

# TRANSCRIPT OF PROCEEDINGS

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UNITED STATES ENVIRONMENTAL )  
PROTECTION AGENCY PUBLIC )  
COMMENT HEARING ON THE )  
PROPOSED PREVENTION OF )  
SIGNIFICANT DETERIORATION )  
AND TITLE V GREENHOUSE GAS )  
TAILORING RULE )

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## HERITAGE REPORTING CORPORATION

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## IN THE ENVIRONMENTAL PROTECTION AGENCY

UNITED STATES ENVIRONMENTAL )  
PROTECTION AGENCY PUBLIC )  
COMMENT HEARING ON THE )  
PROPOSED PREVENTION OF )  
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TAILORING RULE )

Hyatt Regency Crystal City  
S. Jefferson Davis Hwy  
Crystal City, VA

Wednesday,  
November 18, 2009

TRANSCRIPT OF PROCEEDINGS held in the above-  
entitled hearing on the 18th day of November A.D. 2009, at  
the Hyatt Regency Crystal City, Crystal City, VA at 10 a.m.

U.S. ENVIRONMENTAL PROTECTION AGENCY:

MICHAEL LING, Associate Director, Air Quality Policy  
Division, Office of Air Quality, Planning and Standards;  
JUAN SANTIAGO, Group Leader, Operating Permits Group, Air  
Quality Policy Division, Office of Air Quality, Planning and  
Standards;  
HOWARD HOFFMAN, Office of General Counsel.

REPORTED BY: GARY MILLSTEIN, Court Reporter

P R O C E E D I N G S

(10:00 a.m.)

MR. LING: Good morning.

ALL: Good morning.

MR. LING: Thank you for attending the first of two public hearings to comment on EPA's proposed Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule. That's a mouthful. We will be holding a second hearing tomorrow in the Chicago area.

My name is Michael Ling. I work for EPA's Office of Air Quality, Planning and Standards. I'll be chairing today's hearing. With me on my left is Juan Santiago, who's the leader of the Operating Permits Group also at the Office of Air Quality, Planning and Standards. And on my right is Howard Hoffman with our Office of General Counsel.

We are here today to listen to your comments on EPA's rule proposing greenhouse gas emissions thresholds that would define when Clean Air Act permits under the New Source Review and Title V programs would be required for new or existing industrial facilities. This is an opportunity for the public to comment on EPA's proposed rule. The panel members may answer questions that seek to clarify what

1 we have proposed, but the purpose of the hearing is to  
2 listen to your comments, not to discuss or debate the  
3 proposal.

4 Before we move to the comment period, I  
5 would like to just briefly describe the proposed rule  
6 that is the subject of today's hearing and it was  
7 published in the *Federal Register* on October 27. The  
8 proposed thresholds would "tailor" the permit programs  
9 to limit which facilities would be required to obtain  
10 New Source Review and Title V permits, and the  
11 proposed thresholds would ensure that the permit  
12 programs will apply to sources that emit nearly 70  
13 percent of the national stationary source greenhouse  
14 gas emissions totals, including those from the  
15 nation's largest greenhouse gas emitters, sources like  
16 power plants, refineries and cement production  
17 facilities.

18 But under the proposal, numerous small  
19 farms, restaurants and many other types of facilities  
20 would not be subject to these permitting programs.  
21 The proposal addresses emissions of greenhouse gases  
22 for six gases that may be covered by an EPA future  
23 regulation controlling or limiting their emissions.  
24 The six gases are carbon dioxide, methane, nitrous  
25 oxide, hydrofluorocarbons, perfluorocarbons and sulfur

1 hexafluoride. We are proposing under this rule that  
2 the carbon dioxide equivalent total be used as the  
3 preferred metric for determining the GHG emissions  
4 rate for the gases, but we are requesting comment on  
5 that issue.

6 Under the operating permits program, what  
7 we're proposing is a major source applicability  
8 threshold of 25,000 tons per year of CO<sub>2</sub> equivalent  
9 for existing industrial facilities. Facilities with  
10 emissions below that threshold would not need to  
11 obtain an operating permit.

