman. Thank you for the very meaningful moment of silence. I know that many of us are just deeply heartbroken by the news that we hear in Texas today.

I guess, more poignantly, I was lucky enough to have my seven-year-old granddaughter, Eliza Capito, with me today. She is on break right now. She is here seeing government in the making. Like any proud grandmother, thank both of you for taking time to meet with her, and thank you for holding today's confirmation hearing.

We appreciate having the hearing on our nominee to serve as the Assistant Administrator of the EPA's Office of Air and Radiation. Mr. Joe Goffman, thank you for the visit to my office last week.

President Biden, apparently, has chosen to wait longer than any other incoming President to nominate an Assistant Administrator for this very important office, a full 412 days, which bests the record set by President Clinton, who nominated Mary Nichols by a full five months.

That delay sort of puzzled me at first. After all, the President has made climate change such a pillar of his campaign and his first few days in office, when he took unilateral

executive actions to kill the Keystone XL Pipeline to transport Canadian oil into the United States. He announced plans for new greenhouse regulations on sectors across the economy, including the power, oil, and gas sectors, imposed freezes and uncertainty on federal oil and gas leasing and promised a whole-of-government approach to address a "climate crisis."

I note that, exacerbated by the war in Ukraine and pandemic supply chain issues, the American consumer is now burdened by the fruits of those early policy choices in the form of higher prices for goods, energy, food, and especially gasoline.

The President has also made big promises about being transparent with the American people. Logically, if climate change and transparency were such high priorities, one of the first positions I think he would have announced would be the lead official for the EPA's Office of Air and Radiation, the lead federal agency in regulation air emissions in this Country. But it turns out, I think, in some cases, transparency and accountability are not the first priorities.

By holding this nomination for over a year, he has shielded the Office of Air and Radiation and, by extension, all of the Administration's current and forthcoming climate regulations from any real scrutiny. Because of this delay, until today, the American people's elected officials in Congress, and that is us, have had no opportunity to provide counsel on a nominee or

conduct direct oversight over the office that Mr. Goffman has led, essentially, in his acting capacity.

It is a bit dismissive, I think, of our constitutional advise and consent role here in the Senate that President Biden chose to fill the role with somebody who has actually been in the role and is now being nominated to run since day one. This all comes across clearly as a tactic, I think, designed to shield that office and Mr. Goffman from being answerable to Congress and the American people, but we are glad he is here today to start fulfilling that obligation.

Unfortunately, hiding policies from Congressional oversight is a pattern when it comes to President Biden and his White House and the climate czars. He has tasked the czars in the White House with developing climate plans and executing them, hidden from the accountability to the public. I talked about this, interestingly enough, I must have been clairvoyant, because I have been talking about it at every hearing, but I talked about it at our very first hearing.

Even as a sitting Senator and Ranking Member of the committee, when I have written to White House officials to ask for more information on climate policies or social costs of greenhouse gas, I get nothing, nothing in response. I don't even get an acknowledgement of a receipt of my inquiry.

So, as I said, Mr. Goffman, thank you for being here today.

You are finally before the committee, and I look forward to hearing some answers, because I know that you have been and would continue to be in regular communication with the White House. Apparently, you have been meeting with Gina McCarthy, discussing plans to regulate power plants since the early days of the Administration, even before the EPA Administrator Regan was in place.

I would like to hear whether you, or if so, how your 2035 climate targets are achievable without crushing the energy sector and the whole U.S. economy in jobs. This is especially important now that we need more energy domestically, even as President Biden has promised more American energy exports to our allies confronting Russia, all while his Administration is undercutting actual production here at home.

In addition to hearing what you have been doing for the last 15 months, I would also like to talk a bit about the eight years you served in the Obama Administration and how that might signal what could come.

In our meeting earlier this month, we spoke about the Clean Power Plan, an unrealistic and, I believe, illegal regulation, stopped from going into effect by the Supreme Court. That regulation was designed to override elected State governments and decimate livelihoods and entire communities. Its mere proposal sent a shock through the energy sector and combined

with other regulations, it contributed, in my State, to hopelessness, poverty, drug overdoses, and despair. I discussed that with you.

Dr. John Deskins, who is the Director of West Virginia University's Bureau of Business and Economic Research, testified before a House Committee last year and put in explicit terms the devastation communities in my State have experienced. He explained: "Coal production has fallen by approximately one-half from its 2008 high. This has led to a loss of around 15,000 coal jobs and a direct loss of \$3.5 billion in economic output. These losses ignite a vicious cycle where we see out-migration of our younger men and women, an aging population, drug abuse, and so on, making it even more challenging to attract new business, thus continuing the cycle."

The regulations that you authored during the Obama Administration, even as they may have provided negligible climate benefits, really ended up hurting, in my State, people and our communities. So, when you say using the Clean Air Act to shift generation from some types of electricity to other types of generation is just "common sense," we need to talk to the American people and West Virginians about that.

Your job at EPA is not to rewrite the law, it is to implement it. At a time when this Administration has shown a willingness to flout Congressional intent and stretch executive

power beyond any reasonable interpretation of Congress's words and federal statutes, this is especially concerning to many of us.

President Biden has already shown through your delayed nomination that he doesn't take advise and consent seriously. So now we are going to see if you will take Congress's words seriously when confirmed to give us that transparency and accountability that we are due and desire.

I look forward to hearing from you. It is long overdue.
Chairman Carper, I yield back.

[The prepared statement of Senator Capito follows:]

Senator Carper. Thank you, Senator Capito, for your statement.

We are now ready to welcome Mr. Goffman to the witness table. Again, we thank you for joining us today. We thank you for your previous service to our Country, and you are recognized for your opening statement, please. Please proceed.

STATEMENT OF JOSEPH GOFFMAN, ASSISTANT ADMINISTRATOR, OFFICE OF
AIR AND RADIATION, OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. Goffman. Thank you, Chairman Carper. Thank you, Ranking Member Capito, Senator Inhofe, Senator Boozman. It is a privilege to appear before you this morning.

I know I am here to talk about my nomination and the important work of the Environmental Protection Agency, and I will do that. But I also know that everyone here and in our Country is completely devastated today and heartbroken for the lost lives and broken families in Buffalo, New York and Uvalde, Texas. None of us have the words to soothe the pain that these communities and our Country are feeling right now. I appreciate that while it is difficult to go about the business of the day, we are here trying to do just that, even in the face of our Country's grief.

I am humbled to be nominated by President Biden and considered by the committee for the position of Assistant Administrator for the Office of Air and Radiation at the USEPA. I am also grateful for the honor of returning to public service, having previously worked for members of this committee four different times between 1989 and 2017.

Joining me here today is my amazing wife, Antonia, and watching from their homes in San Francisco, New York, and Los Angeles are my three children, Gabriel, Genevieve, and Olivia.

I want them to know how very much I love them, and I admire them for leading lives that reflect values that their grandparents gave to me, values that I have carried with me and relied upon all my life.

Like too many Americans, I grew up in a household that struggled financially. There were times when my father was unemployed and my family could barely afford even the basics. As a child, I felt the pressures of my parents' money worries acutely. For me, protecting jobs and keeping money in the pockets of hardworking Americans is still very personal.

College was out of the question unless I worked hard enough in school to gain scholarships and financial aid, and hard enough after school and over summers to earn the rest. That meant working as a stock boy and janitor's assistant in a department store during high school and in a union job as a line worker in a corrugated box factory during college.

Besides giving me a strong work ethic, my parents insisted that my values center around doing good. With the civil rights movement of the 1960s gripping their and my own young but admiring attention, the lesson I took away was that every person, including me, was responsible for making our society more just.

Working for the committee in 1989 and 1990 gave me the change to do that. I was the lead staffer on the acid rain

provisions of the bipartisan Clean Air Act amendments of 1990, which succeeded in achieving substantial power plant pollution cuts at the lowest possible cost to businesses and consumers while ensuring clear, healthier air for our children to breathe.

The legislation worked because it was grounded in science and crafted with the input of utilities themselves. Since then, I made it my business as a Senate staffer and as an EPA appointee to prioritize engagement with all stakeholders, from frontline communities to workers to businesses, and to listen proactively, learn from others' experiences, and reflect their concerns in my work. My goal continues to be policy that protects people's lives while enabling our economy to thrive.

I believe that commitment paid off in a range of committee and EPA actions that I have been fortunate to have contributed to. The bipartisan McCain-Lieberman and Lieberman-Warner bills, which the committee reported out and then brought to the Floor in 2008, EPA's Mercury and Air Toxics Standards and the Cross-State Air Pollution Rules, and the automobile tailpipe standards EPA issued last December, all achieved or will achieve ambitious pollution reductions while keeping costs down and protecting public health and also winning support from the power sector and the automobile industry.

The committee's leadership on the bipartisan American Innovation and Manufacturing Act and the Bipartisan

Infrastructure Law is the model for an approach that unites the environment, the economy, and environmental justice. Inspired by your work, my EPA colleagues and I met the deadlines you set in the AIM Act to start the phasedown of HFCs this year. With the application window opening just last week for the Clean School Bus Program, we are moving quickly to get the funding into the hands of communities for clean and electric school buses.

Members of the committee, like you, I believe that all Americans, no matter where they live or what they do for a living, deserve clean air to breathe, a secure job, and healthy, safe communities in which to raise a family. They all need to be seen and heard by those of us who serve them. It would be a distinct privilege to work alongside and support EPA's brilliant and selfless civil servants in this shared mission.

If confirmed, I will approach all our decision making by bringing all stakeholders to the table, and will do so with the integrity, transparency, and accountability that Administrator Regan demands.

Thank you for the privilege to speak before you today, to hear your concerns, and to answer your questions.

[The prepared statement of Mr. Goffman follows:]

Senator Carper. Mr. Goffman, thank you for your testimony. Antonia, thank you for being here. I could barely see your lips move as he spoke. In the military, I spent a lot of years of my life in the Navy, we always used to say that the spouse of the member in uniform, the spouse of that person served our Country as well. So we thank you for your service and for sharing with us your husband. If your children, Gabriel, Genevieve, and Olivia, if they are watching, thanks for sharing your dad.

Now, we are ready to start asking questions of our witness. Senator Capito and I have agreed to two five-minute rounds of questions with additional rounds at the discretion of the Chair. To begin, as Mr. Goffman will recall, this committee has three standing yes or no questions that we ask of all nominees who appear before us, so I would like to ask you these questions.

Question: do you agree, if confirmed, to appear before -- before you leave, let me just ask a question of Senator Boozman. Senator Boozman, before you leave, a question of you. Was there recently a primary was held in your State, in Alabama? I understand, as of about 10:05 last night, there was some good news. What was reported?

Senator Boozman. It was reported that I won my primary.

Senator Carper. You won your primary. Congratulations. We are happy for you, and for your State.

Senator Inhofe. [Remarks off microphone.]

Senator Carper. Senator Inhofe said one of Senator Boozman's strongest supporters was Senator Inhofe's daughter. The apple didn't fall far from the tree, Jim.

Here is the first question: do you agree, if confirmed, to appear before this committee or designated members of this committee and other appropriate committees of the Congress and provide information subject to appropriate and necessary security protections with respect to your responsibilities? Do you?

Mr. Goffman. Yes, I do.

Senator Carper. Second question, do you agree to ensure that testimony, briefings, documents, and electronic and other forms of communication and information are provided to this committee and its staff and other appropriate committees in a timely manner? Do you?

Mr. Goffman. Yes, I do.

Senator Carper. My third and last question, do you know of any matter which you may or may not have disclosed that might place you in a conflict of interest if you are confirmed?

Mr. Goffman. No.

Senator Carper. Good. My first question deals with the impact, you have mentioned the AIM Act, and hydrofluorocarbons in your statement. The President, and that is something that we have worked on a lot in this committee, as you know, care a lot

about. It is still playing out, I think, in the Foreign Relations Committee in the form of the Kigali Amendment. In President Biden fiscal year 2023 budget, I was especially pleased to see that \$35 million for the implementation of the bipartisan American Innovation and Manufacturing Act, also known as the AIM Act, which is led through Congress by Senator Kennedy and myself, that is Senator John Neely Kennedy of Louisiana and myself.

As you know, the AIM Act phases down hydrofluorocarbons, or HFCs, which are super climate pollutants currently found in refrigerators, in air conditioning, and other household items. Moving toward climate-safe, American-made alternatives will create billions in economic growth and real American jobs. The AIM Act is great for our climate and our economy. I applaud the work of you and your EPA team in implementing the AIM Act in a timely manner.

Here is my question. If confirmed, under your leadership, how will EPA use the budgeted AIM Act investments in implementation and enforcement, and why are these investments important for American businesses, as well as for our environment?

Mr. Goffman. Thank you for that question, Senator. It gives me an opportunity to repeat what I said in my testimony. The bipartisan leadership that this committee and Congress

showed in enacting the AIM Act really was inspirational. That is in part because the AIM Act was a classic win-win.

As you already pointed out, Senator Carper, reducing HFCs addresses a very potent climate change pollutant. At the same time, it is a policy that promotes innovation in our industry of the kind that is instrumental to economic growth. We at EPA take very seriously, completely seriously, our duty to carry out and reach both of those objectives.

What we think our resources would be most useful doing is threefold. First, continuing to implement the program as required, on time and on schedule to achieve the phasedowns mandated by the act. Second, to use a powerful tool that you all gave us to help promote beyond the phasedown that accelerated transfer from current technologies to new technologies. We have already started to do that by granting nearly a dozen petitions to make just those changes.

Finally, it is critical that we have the resources to enforce compliance with the Act. As it turns out, looking at the experience that other countries who have put similar programs in place have already had, we are in the process of making HFCs scarce; therefore, we are making them valuable. Therefore, we are creating an incentive for people to import them, or companies to import them illegally. We have to put in a lot of sweat equity in order to deal with, deter, and prevent

those illegal imports.

I have the privilege of cochairing the HFC task force with DHS and Customs and Border Patrol. We have set up a program at all of our ports to stop the illegal importation of HFCs. That is, again, critical to both objectives of the legislation: the environmental objective and the technology innovation objective. That is why having resources for this program is so important to fulfill the objectives that Congress created in this legislation.

Senator Carper. Good. Keep that up.

The second question is, the U.S. transportation sector is responsible for about a third of our Country's climate change emissions, as you know. The good news is that we have U.S. technology that can dramatically reduce these emissions in a way that also slashes consumer costs at the pump.

In December of last year, in part under your leadership, EPA finalized its new Greenhouse Gas Emissions Standards for passenger cars and light trucks for model years 2023 through 2026. These standards will help set the stage for future emissions standards under the Clean Air Act for model years 2027 and beyond and help transition us to a zero emissions future.

Would you please take a moment to describe how the vehicle emissions standards your team finalized last year will reduce greenhouse gas emissions while also providing adequate lead time

for manufacturers to comply, saving consumers money at the pump and reducing overall demand for gasoline? When you put all those together, it is like a win-win-win situation. Please proceed.

Mr. Goffman. Thank you for that question, Senator Carper. I can maybe add another win to the list, because what that rule does is, as you say, sets ambitious emissions standards for tailpipes of automobiles. In fact, the last year of the standards that is model year 2026, we have put on the books the most ambitious greenhouse gas tailpipe emissions standards ever.

What that does is provide not only significant climate benefits and air quality benefits, but it also means that to operate a motor vehicle that meets these requirements or these standards, drivers will be able to pay less at the pump because the vehicles will use gasoline more efficiently. And some of those vehicles, if consumers opt to buy them, will be electric vehicles, liberating them, if you will, from the turmoil that we are seeing in global oil markets and the horrendous prices people are paying just to fill up their cars now.

At the same time, Senator, this standard is lined with the investment strategies that many of our auto manufacturers are already pursuing, which is to build out new car fleets that not only include or offer internal combustion engines that are highway efficient, but also electric vehicles. What I think we

have done with this set of standards is provide our auto manufacturers with a kind of certainty and clarity to support investment strategies that they are already undertaking.

Senator Carper. Thanks very much. Senator Capito?

Senator Capito. Thank you, Mr. Chairman. I want to start just with a couple quick yes-no answers, and you can tell from my opening statement where I am going with this.

Do you commit to providing responses to the EPW Committee in a timely manner?

Mr. Goffman. Yes.

Senator Capito. Thank you very much. Do you agree with the following statement made by Administrator Regan: "It is an obligation of all of us as public servants to be as transparent as possible to this body and to the public"?

Mr. Goffman. Yes.

Senator Capito. Thank you. I appreciate that.

I am going to go back to a couple letters that I wrote you recently in 2021. I was asking about the oversight on the renewable fuel standards. I wrote in March, in August, and again in October. I sent three separate letters.

I did not get any response until December 14th, 2021, which was nine months after the first letter, when you sent me three letter responses with virtually identical responses in each letter. In other words, they all had the same text. I ask

unanimous consent to put the correspondence into the record.

Senator Carper. Without objection.

[The referenced information follows:]

Senator Capito. Do you believe the form letter responses that you provided to these three letters was timely and transparent?

Mr. Goffman. I would have to go back, Senator. To answer your question in a meaningful way, I would like to go back to the letters you sent and refresh my recollection on the letters that we sent back to you. I can assure you that I completely agree with you that transparency and clarity is essential to the role of the Office of Air and Radiation. I would be happy to respond further after I get a look at the letters.

Senator Capito. Okay. I would like that. I would offer my opinion that nine months to answer a letter is not timely, and since all three of them said exactly the same thing, I question how much time it took to really put those together, and what kind of depth of looking at our Congressional oversight. But we will talk about that once you look at it in greater depth.

I want to talk to you about the Clean Power Plan. During your time in the Obama Administration, you helped to write the Clean Power Plan, correct?

Mr. Goffman. Correct.

Senator Capito. In a 2019 op-ed you wrote with Gina McCarthy and Janet McCabe, that you called the Clean Power Plan a success, you advocated for using the Clean Air Act to shift

electricity generation between different types of energy. You also stated in 2020 that the answer to the question, what is the best system of emission reduction, was "the commonsense answer is just move generation."

I would ask you, what is the legal authority that gives EPA the ability to require generation shifting that you are calling for?

Mr. Goffman. Our belief at the time was that Section 111 provided us the legal authority to do that.

Senator Capito. To call for generation shifting, or to call for lower emissions?

Mr. Goffman. To call for lower emissions.

Senator Capito. But not generation shifting?

Mr. Goffman. I have to be careful in answering the question right now, Senator Capito, because as you know, that question is before the Supreme Court in *West Virginia v. EPA*.

Senator Capito. Right.

Mr. Goffman. I think we are going to get the answer soon as to what the legal authority is. I don't want to say something that would complicate the government's position before the Supreme Court.

Senator Capito. Okay. Isn't it clear that the best system of emission reduction applies at an individual stationary source, in other words, it is constrained by what an individual

power plant can do within its fence line?

Mr. Goffman. That is exactly the question before the Supreme Court. I would be doing a disservice to the government if I tried to answer your question while this issue is pending.

Senator Capito. Okay, let me ask you a further question on that. I think we talked about this in my office. Do you have a plan B already created in your office to react to what the potential of a Supreme Court decision might be?

Mr. Goffman. We have identified different options for responding depending on what the Supreme Court tells us the nature and contours of what our authorities are. We do two really important things, I think, that you would recognize as I describe them. We analyze options, trying to apply up-to-date data, and we engage in extensive outreach, not just with the utility sector, but with States, with our co-regulators, with utility regulators, with the system operators, and with frontline communities. That represents an enormous ingredient whenever we do a major rulemaking, particularly in the power sector. That is what we have been doing.

Senator Capito. Thank you. I am at my time, so I will wait for the second round. Thank you.

Senator Carper. Thank you, Senator.

Next, I think by WebEx, would be Senator Padilla. Senator Padilla, are you joining us by WebEx?

Senator Padilla. I am here, Mr. Chairman. Thank you.

Senator Carper. Once you have completed your questions, Senator Inhofe, and then Senator Cramer.

Senator Padilla. Thank you, Mr. Chairman. I appreciate the accommodation since I am preparing to be in HSGAC as well. I am going to get right into it.

Mr. Goffman, thank you for your commitment to public service and to protecting public health and safeguarding clean air for the American people through your work at EPA and your prior work for the United States Senate, including this very committee.

As you know well, and as we had a chance to discuss prior to today, California is a national leader in the fight against the climate crisis and eliminating toxic pollution, particularly from the transportation sector, because we have seen how these pollutants can impact communities throughout our State and throughout the Country.