12 Under the Prevention of Significant  
13 Deterioration program, which is one component of the  
14 Clean Air Act's New Source Review Program, we're also  
15 proposing a major stationary source threshold of  
16 25,000 tons of CO<sub>2</sub> equivalent. This threshold would  
17 be used to determine if a new facility is a major  
18 source or if an existing facility is a major source  
19 that would trigger PSD requirements for modifications.  
20 We are also proposing to establish a significance  
21 level for the modifications between 10,000 and 25,000  
22 tons of CO<sub>2</sub> equivalent. So existing major sources  
23 that make increases that result in increases above the  
24 significance level would be required to get a PSD  
25 permit for their modification. We are requesting

1 comment on these values and on a range of values for  
2 modifications in the proposal with the intent of  
3 selecting a final value when we issue the final rule.

4 Under these proposed thresholds, we estimate  
5 that about 400 new sources and modifications each year  
6 would be subject to PSD permitting. We expect that  
7 fewer than 100 of those would be newly subject. In  
8 other words, more than 300 of those have  
9 traditionally, per year, had to get PSD permits  
10 anyway. In total, approximately 14,000 large sources  
11 would need to get operating permits for greenhouse gas  
12 emissions. And again, since most of these sources  
13 already have operating permits, we expect that fewer  
14 than 3,000 of these sources would be newly subject to  
15 the Clean Air Act permit programs for their GHG  
16 emissions.

17 These proposed thresholds would preserve the  
18 ability of the PSD, that's Prevention of Significant  
19 Deterioration, and Title V operating permit programs  
20 to achieve and maintain public health environmental  
21 protection goals while avoiding an administrative  
22 burden that would prevent the State and Local  
23 permitting authorities from processing such large  
24 numbers of permits efficiently. Under the approach  
25 laid out in the proposal, we would reevaluate the

1 final GHG emission thresholds after an initial phase.  
2 And during that first phase, PSD and Title V  
3 permitting authorities will gain experience in issuing  
4 PSD and Title V permits for greenhouse gases to the  
5 sources that are covered. And by the end of the first  
6 phase, which is proposed to last for five years, we  
7 are proposing to complete a study to evaluate whether  
8 it's administratively feasible to lower the thresholds  
9 at that time for PSD and Title V permitting  
10 authorities who can adequately administer their  
11 program at lower levels.

12 After reviewing the results of that study,  
13 we would then do a follow-on regulatory action within  
14 a year from that, which would either confirm the need  
15 to retain the thresholds at the current levels that we  
16 would finalize in this rule or possibly establish  
17 different greenhouse gas thresholds that more  
18 accurately reflect the administrative capabilities of  
19 permitting authorities to address the programs five  
20 years from now.

21 We also plan to develop supporting  
22 information to assist permitting authorities with  
23 greenhouse gas permitting as they begin to address  
24 this for the first time. The guidance would initially  
25 focus on source categories where permits will be

1 needed soonest, which are the sources who have  
2 greenhouse gases at levels that are above the  
3 thresholds that we're going to establish in this rule.  
4 A key topic addressed by this effort, which is being  
5 done separately from the rulemaking being discussed  
6 today, is how to do a Best Available Control  
7 Technology determination for greenhouse gases. But we  
8 do invite specific comment on any elements of the  
9 tailoring rule proposal that I described as well as  
10 any other issues raised by that proposal.

11 Finally, let me describe how this hearing  
12 will operate and how you can comment. Today we will  
13 be accepting oral comments on our proposal and then we  
14 will be preparing a written transcript of the hearing.  
15 The transcript will be available as part of the  
16 official record for this rule, and we will consider it  
17 as we move forward. We are also accepting written  
18 comments on the proposed rule until December 28. We  
19 have a Facts Sheet available in the registration area  
20 that contains detailed information on how to file  
21 written comments.

22 For those of you who will be providing oral  
23 comments today, I will call the scheduled speakers to  
24 the microphone in pairs. When it's your turn to  
25 speak, please state your name and your affiliation,

1 and it will help our court reporter if you also spell  
2 your name. In order to be fair to everyone, we are  
3 asking that you limit your testimony to five minutes  
4 each, we have a very full docket for today, and that  
5 you remain at the microphone until both speakers in  
6 your pair have finished. After you finish your  
7 testimony, one of us on the panel may ask clarifying  
8 questions. And if, in addition to the transcript, you  
9 would like us to put the full text of your written  
10 comments in the docket, please be sure to give us a  
11 copy of any written comments. You can give it to us  
12 here before your presentation if you'd like us to be  
13 able to read along, or you can give it to the staff  
14 outside at the table.