So I am proud that under your leadership, EPA reissued California's waiver to set our own clean vehicle standards under the Clean Air Act. California clearly has the authority to do so, and now California is free to aim even higher and accelerate the deployment of zero emission vehicles. Thanks to California's leadership and the partnership with the Federal Government, California can continue to make progress and lead

the way on clean air while providing the model for other States to consider and to follow.

My first question, Mr. Goffman, is this. Can you share your thoughts on EPA's clean air and climate partnership with the State of California and how through a partnership we can accelerate the deployment of zero emission vehicles?

Mr. Goffman. Thank you for that question, Senator Padilla.

One of the things that EPA is doing, both out of my office and out of Region 9 of the EPA, is engaging in a workgroup with the California Air Resources Board and the Air Quality Management districts in Southern and Central California. We are focused on a number of issues that are critical to ensuring progress in improving air quality in California, and we are certainly in regular touch with the California Air Resources Board examining different options for setting meaningful but workable emissions limitations.

One of the things that we are planning to do, as directed by President Biden, is to examine whether or not we can establish longer-term clean vehicle standards past model year 2026. We are certainly taking into consideration the technology options that California itself has identified as being potentially available to achieve very, very low-emitting or even zero-emitting vehicles and promoting zero-emitting technologies.

Senator Padilla. All right. As we have discussed,

California is not just an ambitious leader when it comes to emissions of passenger vehicles, but frankly, in all sources of pollution under State and local jurisdiction. We continue to press the EPA to do more to adjust the emissions from mobile sources of pollution under federal jurisdiction.

Notably, the proposed Heavy Duty Truck Rule is an important initial step. As you know, I have encouraged EPA to ensure that the final rule is aligned with California's advanced Clean Truck Rule and strengthens EPA's proposed option one. But EPA can do more than just cut emissions from these trucks. EPA is preparing a regulatory agenda to reduce emissions and decarbonize the entire transportation sector, I hope, and I am certainly advocating for the inclusion of locomotives, off-road equipment, shipping and aviation.

Can you share with us what plans the EPA has to cut pollution from these sources, and how the EPA can encourage private sector to spearhead technological innovations necessary to achieve these decarbonization goals?

Mr. Goffman. Again, thank you for the question, Senator.

I want to point out that you just identified the several work groups that EPA Region 9, EPA Headquarters, the Air Quality Management Districts, and CARB have formed, because we are looking at how to answer exactly those questions, whether it is on the regulatory side, whether it is on the side of leveraging

federal funding to go into transportation infrastructure, or into the acceleration of the turnover of current high-emitting vehicles to lower-emitting vehicles, and that includes both trucks on the road, trucks and ports, and off-road vehicles as well.

Of course, we are working with the technical staff in those California entities, CARB, Air Quality Management Districts, who themselves have a lot of know-how in terms of what kind of technology options are available for setting standards or using other government resources to promote the acceleration of clean vehicles, both, again, on the road and off the road.

Senator Padilla. Thank you for your responsiveness today. We look forward to continuing to advance these conversations. Thank you, Mr. Chairman.

Senator Carper. Thank you so much.

Before I turn to Senator Inhofe for his questions, I am going to ask unanimous consent with respect to courts and greenhouse gases. I want to put into the record an amicus brief to the Supreme Court that I filed with, I think, 190 other members of Congress that explains the legal history relating to federal law and greenhouse gases. Without objection, so ordered.

[The referenced information follows:]

Senator Carper. With that, Senator Inhofe, please.

Senator Inhofe. Thank you, Mr. Chairman. I am very comfortable, and we have known each other for a long period of time, dating back almost 30 or 40 years. People wonder, in the outside world, how you can be opposed to a person and still maintain a friendship. We have successfully done that, and I have always appreciated that.

Mr. Goffman, we all agree on the need for a safe and smart transition away from leaded avgas, but we also must ensure that there is no disruption in general aviation in process. Unfortunately, without a clean and clear transition, airports may be unilaterally prohibiting the availability of leaded avgas.

I have quite an extensive background in aviation, so maybe I am more sensitive to this than most people, but I would like to ask unanimous consent to enter into the record the attached letter from the Avgas Coalition expressing serious concerns on the unilateral decision of one airport to prohibit the sale of leaded avgas.

Senator Carper. Without objection, so ordered.

[The referenced information follows:]

Senator Inhofe. Mr. Goffman, I want to read the question I will ask you. There is a reason for that. Mr. Goffman, will you commit to fostering a safe and smart transition away from leaded avgas in working with the FAA and industry to ensure that fuels available today remain available until a solution is fully approved and widely available?

Mr. Goffman. Senator, thank you very much for that question. I think, to the extent that EPA plays a role in all this, we are wanting to avoid exactly what you are wanting to avoid, which is disruption in the availability of airports and of flying options, including to individual pilots.

What we are trying to do is twofold. One is to make a determination, first and foremost, of whether or not lead from certain aircraft is presenting a threat to public health and the environment. At the same time, once we get through that process, which still has a way to go and is essentially a scientific process, then if we determine that it is presenting a threat, say, to children living around airports, then we will take the next step of addressing different options we might have for dealing with that problem. As part of that process, we would certainly be committed to finding a solution that works for everybody, including not disrupting any transition from the current leaded fuel used to the next fuel.

Senator Inhofe. Mr. Goffman, that is the very reason that

I worded it the way I did, because this disruption could be a problem for a lot of people. I want to make sure that is fully considered. I think your statement is a good response.

As you know, the Small Refinery Exemption provision that is found in the Clean Air Act was written to ensure small refiners experiencing disproportionate economic hardship could obtain relief. Oklahoma ranks among the top States that would be interested in a question like this.

In December of 2021, your office proposed blanket denials of 65 pending small refinery petitions, and in April, your office denied 37 small refinery petitions dating back to 2018. Mr. Goffman, considering that inflation is at 8.3 percent, is disproportionate economic hardship no longer considered when reviewing these petitions? Is that no longer used as a consideration, that type of hardship?

Mr. Goffman. Senator, I am glad you asked that question, because it gives me a chance to give you an update on where we are on what is a complicated issue, and one that the federal courts across the Country have weighed in on. I think I understand why, given what people are facing at the pump right now, everybody would be wondering whether the actions we are proposing to take, and in some cases, took with respect to small refineries is going to have an impact in making matters worse for drivers. I believe the answer is no.

But what is really important is that in the last two or three years, a number of federal courts handed down opinions about how we have implemented the Small Refinery Exemptions. Basically, the message that they sent us is, EPA, you have to pay attention to precisely what your authority to address hardship is and isn't. You have to pay attention to your own analysis of the impact of the RFS Program on fuel markets.

Basically, Senator, the courts have been telling us to get our story straight. What we were trying to do in December was to respond to those remands, lay out our thinking, lay out our analysis, and then ask the Small Refinery Exemption applicants to respond to what we had proposed and provide additional information in support of their applications.

We still, as you pointed out, have about 30 applications pending that we have not made a decision on, although we hope to and plan to issue decisions on those applications shortly, and in doing so, really be clear once and for all as to what the law is, what our analysis shows, and then provide certainty for all stakeholders in the RFS program as to what the road going forward looks like.

Senator Inhofe. As you know, the Small Refinery Exemption provisions were written to ensure small refineries experiencing disproportionate economic hardship could obtain relief. Has anything been released so far that would directly address this?

Senator Carper. Mr. Goffman, I am going to ask you to answer this question briefly, because we have others who are waiting to ask questions.

Mr. Goffman. Yes, I think our proposal tried to provide, our December proposal, which you referred to, tried to provide a comprehensive explanation of how we now understand that authority, what it obligates us to do, and particularly what the Federal courts have told us the limits of our authority are.

Senator Carper. Senator Inhofe, I am going to ask you to wrap up.

Senator Inhofe. In December, you referred to, your office issued denials, blanket denials of 65 pending small refinery petitions. Do you consider that a determination that was made in a very thoughtful way, and is this any finality to that action?

Senator Carper. Again, please respond briefly.

Mr. Goffman. Yes, to the first question. Was it thoughtful? Yes. Was it the final word, so to speak, on this program? No, because we are going to continue to weigh each application on its own merits.

Senator Inhofe. Thank you, Mr. Chairman.

Senator Carper. You are quite welcome.

We have been joined by Senator Lummis. We have been joined by Senators Cardin and Whitehouse.

I would just say to Mr. Goffman, to you and your wife, who is observing this closely, we are about to do an air show in Delaware this weekend. We call it Thunder Over Dover. We had the Blue Angels, we had the Thunderbirds, and they do one of those things that they do, as Jim knows, the planes, they go in all different directions. We are about to do that.

Senator Capito has run off to one engagement, and I have to go join the Homeland Security Committee. Ben Cardin is good enough to hold the gavel, and if he has to leave, I think he is going to hand it over to Sheldon. For now, I am going to keep the train on the track. I am sure it is in a good place. I will be back as quickly as I can be.

Senator Cardin. [Presiding.] The gavel feels good. I may not want to give it back to you, Mr. Chairman.

[Laughter.]

Senator Cardin. First, thank you for your service. We appreciate it very much, Mr. Goffman.

I want to follow up on Senator Padilla's point, but from a little bit different perspective, dealing with the updating of the rules for heavy trucks. I certainly want us to use innovation and everything we can to reduce pollutants in our air for many reasons. If I have time, I will talk about the Chesapeake Bay during this exchange.

But I am concerned that in doing that update we have an

open process where the stakeholders have an opportunity to make sure that we are not putting American manufacturers and union workers at a disadvantage.

Can I have your assurance that in developing this updated rule the stakeholders will have an open process for their concerns to be listened to, and that you are sensitive to U.S. manufacturing and our labor policies here in the United States?

Mr. Goffman. Thank you for that question, Senator. You have articulated one of President's preoccupations and one of EPA's preoccupations. As it happens, my nomination was endorsed by the United Auto Workers and other labor unions. Of course, that is very gratifying on a personal level.

But what makes that important is that it is a reminder of the agency's obligation to take into consideration as part of our priorities the concerns of manufacturers and workers. What you have asked me to affirm is actually an excellent description of what we undertook when we proposed the standards.

Our proposal actually laid out options. The express purpose of doing that was to foster a very robust ongoing and sustained process of engaging with the full range of stakeholders from the communities whose air quality is affected by emissions from these vehicles to the manufacturers to the States who are responsible for ensuring air quality and therefore have a stake in our standards.

We are working closely with, among others, the United Auto Workers in carrying forward the kind of outreach and engagement processes that we have in mind and that I think you very aptly described as our objective.

Senator Cardin. And I visited one of such facilities, the Mack Volvo facility in Hagerstown, which has seen a significant decline in employment because of the realities of where we are today in auto manufacturing. I have seen firsthand the innovation that they are doing, which is very gratifying and very helpful in regard to our overall strategy to deal with pollutants and climate change.

So I appreciate that. I am glad to see you as part of the planning process. We just now need to carry that out/

Which brings me to the Chesapeake Bay. I think most people might be surprised to learn that one of the major sources for pollution in the Chesapeake Bay are airborne. We could talk about the mercury levels in the Bay itself.

Can you share with me how you are going about your work sensitive to the efforts that we have in regard to water quality of the Chesapeake Bay and our environment as it relates to airborne pollutants?

Mr. Goffman. Yes, Senator, thank you for that question. The issue of the effect of air pollution on our aquatic systems, our waterways, including the Chesapeake Bay, has been one of

the, if you will, preoccupations of the Clean Air Act itself. Earlier this year, we issued a proposal addressing the question of whether or not it is appropriate and necessary to set and maintain mercury standards for emissions from power plants.

In the course of answering that question, or proposing an answer to that question we looked specifically at the question you raised, which is what is the effect of emissions from smokestacks of power plants on places like the Chesapeake Bay and similar aquatic and water systems across the Country. We proposed to determine that those effects were serious enough to justify maintaining and further setting, if appropriate, mercury emissions standards.

Senator Cardin. I thank you for that. I look forward to working with you on that issue. We have been able to make significant advancements in the Bay. I think sometimes we overlook the need to prioritize airborne pollutants. Thank you.

Senator Lummis?

Senator Lummis. Thank you, Mr. Chairman, and thank you, Senator Carper, for letting me jump over you here with these questions.

Mr. Goffman, regarding the proposed Good Neighbor rule, did you reach out to the States before deciding to move forward on that rule?

Mr. Goffman. Senator Lummis, that is an excellent

question. Because it is a topic that is really important to the Environmental Protection Agency, and in particular to Administrator Regan.

My understanding is that our regional offices worked with the States.

Senator Lummis. Well, they didn't reach out to my State of Wyoming. And we have heard from numerous States and stakeholders that the comment period for this hugely impactful rule is too short, even with this little two-week extension that you have added.

Sao are you willing to extend the comment period for the proposed rule, given its massive impacts?

Mr. Goffman. Senator Lummis, I think that is a very important issue. If you don't mind, can I make a request, then I will answer the question? I would really like to get your guidance and advice on anyone in Wyoming you think we need to be talking to before we finalize the rule.

Senator Lummis. I would be happy to get you that information. Awesome. One of the big concerns is, air quality models that are developed for eastern States need to be recalibrated for the western States. There is a difference. I am curious, why isn't there a model for the Good Neighbor rule that is specific to western States?

Mr. Goffman. My understanding is that in fact, we did

apply our model specifically to the distinctive topography and atmospheric dynamics in western States. I think, like you, we fully recognized that what we can see with our models, looking at eastern air issues, is not identical to what we have to look at when we look at western air issues. We did take account of the distinctive features, as I said, of western air movement and topography.

Senator Lummis. Okay. I will get you some names. Because we have concerns about not having been contacted.

So switching to Regional Haze rules, should States have the flexibility in the development of States implementation plans that meet the objectives of the Regional Haze rules?

Mr. Goffman. Generally, yes, Senator. Regional Haze rules, as you know, as the Senator from the State that includes the Grand Tetons and Yellowstone, where many Americans have had wonderful experiences in part because the air is so clear there, that is why it is so important.

Generally, the strategy of the Clean Air Act and of the EPA is to rely on States to determine the emissions reductions that are needed to fulfill their obligations.

Senator Lummis. So this is a headscratcher for me, because EPA has substituted their preferences for the State's plan. The State implementation plan meets the objectives of the Clean Air Act, Regional Haze, its programs. Why is the EPA substituting

its judgment for States, given your statement?

Mr. Goffman. Senator Lummis, I want to give you and Governor Gordon credit for the leadership you have shown on this issue. For the last year, give or take, the State and the utility, Pacificorp, that operates some of the critical plants in Wyoming, have been in extensive discussions. Some of them are confidential because they are being conducted under the auspices of the circuit court's medication practice.

But I believe we are very, very close to a resolution that the State and the utility have reached that will allow critical facilities in Wyoming to continue to operate while making the emissions reductions that have been identified as required under the Regional Haze rule.

Senator Lummis. How close are we?

Mr. Goffman. I think we are waiting for one more step, which would be the State submitting a revised implementation plan.

Senator Lummis. My time is up, but I will follow up with you on some of the things we have discussed today. Thank you very much, Mr. Goffman.

Mr. Goffman. Thank you, Senator. I am looking forward to it.

Senator Cardin. Senator Whitehouse?

Senator Whitehouse. Hello, Mr. Goffman, good to see you.

I would like to walk you through a chart regarding EPA

activity on sources of greenhouse gas emissions. These are essentially all the major emissions. If you can't read it from there, don't worry. The top one is cars and light trucks. Am I correct that EPA issued a final rule through model year 2026?

Mr. Goffman. Yes.

Senator Whitehouse. And that the greenhouse gas standards under that rule are similar to the prior rule promulgated by the Obama Administration, at least through model year 2025 when the Obama Administration rule ended?

Mr. Goffman. That is right, they are similar.

Senator Whitehouse. Did the auto industry support the Obama rule? Does it broadly support your rule?

Mr. Goffman. I can answer more accurately or with more confidence the second question. The auto industry moved to intervene on the EPA's behalf to defend the current rule from challenges.

Senator Whitehouse. So that would be an indication of support, correct?

Mr. Goffman. Yes, it would be.

Senator Whitehouse. Does the auto industry, in that statement, generally support increasingly strict greenhouse gas emission standards in the car and light truck area?

Mr. Goffman. Generally, Senator, that is my understanding.

Senator Whitehouse. So let's go on to the next category,

which is coal-fired power plants. Does EPA currently have a proposal or a final rule to regulate carbon pollution from coal-fired power plants?

Mr. Goffman. We do not currently have a proposal to do that. As you know, Senator Whitehouse, the Supreme Court is about to have a lot to say about our authority.

Senator Whitehouse. I don't subscribe to the formulation that you should not do anything because of that. So let me just put an asterisk there, because I don't think that is the right way to proceed.

Let me go further to say that in that case, did the electric utility industry's leading trade association file an amicus brief supporting EPA's ability to regulate carbon pollution from power plants under the Clean Air Act?

Mr. Goffman. I believe they did, yes, sir.

Senator Whitehouse. So let's go on to gas-fired power plants, right here. Does EPA currently have any proposal or final rule to regulate carbon pollution from gas-fired power plants?

Mr. Goffman. At the moment, we do not.

Senator Whitehouse. As I discussed just recently about the others, does the industry support your authority to regulate those emissions?

Mr. Goffman. I believe they do.

Senator Whitehouse. On to heavy duty vehicles. Now, on this one you have a proposal, and it is in my estimation primarily focused on reducing nitrogen oxide emissions. Is that a fair characterization?

Mr. Goffman. Yes.

Senator Whitehouse. Compared to the California rule, it is less strong in terms of driving adoption of zero emission vehicles. Is that also correct?

Mr. Goffman. It is different from the California rule, yes.

Senator Whitehouse. And less strong? Less likely to drive the adoption of zero emission vehicles?

Mr. Goffman. The NOX rule that we have proposed -- Senator, may I offer a little context?

Senator Whitehouse. My time is pretty limited. So I don't want to be filibustered.

Mr. Goffman. No, no. I will try not to. Senator, as you know, President Biden has given us the agreement not only to set the NOX standards this year but then to do a comprehensive heavy duty vehicle rule that does address it.

Senator Whitehouse. Further on down the road. But the one we are talking about right now, your proposal, I have described accurately, correct?

Mr. Goffman. Yes.

Senator Whitehouse. Just to put into the record, the CEO of Cummins, which is a huge manufacturer of engines for heavy duty vehicles, has said, "There is no question that Cummins has benefitted because of environmental regulations. Regulations should be tough, because climate change is a tough problem to solve and requires us to find new technologies and new ways of operating."

Do you think that reflects general industry support for heavy duty vehicle regulations as well?

Mr. Goffman. My experience, Senator, is that industry, company by company, has at least somewhat different positions on regulation.

Senator Whitehouse. Let's go on to oil and gas facilities, where you also have a proposal, is that correct?

Mr. Goffman. Correct.

Senator Whitehouse. The proposal does not cover low-producing wells?

Mr. Goffman. The proposal that is out now does not, but we are planning to issue a supplemental proposal later this summer.

Senator Whitehouse. It doesn't seem to do much to address venting and flaring of methane in the oil and gas facilities proposal, correct?

Mr. Goffman. The current proposal does. But as we previewed in the current proposal, we would be doing a sort of

second layer of proposal, doing it shortly.

Senator Whitehouse. That would look more closely at methane?

Mr. Goffman. Correct.

Senator Whitehouse. The American Petroleum Institute has said it supports regulation of methane emissions, correct?

Mr. Goffman. Correct.

Senator Whitehouse. My time has expired. We will pick it up in the second round. Thank you.

Senator Cardin. Senator Cramer?

Senator Cramer. Thank you, Senator Cardin. Thank you, Mr. Goffman, for being here.

I am going to try to avoid asking you a question that would require you to abstain based on the Supreme Court situation, which I think is prudent. I am going to avoid that.

But I do want to still explore a little bit that experience, because I think the biggest concern most North Dakotans have is that the same group that promoted the Clean Power Plan are back. In the middle of that, there is a stay of that Clean Power Plan and of course, the case that you discussed earlier with Senator Capito.

Would you say that the utilities and the public utility commissioners supported the Clean Power Plan because it provided some certainty? We hear a lot about certainty. Was that an

argument at the time, do you recall?

Mr. Goffman. I remember discussions at the time about the Clean Power Plan. Senator, we went far out of our way to really engage with a lot of key players, including utility regulators.

Senator Cramer. I was one at the time. I was a State utility regulator at the time. There was some engagement.