15 We have a timekeeping system consisting of  
16 red, yellow and green lights. Unfortunately, we  
17 discovered this morning that the front side of the  
18 display does not work. We will be installing a new  
19 one as soon as it arrives. But in the meantime, we've  
20 augmented our electronic technology with state-of-the-  
21 art note card technology. So when you begin speaking,  
22 we will start the timer, and you will get five minutes  
23 to speak. When two minutes are up, the yellow light  
24 will come on and Juan will raise a yellow card.  
25 That's your sum up signal, and you'll have two minutes

1 left. And then when the time is up, a red light will  
2 come on and Juan will hold up the red card, at which  
3 point we'll ask you to conclude your remarks. We'll  
4 continue with this system until the new timer arrives.

5 We do intend to stay into the evening until  
6 everyone has had an opportunity to comment that would  
7 like one. If you would like to testify but haven't  
8 registered to do so, you can sign up at the  
9 registration table outside. And for those who have  
10 already registered to speak, we've tried to  
11 accommodate your time preferences. We ask for your  
12 patience as we proceed through the list, and we may  
13 need to make adjustments to the schedule as time  
14 progresses throughout the day.

15 So that's all I have. I'd like to thank  
16 everyone for participating today, and why don't we get  
17 started with the first two speakers. I have Howard  
18 Feldman and Carl Pope. And, Mr. Feldman, you'll be  
19 first, so begin whenever you're ready.

20 MR. FELDMAN: Okay. Thank you. I'd like to  
21 thank EPA for the opportunity to speak today. Good  
22 morning. I'm Howard J. Feldman, Director of  
23 Regulatory and Scientific Affairs at the American  
24 Petroleum Institute. API represents nearly 400 member  
25 companies involved in all aspects of the oil and

1 natural gas industry. And as you know, we've been  
2 very active in the Clear Air Act issues over the  
3 course of the last couple of decades.

4 I want to make three points today, please.  
5 First, API along with many other groups does not  
6 believe that the Clean Air Act was designed to address  
7 the emissions of greenhouse gases, GHGs as we call  
8 them. Second, we question -- I didn't really do this  
9 to music. Second, we question whether EPA has the  
10 legal authority to modify the statutory thresholds in  
11 the Clean Air Act to regulate pollutants or in this  
12 case GHG emissions. And EPA's only reaching this by  
13 relying on its "absurd results" logic. Third,  
14 contrary to Executive Branch requirements, EPA has  
15 failed to provide any Regulatory Impact Analysis to  
16 support the totality of its claims to regulate the  
17 greenhouse gases under the Clean Air Act.

18 Regarding the first point, API believes that  
19 climate change is a serious issue demanding focus and  
20 effective action that is best taken with legislation  
21 dedicated to the problem rather than through the  
22 existing structure of the Clean Air Act, which is  
23 clearly not designed to address greenhouse gas  
24 emissions. EPA should not proceed with this rule or  
25 related greenhouse gas rules that EPA has proposed.

1 Furthermore, there is no fixed deadline for EPA to  
2 regulate greenhouse gases under the Clean Air Act.  
3 The best way to avoid the circumstances giving rise to  
4 EPA's "absurd results" and alleged "administrative  
5 necessity" outlined in the proposal is to rely instead  
6 on the corresponding National Highway Traffic and  
7 Safety Administration proposal to strengthen the CAFÉ'  
8 standards, which will achieve virtually all the  
9 benefits of the EPA proposed GHG tailpipe rules.  
10 Meanwhile, Congress has the opportunity to develop a  
11 meaningful, bipartisan energy and climate policy that  
12 addresses the challenges at hand without holding back  
13 our nation's economic recovery. EPA does not need to  
14 proceed with this regulation now.