One of the concerns, at least in North Dakota, and one of the concerns we have, frankly, going forward, is that you might recall that the proposed rule said that North Dakota could reduce emissions by 11 percent. Because of that proposed rule and that low number, the principal of not having authority under 111(d) and the inside the fence line and all the things that Senator Capito talked about, they were willing to sort of waive that principle, accept it, even though they didn't believe it was legal. Because 11 percent was doable, and I will work with you to get that done. And of course, as you know, the final rule was 45 percent, which resulted in an arbitrary and capricious argument, successful argument.

How is it that you went from this bait and switch, this 11 percent to 45 percent? Do you recall how that happened?

Mr. Goffman. Senator, we certainly weren't intending to do a bait and switch. I think I would argue we had three key ideas in mind. One, we thought that we were operating entirely within our legal authority. Two, we thought that we were setting

standards that were entirely achievable.

But we were also, this third part was equally important, we thought we had offered the utility sector, the electricity sector, broad flexibility in achieving say, on a multi-State or regional basis, the overall standards.

Senator Cramer. The 45 percent reduction you maybe thought was believable, it would have been very painful, probably not possible, actually. And even now, when we talk about load shedding as a means of reducing CO2 emissions, and by the way, I am working with several Democratic members of this committee and other committees on trying to find ways to reduce greenhouse gas emissions, realistic ways that don't destroy the economy.

But we see this load shedding coming up again. And of course, we have the North American Reliability Corporation sounding the alarm. North Dakota has two system operators, MISO and SPP, depending on which utility you have.

But I want to get back to something you said to Senator Capito. You said we, in terms of options, so in talking about the Supreme Court case, the West Virginia v. EPA case, and I think it is prudent that you are talking about potential options depending on the outcome. There is no point in waiting forever.

But you said you are engaged in, to use your term, extensive outreach to stakeholders. You listed utilities, system operators, public utility commissions, I think you called

the co-regulators.

If I was to call, say, the three public service commissioners in North Dakota, Commissioners Christmann, Fedorchak and Haugen-Hoffard or Dave Glatt at DEQ, would they confirm that you have engaged in extensive outreach in drafting these options?

Mr. Goffman. Thank you for giving me those names, because I was going to ask you who I should be talking to, or who we should be talking to. Now I have the answer.

I believe at least in terms of my discussions, they have not. But we have met with members of the National Association of Regulated Utility Commissions, NARUC. We are planning, after the Supreme Court's case comes down, to do another round of outreach and engagement.

Senator Cramer. I appreciate that. NARUC is great. I was a member of NARUC, and there is a lot we have in common. But there is a lot we don't. Frankly, even Senator Lummis's point that the west is not the same as the east, North Dakota is one of four States who has never violated their ambient air quality standards. Four States in the lower 48, never. We think we do it pretty well, and we like our primacy. We don't want federal mediocrity imposed upon us. So we take great exception when the Federal Government overreaches its boundaries with us.

Those are the names. I can get you more. But I would

encourage you to do that. Because at the end of the day, to me, as a former State regulator and just as a pretty commonsense American, the thing that is missing, frankly, in our Federal Government these days is federalism. It is foundational to the success of our Country. And we have empowered administrative state to the point where now we are in court all the time. Let's just trust the good States of our Country.

Thank you, Mr. Chairman.

Senator Carper. [Presiding.] Thank you, Senator Cramer.

I think Senator Kelly is next, followed by Senator Sullivan. Thank you both for joining us.

Senator Kelly. Thank you, Mr. Chairman.

Mr. Goffman, thank you for being here today. As you know, the Clean Air Act requires counties with unsafe levels of pollution to take steps to come into attainment. In Arizona, there are some significant air quality challenges that are unique to Arizona. For example, since 2017, Maricopa County has seen the number of days where air quality has been affected by wildfire smoke go up about 75 percent.

In Yuma County, I was just in Yuma County last week, high winds often create these dust storms. But the interesting thing here is frequently these dust storms start in Mexico or in California. So the EPA needs to work for Arizona.

Mr. Goffman, do you believe that the Clean Air Act intends

to hold local governments accountable for air pollution created by exceptional events like wildfires or dust storms, which by the way, in the case of Yuma, often occur in another States or even another country?

Mr. Goffman. I believe two things. One is, it is not the intention of the Clean Air Act to hold air districts accountable for events like that.

But it is incumbent upon the EPA to work with air districts and States to do what we can to really improve air quality, even in or especially in the face of that particular set of problems. I know that my colleagues in Region 9 are working closely with the Arizona Department of Environmental Quality and with local air quality managers to tackle actually a host of problems that are facing Yuma and Maricopa Counties. I think we are going to get there.

Senator Kelly. I agree. I think we can get there as well. I believe that if we want to make progress toward improving air quality, we have to have some achievable benchmarks for these communities based on factors that are within their control. These dust storms and wildfires are clearly outside of their control. And I often hear from communities about this and the enormous difficulties that they face when they have to demonstrate to EPA that an exceptional event has occurred.

You mentioned EPA Region 9, which is the region that has

Yuma County. Their office, the EPA Region 9 office has not yet concurred with demonstrations conducted to show that exceptional events are responsible for the county exceeding the PM10 standard. So why do you think that is, Mr. Goffman?

Mr. Goffman. I am not exactly sure. My understanding is that is still sort of a work in progress. But I will absolutely look into and get back to you.

Senator Kelly. Do you think that communities could be expected to develop a compliance plan before EPA provides feedback to help the community understand what sources of emissions they are not responsible for controlling?

Mr. Goffman. I think historically we have been open to both ways. Some State air, environmental quality regulators do informally engage with us at the regional level, seeking guidance early on, some do throughout the process. What our commitment is is to essentially, obviously we have obligations to hold States accountable for their obligations to the Clean Air Act.

But the definition of success is getting the air quality results that communities need. It is often in partnership that States and we are most effective.

Senator Kelly. So if confirmed, will you commit to ensuring that your team at EPA, at the headquarters and at Region 9 are available to work with Yuma County to review

exceptional event data and develop a compliance plan based on the factors that the community can control?

Mr. Goffman. Absolutely, Senator.

Senator Kelly. Thank you.

Mr. Chairman, if I could go over by one minute. I want to talk about Maricopa County for a second.

Senator Carper. Well, let me think about it. Okay.

[Laughter.]

Senator Kelly. Thank you. I understand that there were 38 days in 2021 where the county experienced unhealthy ozone levels due to smoke from wildfires. We have had some really bad wildfire seasons over the last couple of years.

Under the Exceptional Event rule, the county believes they will need to conduct 38 exceptional event demonstrations for those 38 days. As wildfire seasons in the west get worse, what steps will you take as Assistant Administrator to expedite the consideration of exceptional event demonstrations?

Mr. Goffman. I will commit to you now, Senator Kelly, and to Arizona, that as we enter what seems to be a new era in terms of the intensity and frequency of wildfires, we will reflect in the way we process these demonstrations that new reality.

Senator Kelly. All right, thank you. Thank you, Mr. Chairman.

Senator Carper. You are welcome. Thank you.

Senator Sullivan?

Senator Sullivan. Thank you, Mr. Chairman, and Mr. Goffman, congratulations on your nomination.

I just came from a Commerce Committee meeting where I was fairly riled up because I was highlighting the Biden Administration's, now it is 25 Executive Orders and Executive Actions singularly focused on Alaska, 25. These hurt jobs, resource development, access to land, particularly they target the Native community. Your former and current boss, Gina McCarthy, is someone who has enormous disdain for my State. I have seen it in action.

Senator Murkowski, the late great Congressman Don Young and I had a senior meeting at the White House saying, can you please just let up, guys? You are killing us, targeting my State, our State. How about at least a heads up when you are going to try to crush us the next time?

They haven't kept those commitments. These are very senior White House officials. We asked for a meeting with the President to see if he knows that his Administration is singularly targeting one State more than any other State in the Country.

Can I get your commitment if you are confirmed that before you issue any kind of reg or rule or executive action from your position that singularly targets Alaska that you will reach out

to me and Senator Murkowski and maybe get our views? Maybe get our opinions? I was just home last week, and my constituents are just, and this is Democrats, Republicans, Native, non-Native, we are just, daily assaults on the good people. We are Americans too, right? But nobody in the Biden Administration seems to care.

Can I get your commitment to give me and Senator Murkowski a heads up if you are planning to do something like this?

Mr. Goffman. Senator, I think I can say that the Environmental Protection Agency has experience looking at Alaska issues specifically, and if you will, tailoring the requirements of our actions that work for Alaska.

Senator Sullivan. So that is a yes?

Mr. Goffman. It is a yes, not just informing, but consulting.

Senator Sullivan. Good. Thank you.

I want to show you this real quick. I use this chart a lot. That is emissions, global emissions from each major country in the world since 2005. The U.S. has actually been the global leader on reducing greenhouse gas emissions. Look at China, you look at India, they are through the roof.

Do you have an explanation for that? Do you think it is EPA regulations that did that? It wasn't, was it? What is the reason for that? Why are we the best in the world right now on

global emissions almost for the last over 15 years?

Mr. Goffman. I think because of the sort of fruitful interaction of EPA standards setting and --

Senator Sullivan. No, it had very little to do with EPA. It was a revolution in the production of natural gas, right? You might want to read up on that, since you are going to be in charge of air. That is why, right there.

So when you hear about, hey, let's attack natural gas, you might want to think twice. If every country in the world had that global emissions profile, we wouldn't be having major greenhouse gas emissions problems globally. So I just wanted you to be aware of that. But it wasn't the EPA, right? It was the revolution of natural gas by the private sector and ingenuity of the American entrepreneur.

Let me go onto the next very important issue. You believe in the rule of law, I assume?

Mr. Goffman. Yes.

Senator Sullivan. You were at the Harvard Environmental Energy and Law Program, so I am assuming you really believe in the rule of law.

Mr. Goffman. I am trying to overcome it, but yes.

Senator Sullivan. I am sure you are. It is tough. I don't blame you, though.

How about this issue? EPA gets all of its authority from

what body, to act?

Mr. Goffman. Right here.

Senator Sullivan. Exactly. You used to work here, right, EPW committee? So you understand, EPA cannot act without Congressional authority, isn't that correct?

Mr. Goffman. That is my understanding.

Senator Sullivan. So that is something you will commit to, correct? That goes back to the rule of law.

Mr. Goffman. And it goes back to the Clean Air Act.

Senator Sullivan. Correct. But you won't act without Congressional, clear Congressional authority, correct?

Mr. Goffman. We act according to what our best --

Senator Sullivan. These are really easy questions. You need to just say yes. Thank you.

Mr. Goffman. Yes.

Senator Sullivan. Let me raise one issue. It wasn't you, but you worked for at the time, this was the Michigan v. EPA case where the Supreme Court, six to three, by the way, said EPA strayed well beyond the bounds of reasonable interpreting and concluding that the cost, that cost is not a factor relevant to the appropriateness of the regulation of power plants. You are familiar with that case, right?

Mr. Goffman. I am familiar with that case.

Senator Sullivan. Okay, because weren't you part of the

individuals who put together that rule?

Mr. Goffman. Yes, I was.

Senator Sullivan. And are you familiar with the famous, again unbelievable statement by current climate czar Gina McCarthy on the Bill Maher Show, right before the Supreme Court decision came down, she said "But even if we don't win, it has been on the books for three years, so most power plants are already in compliance, investments have been made."

To me that was one of the most lawless things I have ever seen a senior Administration official say. That is when she was the EPA Administrator. To me that is regulatory extortion. Hey, we will put out rules, and heck, even if they are not legal, it doesn't matter, because these poor suckers have to comply with it anyway.

Can you explain, do you agree with that statement by Gina McCarthy, and can you commit to me to not be so flippant with the whole issue of the rule of law and the statutory mandates from Congress? That statement to me still to this day stands out as one of the most, just blatant, arrogant, lawless statements I have ever seen from a senior official. You are supposed to serve the people and abide by the rule of law.

Mr. Goffman. Senator, I am not familiar with that statement.

Senator Sullivan. What I just quoted is true. Do you

agree with her statement?

Mr. Goffman. I don't know. I am still processing it; it is the first time I have heard it. But I do agree, and I am committed to ensuring that any action the Office of Air and Radiation takes is entirely authorized by the law, not only by what Congress wrote in the Clean Air Act, but what the courts tell us, what the exact contours and limits and scope of our authority is.

Senator Sullivan. Great, thank you. Thank you, Mr. Chairman.

Senator Carper. You are welcome. Thanks for joining us.

I have a couple of questions. I think Senator Capito does as well. Senator Markey is trying to join us. Senator Ernst is here.

Senator, why don't I yield to you if you are ready? Would you like to be recognized now? All right. Welcome. I am glad you could join us.

Senator Ernst. Thank you. Thank you, Mr. Chair. I really appreciate the opportunity today. And thank you, Mr. Goffman.

Mr. Goffman, in some parts of the Country Americans are paying up to \$6.50 a gallon to fill up their cars. At this particular moment, we are seeing geopolitical crisis. I know it is exacerbated. It is vital for us to be honest about our energy policy. If we take advantage of biofuel, we have the

ability to pursue an energy strategy that creates jobs and provides reliable and affordable energy to American families, energy that is grown right here in the United States.

Ethanol is already blended into almost every gallon of gasoline sold in the U.S. We have abundant supplies. Coincidentally, at a lower price. So not only is it good for the environment, but it is also cheaper.

Mr. Goffman, what concerns me about your nomination is some of your past statements in regard to the RFS, and specifically, you have said the RFS is "not successful" or a "bit of a blunderbuss," another quote from you. And another quote, "uncertainty plagued mechanism for providing subsidies to the ag sector."

However, President Biden has thus far been a fan of biofuels. I would like you to set the record straight for us in this committee, and just in a yes or no response, whether you agree with the President's position on the important role biofuels serve. So either yes or no.

President Biden had stated biofuels reduce our reliance on foreign oil. Yes or no?

Mr. Goffman. Emphatically yes.

Senator Ernst. Okay, thank you. And President Biden also said, you get less harm to the environment and lower greenhouse gas emissions?

Mr. Goffman. Yes.

Senator Ernst. Homegrown biofuels have a role to play right now as we work to get prices under control to reduce the cost for families?

Mr. Goffman. Yes.

Senator Ernst. And he also said, you simply can't get to net zero by 2050 without biofuels.

Mr. Goffman. Yes.

Senator Ernst. And if confirmed, Mr. Goffman, I do look forward to working with you to help advance the Administration's plan to address our energy prices. It is a concern to my families at home. I think it is impacting everyone across the United States. And supporting a robust domestic biofuels sector. And as President Biden has said, biofuels "is an industry with a tremendous future." I hope that you will continue to support the sentiments shared by President Joe Biden on this industry, and that is all I have for today.

So thank you, Mr. Goffman. I really appreciate it. Thank you very much, Mr. Chair.

Senator Carper. Senator Ernst, you made the most of your time. Thanks for joining us.

I am going to make a couple of UC requests, and then we will go back to regular order. I will ask some questions, and Senator Capito has some more questions, and she will be joined

by Senator Whitehouse. Thank you for coming back.

Before I start the second round, I would like to ask unanimous consent to place into the record a document that shows that the United States per capita emissions are double that of China. Without objection.

[The referenced information follows:]

Senator Carper. And a second unanimous consent request into the record, it is a letter of support for Mr. Goffman's nomination. I ask unanimous consent to submit for the record a letter of support for Mr. Goffman's nomination from the Renewable Fuels Association and the U.S. Ethanol Industries Trade Association. I don't know if Senator Ernst's staff is still here, but they might share that with her, if they are.

[The referenced information follows:]

Senator Carper. Another question I would have is, while EPA was working on the Mercury and Air Toxics Rule, what we call the MATS rule, I seem to remember some of my colleagues holding up a poster talking about a train wreck. It was a train wreck that would happen if EPA were ever to finalize that rule.

The train wreck alluded to concern that if the Mercury and Air Toxics Rule were made final, we would end up having rolling brownouts and blackouts, and the electricity prices would be astronomical. You may remember that, too.

Blackouts and brownouts didn't happen due to the Mercury and Air Toxics Rule, is that correct? Didn't happen.

Mr. Goffman. Didn't happen.

Senator Carper. Didn't every utility in the Country meet the standards on time and under budget, and energy prices went down, not up?

Mr. Goffman. Yes.

Senator Carper. I thought so.

And aren't the same utility groups that fought you then endorsing you today?

Mr. Goffman. Yes.

Senator Carper. How did that happen?

Mr. Goffman. One of eh things that we did when we were putting the Mercury and Air Toxics standards together was consult extensively with the utilities, with the States, with

the utility regulators and with the independent system operators. We took special care to make sure that the utilities could comply on time with the standards while ensuring reliability.

Senator Carper. All right. How did the United Mine Workers ending up supporting your nomination?

Mr. Goffman. I cannot speak for them. I believe that what they said in support of my nomination is that they found that I was willing to engage with them and take their views seriously, and be candid and straightforward. Indeed, Senator Carper, as we discussed, for me the essence of public service is identifying with the priorities, concerns, and needs of everybody that the U.S. Government serves. That means everybody.

I don't know if that is what was reflected in the United Mine Workers' support. But certainly from my side, that is what it looks like.

Senator Carper. All right, thank you. One more question for me. This deals with ambient air quality monitoring and environmental justice. Ambient air quality monitoring is one of the best tools we have to identify high air pollution rates and protect public health. Monitoring is especially important in communities of color, which experience, as you know, air pollution in disproportionate rates.

As you know, our air quality monitoring system is aging, and is lacking in many communities. It is often unable to collect data on air toxics. That is why we addressed it in the American Rescue Plan. A number of us, including me, worked hard to ensure that there is funding available for EPA to conduct community air monitoring.

As the Administrator of the Office of Air, how could you utilize monitoring funds provided to the EPA both through annual appropriations and the American Rescue Plan, to address environmental justice and achieve equity and pollution monitoring across populations?

Mr. Goffman. Thank you for that question, Senator. There are a great many communities that are really struggling with almost an undue burden of poor air quality. They themselves have come to recognize that having reliable air quality monitoring is critical to their understanding of what they are experiencing and ultimately representing their own interests.

The American Rescue Plan funding for air monitoring was not just a great benefit to EPA, but it was a great benefit to those communities. Administrator Regan had the vision to make sure that the way we distributed that funding included a competitive grant program that was open directly to communities, so that they could get the resources they need to do the kind of air quality that understand to be important to advance their own

interests in reducing their struggle with bad air quality.

Senator Carper. Thank you for that.

We have been joined Senator Markey. Senator Markey, welcome. I will stop my questions there and turn to you, then Senator Capito, and Senator Whitehouse.

Senator Markey. Thank you, Mr. Chairman. Thank you, Mr. Goffman. Thank you for your service to this committee, and to the Country.

Fuel economy standards, we have a big chance here to take over world leadership in terms of the manufacture of vehicles here that are of the highest possible standard, which we know ultimately the rest of the world is going to try to compete with us. In Europe, especially, after Putin's invasion, and now the association of Europe from Russian oil. So they really have to raise their fuel economy standards.

Could you give me an idea as to what your plans are in order to have the highest possible fuel economy standards for the vehicles which Americans drive?

Mr. Goffman. Thank you for that question, and thank you for naming a few of the many benefits of increasing fuel economy standards and setting greenhouse gas emissions standards for automobiles.

As you know, Administrator Regan signed a set of final standards at the end of last year going through model year 2026.

Those standards are the most ambitious that we have ever put on the books. At the same time, those standards are being supported by the automotive industry itself, because the industry is making significant investments in low-emitting and zero-emitting vehicle technologies.

In fact, the industry was there last August when President Biden signed an Executive Order directing EPA to establish longer-term standards for greenhouse gas emissions and criteria pollutants from tailpipes. As part of that Executive Order, he set as a goal a new car fleet by model year 2030 that achieved or included 40 percent to 50 percent zero-emitting vehicles. Standing by his side were leaders of the automotive industry, because they are already planning and making investments in innovative technology.

Of course, the beneficiaries of that are not only communities that are dealing with the effects of climate change and the effects of air quality, but every driver who is now paying a fortune at the pump for gasoline. As we increase the fuel efficiency of cars and even move them off of oil to electrification, those costs will go down to zero.

Senator Markey. Thank you. I appreciate all the work of this Administration. We just have to really lift our gaze to the constellation of possibilities technologically for us to move, to act, and to capture this incredible economic

opportunity. With the first 16 million all-electric vehicles deployed in the United States we back out the equivalent of all the Russian oil. With the next 16 million all-electric vehicles, we back out all the Saudi oil.