15 Second, the Clean Air Act is quite clear  
16 regarding the thresholds that should be relevant for  
17 compounds regulated under the Act. EPA cannot justify  
18 the proposed "tailoring" rule under the "absurd  
19 results" or "administrative necessity" doctrine. The  
20 narrow and limited doctrine of "administrative  
21 necessity" cannot justify the massive "tailoring"  
22 proposed by EPA. The broad departure from the plain  
23 language of the statute that is necessary to sustain  
24 EPA's proposed threshold increase is patently  
25 inconsistent with the statute and cannot be saved by

1 the "administrative necessity" doctrine. EPA cannot  
2 resort to judge-made exceptions to the law such as  
3 "absurd results" and "administrative necessity" when  
4 the agency can lawfully avoid creating such  
5 circumstances in the first instance. Furthermore,  
6 even if EPA could properly assert "absurd results"  
7 necessarily exist, EPA is still obligated under the  
8 narrow and limited "administrative necessity" doctrine  
9 to the least intrusive means effective to avoid them.  
10 Here, EPA has alternative approaches to "tailoring"  
11 that do not involve a clear violation of the statute.  
12 For example, EPA could use a simple extension of PSD  
13 applicability date for all sources or EPA could  
14 interpret the phrase "pollutants subject to  
15 regulation" to exclude GHGs. Accordingly, the  
16 "administrative necessity" doctrine cannot justify  
17 EPA's clearly unlawful attempt to change the  
18 statutorily mandated PSD threshold.

19 Third, EPA has avoided providing information  
20 on the costs and impacts on the economy of its  
21 regulatory scheme. EPA should be providing a  
22 Regulatory Impact Analysis that describes the cost of  
23 its planned regulatory scheme, which includes not just  
24 this proposed rule but also the proposed car rule and  
25 the proposed endangerment finding. It is not

1 acceptable for EPA to simply point out the incremental  
2 costs and benefits of this absurd "tailoring" rule.

3 Furthermore, this costly ill-suited  
4 regulatory approach stands to be preempted by  
5 legislation in Congress. Clearly, EPA must provide a  
6 full analysis before moving forward with the  
7 unnecessary regulatory scheme.

8 In closing, we are asking here, and we will  
9 in our subsequent written comments, we're asking that  
10 EPA withdraw this flawed unsupported rule. We  
11 encourage EPA to exercise its substantial discretion  
12 to allow the legislative process to consider the best  
13 approach for controlling greenhouse gases. Thank you.

14 MR. LING: Thank you very much. I'll ask  
15 the panel, do we want to ask questions of each witness  
16 in turn or do we want to go wait for both?

17 MR. HOFFMAN: Probably wait.

18 MR. LING: Okay. I think we'll go ahead and  
19 do Mr. Pope, and then we'll ask questions of both. So  
20 Mr. Pope?

21 MR. POPE: Thank you very much. It's a  
22 pleasure to be here. My first encounter with these  
23 issues was my first professional environmental  
24 activity was lobbying on the Clean Air Act of 1970,  
25 and my first formal job for the Sierra Club was

1 dealing with EPA's first Prevention of Significant  
2 Deterioration rule which the agency only promulgated  
3 after the Sierra Club had sued it and taken --

4 MR. LING: Hold on one second, please. The  
5 timer needs to restart. Thank you. Sorry.

6 MR. POPE: So I have a long experience with  
7 these issues. I want to thank the agency for  
8 proposing these rules. I want to cheat slightly and  
9 say that I would like to have my testimony extended by  
10 taking each and every sentence Mr. Feldman said and  
11 saying I demur. I think every sentence he said I  
12 explicitly disagree with.

13 It's wonderful to see the agency carrying  
14 out one of the President's major campaign promises by  
15 promulgating this rule. It is unfortunate that the  
16 President, whose campaign promise you're carrying out,  
17 is no longer in office. Using the well-established  
18 authority of the Clean Air Act to deal with greenhouse  
19 gases was George Bush's major environmental pledge  
20 when he ran for public office as President in 2000.  
21 Once he was elected, the President unfortunately  
22 changed his mind. The United States and the world  
23 lost a critical eight years in dealing with the  
24 climate crisis. The Sierra Club and various States  
25 and environmental organizations were forced to take

1 the Bush Administration all the way to the United  
2 States Supreme Court to resolve exactly the issue Mr.  
3 Feldman just raised, which is whether or not, in fact,  
4 the plain and simple language of the Clean Air Act  
5 requires EPA to regulate greenhouse pollutants as  
6 pollutants, and the Supreme Court ruled that it does.  
7 And it is a very good thing that the Agency is now  
8 moving forward to follow the mandate which the Supreme  
9 Court has given you.

10 It is also surprising to me to listen to Mr.  
11 Feldman discuss the desirability of letting Congress  
12 act because I think it is a reasonably safe bet that  
13 when the United States Senate attempts to take up  
14 comprehensive climate legislation, the American  
15 Petroleum Institute will ask members not to allow it  
16 to proceed. I will be very surprised if when the  
17 moment comes to vote on cloture, API is in favor of  
18 actually invoking cloture and proceeding. But I will  
19 be delighted to be wrong.

20 But while the Congress is proceeding -- and  
21 Congress should proceed and I agree with Mr. Feldman  
22 we do need legislation, comprehensive legislation on  
23 greenhouse pollution -- the fact is that taking the  
24 stationary sources which are the source of a very,  
25 very large fraction, more than half I believe,

1 America's total greenhouse pollution and regulating  
2 them using the tools which the Clean Air Act provides  
3 the agency is a prudent, simple, straightforward, low  
4 cost approach. It has a number of very simple  
5 advantages which people in the business community have  
6 been asking for. It gives the emitters certainty.  
7 The emitter knows what the emission standard is. The  
8 emitter knows by what date the emission standard must  
9 be met. The agency will subsequently proceed to  
10 determine what is the best available technology for  
11 each category of sources, and it gives the public  
12 certainty. It tells us we are going to move forward.  
13 It's easily calculable, and it gives those who are  
14 making investment decisions adequate time to make the  
15 choice of what pathway they wish to use for any given  
16 facility which is going to be subject to these rules,  
17 what technology they use to clean it up, whether or  
18 not they want to use a different facility. So I think  
19 that the use of Clean Air Act authority is probably  
20 the most predictable and the simplest tool we have  
21 available to us to deal with stationary source  
22 emissions of greenhouse gases.

23 Now, it is not a very good tool, as the  
24 agency has recognized in its "tailoring rule", for  
25 small sources. So I want to commend the agency for

1 offering the "tailoring rule" for public comment. It  
2 may be that after public comment you will want to make  
3 some changes in it. But the fact that the Clean Air  
4 Act permitting authority is not a particularly good  
5 way for dealing with my backyard barbecue, and it is  
6 not -- I do not have a permit on my backyard barbecue  
7 -- does not mean that we should not have a Clean Air  
8 Act permit on PG&E's major fossil fuel power stations,  
9 and we do. And in proposing the "tailoring rule" for  
10 greenhouse pollution, EPA has simply applied the 35  
11 years of experience we have with Clean Air Act  
12 authority and applied it, I think, sensibly,  
13 appropriately, and in a straightforward fashion.

14 The American people want to clean up  
15 greenhouse pollution. The Clean Air Act specifies  
16 that pollutants which damage the climate must be  
17 regulated under the Clean Air Act. The Supreme Court  
18 has ruled that EPA has a binding obligation as an  
19 agency to exercise that authority, and we commend the  
20 agency for doing so.

21 MR. LING: Thank you very much. Any  
22 questions? No questions here, very clear. Thank you  
23 both.

24 MR. POPE: Thanks.

25 MR. LING: Okay, the next two speakers,

1 David Friedman and Mary Anne Hitt.

2 MR. FRIEDMAN: I left my comments up front.

3 MR. LING: Okay. Thank you. Looking for  
4 Mary Anne Hitt. Hey, Jan, when she comes in, will you  
5 just send her to the table? Thank you. Okay. Oh,  
6 here we go. All right, timer ready? All right, Mr.  
7 Friedman, you can begin. Thank you.

8 MR. FRIEDMAN: Good morning. I'm David  
9 Friedman, Director of Environmental Affairs for  
10 National Petrochemical and Refiners Association. We  
11 are a national trade association comprised of more  
12 than 450 companies, including virtually all the U.S.  
13 refiners and petrochemical manufacturers, and we  
14 supply consumers with a wide variety of products and  
15 services.