Again, I worked hard against it in 2015, when unfortunately we lifted the ban on the export of American oil. We are now exporting, we are exporting 7 million barrels of oil a day. We export it out of our Country. Well, we now pay a price for that. But we have to now deal with the ability for us to be able to use technology to reduce and ultimately eliminate our need to put oil into gasoline tanks. Right now, we put 70 percent of all the oil we consume into gasoline tanks. So we lost so much time under Donald Trump, we made ourselves so much more vulnerable to the Russians and the Saudi Arabians. But thank you for your leadership and helping us to catch up.

Finally, is the EPA committed to deploying local air quality monitors and ensuring that data is regularly updated so that community leaders and local businesses can all work together to protect public health?

Mr. Goffman. Thanks to the funds provided by the American Rescue Plan, I am able to answer that question yes. Because now we have the resources not only to upgrade the current system of air quality monitoring, which badly needs it, but also to provide resources to communities themselves who are struggling

with undue burdens of air quality and have identified air quality monitoring as a key priority.

Senator Markey. Thank you, I appreciate it. Thank you, Mr. Chairman.

Thanks so much for joining us, Senator. I am going to turn now to Senator Capito, then Sheldon Whitehouse, and then me.

Senator Capito. Thank you.

Mr. Goffman, based on your calendars, you were meeting with climate czar Gina McCarthy and Deputy Administrator McCabe without Administrator Regan present before he was confirmed. In one of those meetings early in the Administration on February the 4th, 2021, you met with Ms. McCarthy about the power plant or EGU strategy. And you had a PowerPoint document that was attached to your calendar.

Would you be able to commit that we could see that document?

Mr. Goffman. I would like to check with General Counsel to see if it is appropriate for me to share that.

Senator Capito. Thank you. I think that would help us with the transparency of something I have been trying to get at in some of my questioning.

Earlier this year, the EPA announced the proposed Good Neighbor plan that would affect 26 States. This action would apply to power plants and certain types of industrial sources to

reduce nitrogen oxides that purportedly contribute to ozone in other States.

So industries targeted include iron, steel, cement and concrete, and are vitally important to the implementation, something important to both of us, and to this Congress and this President, which is the Infrastructure Investment and Jobs Act. The law includes Buy American provisions that require the use of U.S. manufactured products in certain categories. We already have severe supply chain bottlenecks.

Your proposal could make those matters worse by increasing costs on domestic production, stymying the availability of products to meet the legislative requirements of IIJA, support our domestic workers, and potentially even shutter some facilities.

Did you evaluate this policy and how that impact on the domestic production of these materials might be, such as for steel and concrete and cement, prior to proposing this?

Mr. Goffman. Thanks for asking that question. I think the Administration and the Administrator and I agree with you that this is an important cluster of issues. In fact, as you just stated, maintaining American manufacturing is a priority for the President.

The way we approached this rule was first by recognizing that air pollution that travels across State lines can have a

significant bad impact on downwind communities. The courts have been clear repeatedly that we have an obligation to prevent that from happening.

What we proposed to require in that rule, Senator Capito, is technologies and measures that are already in widespread use in a variety of industrial sources and in the power sector. In many ways, what we are asking some of the covered sources to do is simply operate on a level playing field with what already operating sources across the Country have installed by way of pollution control technology and are continuing to operate.

Senator Capito. So I guess the question was, have you considered what impacts it would have on the creation of a lot of the infrastructure packages with the Buy America provisions? Did you look at that aspect of that in terms of whether they could continue production in the magnitude at which this bill gives us a once in a lifetime chance to do?

Mr. Goffman. I would prefer to get back to you on that specific question. I just don't know off the top of my head the extent to which we looked at that specific question and how we framed it to ourselves.

As you know, we do extensive regulatory impact analysis and it is our legal and policy obligation to focus on the feasibility of any requirements that we propose.

Senator Capito. Well, I think there has been some question

as to whether some of the technologies are actually workable. But we can get into the details of that at another time.

I want to ask about the National Determined Contribution, the NDC, the targets that are put out there. Repeatedly, I have asked in every single one of these meetings, how we reach these goals and what it does to the American economy. And I would like to know if that is an area that EPA looks at when they are looking at this, did EPA have a role in giving this National Determined Contribution, where is it going to come from. How do we get there?

Mr. Goffman. The Environmental Protection Agency was asked to provide data to the White House Climate Policy Office, which as you know was the lead office responsible for developing the Nationally Determined Commitment and the analysis supporting it. EPA's contribution to the achievement really inheres in our Clean Air Act authority. As you know, we apply that authority action by action, standard setting by standard setting, for air pollution and greenhouse gases, going sector by sector.

Senator Capito. Well, one of the frustrations, and then I will wrap up here, and I appreciate your testimony today, is we have asked for that data from the EPA as to what part they played in taking this to the White House. We are not satisfied we have gotten all the data. We are still asking for a deeper explanation of that data so that we have an apples to apples

comparison. Any help that you could give us on that as we move forward would be much appreciated. Thank you.

Mr. Goffman. Senator Capito, my understanding is that we have produced everything that you have requested.

Senator Capito. I requested an additional meeting of explanation from EPA. We haven't had that yet. The Administrator said it would come forward. So if you would help us with that, we would appreciate it, where we could get your staff and our staff together so we understand what this data is. Thank you.

Mr. Goffman. Will do.

Senator Carper. Thank you, Senator Capito. We are rejoined by Senator Whitehouse.

Senator Whitehouse. Thank you. I am going to go back to my chart here in one second. But let me just make very clear that Rhode Island is a downwind State. I really, really want EPA to enforce pollution standards in upwind States, because they have a demonstrated record of not caring. They build big smokestacks so it doesn't hit their State and it comes and lands in ours. We are sick of that.

From time to time, because of upwind States' pollution, Rhode Island has had to do days where people are advised to stay in their homes. So let's not forget the upwind pollution that is coming into our downwind States. By the way, when we are

talking about the cost of meeting our NDC goals, please make absolutely sure you are also factoring in the cost of failing to meet the NDC goals.

Chairman Carper and I have coastal States that are looking at having to completely redraw our maps. Freddie Mac is talking about a property values crash because of sea level rise. It will be worse than the 2008 mortgage meltdown and pretty much everybody in the financial sector is talking about what happens when the carbon bubble bursts, and is that an international economic collapse.

So thank you for looking at both sides, and not just the side that the fossil fuel industry wants us to look at.

Airlines, you have no proposal or rule regarding aircraft emissions, correct?

Mr. Goffman. I believe we have on the books greenhouse gas emissions standards for aircraft to carry out the international agreement of the Obama Administration.

Senator Whitehouse. But there is no EPA rule specific to aircraft emissions?

Mr. Goffman. There is a rule implementing our obligations under the agreement that was reached in 2016.

Senator Whitehouse. Okay. I will put a check by that. That is not my view.

As to industrial sources, chemical plants, no rule specific

to chemical plants for carbon emissions?

Mr. Goffman. Not at this time, no.

Senator Whitehouse. Refineries? No specific rule for refineries for carbon emission?

Mr. Goffman. Not at this time, no.

Senator Whitehouse. Minerals, including cement?

Mr. Goffman. Not at this time.

Senator Whitehouse. Metals manufacturing? Steel, aluminum?

Mr. Goffman. We are, Senator, proceeding sector by sector with those sectors which --

Senator Whitehouse. So no proposed or final rule at this time with respect to metals manufacturing?

Mr. Goffman. Not at this time.

Senator Whitehouse. And with respect to pulp and paper, the same?

Mr. Goffman. Not at this time.

Senator Whitehouse. Which adds up to almost 600 million metric tons of carbon pollution. Do you believe that there is industry support for reducing carbon pollution in all of these areas, aircraft and big industrial sources?

Mr. Goffman. I don't know the answer to that question.

Senator Whitehouse. Okay. We will send you some stuff.

Do the reasons that industry might support regulation of

carbon emissions include that it creates a level playing field, so that those who want to do the right thing don't have to fear improper competition from bottom dwellers and free riders? Is that a customary reason why industry supports regulation of these types of things?

Mr. Goffman. In many cases they are looking for certainty and they are looking for precisely what you said, the good actors would like a level playing field to make sure that all actors --

Senator Whitehouse. So the bottom dwellers don't cheat, would be the rather coarse way I would say it.

Mr. Goffman. That is my understanding.

Senator Whitehouse. So at the moment we have, just to kind of review the bidding, we have cars and light trucks with a final rule that for the overlapping years is less strong than the Obama-era standard, we have coal-fired power plants with no rule or proposed rule, gas-fired power plants with no rule or no proposed rule, heavy duty vehicles with a proposed rule focused on NOX, oil and gas facilities with a proposed rule, aircraft, we will put an asterisk by it, because you say you have something and I don't see it.

And as to chemical plants, refineries, cement and other minerals, metals manufacturing and pulp and paper, no rule proposed or final. And we are 16 months into this

Administration and what is widely believed to be a world climate crisis caused by carbon emissions. Have I stated that all correctly?

Mr. Goffman. I am glad you gave us that 16-month frame.

Senator Whitehouse. Start with if I stated that correctly. Then you can expand.

Mr. Goffman. Yes.

Senator Whitehouse. Okay, go ahead.

Mr. Goffman. Thanks, Senator. I am wanting to leave you with a sense of encouragement and hope. Just looking back not 16 months, but just in the 11 and a half months that this Administration was in office in 2021, we established a rather robust cadence in terms of putting out greenhouse gas policies. In about nine months, we stood up an entire HFC phased-down program. We finalized the rules in the fall and stood the program up and began to harvest HFC reductions in January.

We put out a comprehensive oil and gas methane proposal that for the first time covered existing sources in that sector. And we went, again, in 11 and half months, soup to nuts in establishing greenhouse gas emission standards for mobile sources through model year 2026. In that year, those standards are the most ambitious that have ever been put on the books.

I bring that up, Senator, because I think we have set a pace for addressing greenhouse gas emissions using our

authorities that at least to the extent that I have anything to do with it, we will be able to maintain and even exceed in the coming 12 months.

Senator Whitehouse. Well, I beg to differ. But for that reason, I very much hope you will exceed. When your Administrator Regan was sitting in that chair last, he said one of the reasons they haven't been able to get this done is they don't have the personnel, which is interesting, coming from an organization that has 14,000 employees, more than the entire United States Congress, House and Senate alike.

I will just note for you that when there was a crush of work at the United States Attorneys Office in the District of Columbia after the Trump raiders attacked the Capitol and broke in and did all the damage and harm and injury, and they suddenly had hundreds of additional cases, what they did was they reached out throughout the entire department and they brought people in on detail and they stood up an operation that met the moment.

When I look at the regulatory output that you guys have to date, I think what is called for is a regulatory surge of similar or greater focus than what the Department of Justice did when it was faced with the prosecution surge in the wake of January 6th. So I commend that to your consideration and to the Administrator's consideration. I apologize to the Chairman for going over my time.

Senator Carper. No apology necessary.

We are coming to the end of this hearing. Before we finish, I will give you one last chance to maybe add a closing comment that you might have. I do have one last question. First of all, I want to make a unanimous consent request, then I want to ask you a question about methane.

I ask unanimous consent to enter into the record my statement on the recent updates to the Cross-State Air Pollution Rule. Coming from a downwind State where over 90 percent of our air pollution comes from upwind States, not from our State, but from upwind States, we greatly appreciate the new Good Neighbor Rule to hold upwind States responsible for their pollution.

[The referenced information follows:]

Senator Carper. With that, before we adjourn, let me just mention briefly methane, and Senator Sullivan has joined us again. I am going to take just a few minutes, Senator Sullivan and then yield to you for just a few minutes. I need to run and vote.

Methane is 25 times more potent than carbon dioxide, than you know, and trapped in heat and the atmosphere is also a component of natural gas. The oil and gas sector is the largest emitter of methane in this Country, wasting methane throughout the supply chain into the air that could be used for energy.

A recent analysis by the Environmental Defense Fund found that methane leakage on Navajo Nation land alone is worth \$48 million per year, an equivalent climate impact of 400,000 automobiles' worth of greenhouse gas emissions.

Last November, EPA announced a proposed rulemaking intended to reduce methane emission from both new and existing oil and gas sources, and set emission reduction targets to help us meet our climate goals. Please describe briefly your work with the oil and gas sector on the methane rule. Do you agree that capturing methane helps save and better use our domestic energy resources?

Mr. Goffman. Thank you for that question. I think Administrator Regan and everybody in the Office of Air and Radiation really sees a very important confluence of

considerations and priorities that are represented in the proposal we put out last November to set standards for methane. As you know, methane is a very potent greenhouse gas. When it is reduced, other pollutants are reduced as well, which improves air quality in front-line communities.

At the same time, it is exactly as you said, methane is valuable as a product. Our standards will certainly support the efforts of industry to increase the efficiency of their operations, capture and use or sell more product. It will also help promote a wave of technological innovation that a number of the leading companies are undertaking.

In fact, even before, during the Trump Administration, major oil and gas producing companies advocated with EPA to establish exactly the kind of regulatory program that we have proposed. At least one company, ExxonMobil, put its own proposal out, reflecting not only the company's understanding of the importance of having the rules of the road, but also the understanding that you articulated, that preventing leaks and emissions of methane is intrinsically economically valuable to the companies and the economy.

Senator Carper. All right, thank you for that.

Senator Sullivan, I will ask you to be brief in this question and we will wrap in five minutes. I have to run and vote; you may have to as well.

Senator Sullivan. Thank you, Chairman.

Mr. Goffman, I wanted to follow up again on that issue that I talked about on the Clean Power Plan rule that the Supreme Court rule was a violation of EPA's statutory powers from the Congress. I am a little concerned that that move by Gina McCarthy, which again, she publicly stated, hey, heck, even if we don't win, it was three years ago, all the power plants, most are already in compliance, investments have already been made, again, shocking disregard for the rule of law in America.

I am a little worried about the electric generating unit, EGU, strategy announced by Administrator Regan that could have the same kind of impact where it is an overreach on your statutory authority. You guys mandate that everybody complies. It is billions of dollars of compliance.

What can you do to assure this committee that you are not going to be undertaking the same Gina McCarthy lawless strategy that she did with the Clean Power rule, that Supreme Court six to three ruled was not within EPA's statutory mandate?

Mr. Goffman. One of the things I want to confirm is that Administrator Regan himself, the current EPA Administrator, is absolutely committed in word and in his deeds as a leader to following the rule of law.

Senator Sullivan. I believe that. I happen to be, I happen to like Administrator Regan. I think he is someone who

believes in the States' role. So just, if you can commit to me to work with him and this committee to make sure that kind of lawless Gina McCarthy maneuver doesn't happen again, can you commit to that?

Mr. Goffman. Absolutely.

Senator Sullivan. Good. Let me go to the issue of ethics and conflicts. I have written the IG at the Department of Interior. There are a number of senior officials at the Department of Interior who are making decisions on issues in which, in the private sector, they were leaders on environmental groups and then meeting with these same groups later, that is clearly a violation of ethics in my view. I have asked for investigations by the IG at Department of Interior.

I did notice that you had a bit of a dust-up on this issue as part of your two-year bar on meeting with folks from the Harvard University Environmental Energy and Law Program and the EPA Director of Ethics mentioned that you should have recused yourself. Am I stating that correctly? I don't want to misinterpret that.

But can you make a commitment to me on the issue of ethics that you complied fully with those? It looks like you did have some kind of issue where you were, I think, somewhat reprimanded for not immediately recusing yourself. I am quoting from the EPA Ethics Director. Am I getting that right, and did you learn

a lesson from that?

Mr. Goffman. I certainly did. The lesson I learned involved an email from a former colleague at Harvard, which I forward to an EPA employee. The lesson I learned is, don't just read the subject line, read the "from" address to make sure that I am absolutely 110 percent complying with my recusal obligation.

Senator Sullivan. And that recusal was a two-year bar of meeting with people you had been working with. I understand that. And again, I am not trying to make a big deal about it. I read the record. It looks like it was an honest mistake.

A less honest mistake, though, seems to be Gina McCarthy recently met with the head of the NRDC at the White House. This was only eight months after she had been head of the NRDC. To me, that is just like a blanket violation of her ethics agreement.

How is it ethical for Gina McCarthy to meet with her former employee less than a year from joining the Administration?

Mr. Goffman. I am not qualified to answer that question.

Senator Sullivan. But if it is a two-year ban, she met with him after eight months, isn't that a violation of ethics? You wouldn't do that, would you?

Mr. Goffman. My recusal commitment is two years.

Senator Sullivan. So is hers.

Mr. Goffman. I really --

Senator Sullivan. Assume hers is. Isn't that a violation of her ethical obligations?

Senator Carper. Senator Sullivan, I hate to interrupt, but --

Senator Sullivan. Mr. Chairman, these are important issues.

Senator Carper. I know they are important, and I have been very generous --

Senator Sullivan. The Department of Interior they are violating ethics laws --

Senator Carper. Senator Sullivan, I am always very generous in providing time for you to go over and beyond the time that is allotted. Finish up --

Senator Sullivan. No one is waiting on me, Mr. Chairman. These are really --

Senator Carper. We have a vote underway --

Senator Sullivan. Federal Government, really important issues. I would just like an answer. And I would like a commitment to make sure you abide by ethics. But is Gina McCarthy currently abiding by ethics? The answer is no. Right? The answer is no.

So can I get a commitment from you to do that, to not follow the suit of your current and former boss, the example of

her?

Mr. Goffman. I remain in continual contact with ethics counsel, because I want to be 100 percent on the mark in implementing my own recusal requirements.

Senator Sullivan. I believe you. But I just think it is important.

Mr. Goffman. I agree, it is important. Often, what ethics counsel will tell me is that large group meetings, for example, can be permissible even if they include a former employer. So that is why I was hesitating. I do not know what the circumstances were, still do not know what the circumstances were of Ms. McCarthy's meeting, because those circumstances could provide the answer to your question as to whether or not she was in violation.

Senator Sullivan. Well, I think she was. But thank you for the answer, and thank you for your commitment. I will have one more follow-up question on a PM 2.5 issue in Fairbanks that we hope you will continue the good work that the EPA had been doing with the State and the borough there. I know you are familiar with it.

Mr. Goffman. Yes.

Senator Sullivan. We actually really appreciate the constructive approach the EPA has been taking on that tough issue in Alaska. I am sure you are familiar with it. I

appreciate your commitment to continue to work on that.

Mr. Goffman. Thank you, Senator.

Senator Sullivan. Thank you. Thank you, Mr. Chairman.

Senator Carper. You are welcome.

I want to close by thanking you, Mr. Goffman, for appearing before us today. You are nominated for a critical role at EPA, and I am pleased that we have been able to hear from you today.

Before we adjourn, a little bit of housekeeping. First, I want to ask unanimous consent to submit into the record a variety of materials relating to today's hearing, including letters of support for Mr. Goffman's nomination, along with articles and independent analysis relating to his nomination. Without objection, those items will be entered into the record.

[The referenced material follows:]

Senator Carper. Finally, Senators will be allowed to submit written questions for the record through close of business on Wednesday, June the 8th. We will complete those questions, send them to our witness. You, Mr. Goffman, will be asked to reply by Wednesday, June 22nd.

Would you like to make a last closing, brief statement, maybe a minute or so?

Mr. Goffman. Thank you, Senator Carper. Thank you for the opportunity to testify today, and thank you for the extreme care you put into leading this hearing. I am going to give in to the temptation to repeat something I said briefly before. I think there is no higher calling than public service, and it is a calling. If you hear the voice, you can't resist it.

As I said briefly, but I will say again, the essence of public service is identifying yourself with everyone whom you serve. As I said, that means everyone, so that everyone sees in whatever action the government takes, some vindication or honoring of their interests and needs. I have always looked to you, Senator Carper, and members of the committee, as exemplifying that. I hope to continue to meet that standard.

Senator Carper. That is a lovely way to close the hearing. Thanks again to you for your service, for your willingness to serve in this capacity and joining us today. I thank your spouse, who is sitting over your left shoulder, for listening

intently and smiling, never rolling her eyes at any of your responses. We are grateful to her for her service as well and her willingness to share you with all of us.

I want to say thanks to our staff members, both majority and minority, who helped us prepare for this hearing, as we will begin the next step in this confirmation process. It is a wrap. This hearing is adjourned. Thank you.

[Whereupon, at 12:20 p.m., the hearing was adjourned.]