16 The proposed greenhouse gas "tailoring rule"  
17 will have a significant impact on our members, and we  
18 appreciate the opportunity to express our views today.  
19 While NPRA always values the agency's efforts to  
20 streamline regulations and reduce permitting burdens,  
21 we have major concerns with this rulemaking. We'd  
22 like to address the following key concerns regarding  
23 the rule, namely that it is unnecessary and violates  
24 the statutory authority of the Clean Air Act. It is  
25 not a relief rule and does not account for all sources

1 of greenhouse gases. It does not adequately assess  
2 the cost and benefits, and it will not preclude States  
3 from permitting smaller sources, and creates  
4 regulatory uncertainty. The "tailoring rule," which  
5 does not have a statutory basis in the Clean Air Act  
6 and which rests entirely on uncodified administrative  
7 law doctrines, is being proposed since EPA has decided  
8 to promulgate final greenhouse gas regulations for  
9 light duty vehicles under Section 202. NPRA believes  
10 that there is a straightforward way to avoid the  
11 fundamentally flawed legal position that EPA has put  
12 forward in the "tailoring rule" still while obtaining  
13 95 percent of the greenhouse gas reduction benefits  
14 projected for the 202 rule.

15 EPA should delay promulgation of the light  
16 duty rule while the National Highway Traffic Safety  
17 Administration finalizes its portion of the rule early  
18 next year. This result would avoid reliance on EPA's  
19 erroneous conclusion that PSD is automatically  
20 triggered for all sources upon the effective date of  
21 the Section 202 light duty vehicle rule. The Clean  
22 Air Act stipulates unequivocally that the threshold to  
23 permit major stationary sources is 250 tons. EPA  
24 lacks the legal authority to categorically exempt  
25 sources that exceed the Clean Air Act's major source

1 threshold from permitting requirements, and taking  
2 such action would create a troubling precedent for  
3 other agency actions in the future. The agency's  
4 streamlining techniques outlined in the "tailoring  
5 rule" are also inconsistent with longstanding federal  
6 policies on implementing the requirements of the PSD  
7 and Title V programs. This would result in continuing  
8 regulatory uncertainty. Therefore, altogether the  
9 proposal highlights the perils of forcing greenhouse  
10 gas regulations into the Clean Air Act. You shouldn't  
11 try to put a square peg into a round hole.

12 The "tailoring rule" is also not a relief  
13 rule. Currently, there are approximately 300 to 400  
14 PSD applications annually under the Clean Air Act. So  
15 the overall effect of the "tailoring rule" would  
16 increase PSD nearly 40 fold to more than 13,000 -- I  
17 guess it was mentioned, 14,000 facilities. EPA's  
18 broad interpretation of pollutants subject to  
19 regulation greatly expands the PSD program and is done  
20 without a proper assessment of the cost and benefits  
21 of such a regulatory expansion. According to the EPA,  
22 a PSD permit costs \$125,000 and 866 hours to complete.  
23 This means the cost to the industry for the more than  
24 14,000 facilities to file PSD permits will be more  
25 than \$1.6 billion. These costs were not considered as

1 costs but rather as cost savings in the rule's  
2 cost/benefit analysis. In addition, it's not as if  
3 smaller GHG sources will be exempted from these  
4 significant filing cost impacts. EPA makes clear in  
5 the proposed rulemaking that it intends to eventually  
6 phase smaller sources into the permitting process.  
7 Huge costs will reach smaller facilities just a few  
8 years after our facilities pay these costs. We're  
9 simply kicking the can down the road and paying later.  
10 This program does not save the \$54 billion as  
11 calculated in the cost/benefit analysis. At most, it  
12 simply delays the \$54 billion that the U.S. economy  
13 will have to pay to comply with the PSD program.

14 The proposal also would generate a great  
15 deal of uncertainty as state GHG permitting thresholds  
16 in some cases are below the 25,000 ton limit.  
17 Additionally, the preamble discussion leaves many  
18 unanswered questions as to how EPA can achieve a  
19 transition for those States with fully approved PSD  
20 and Title V permit programs. The adjustments for the  
21 new applicability thresholds under the "tailoring  
22 rule" could be delayed as the States have to go  
23 through notice and comment rulemaking in order to  
24 incorporate new Federal requirements and policies in  
25 the State programs and raise their permitting

1 thresholds to match the Federal programs. Instead of  
2 streamlining the permitting program, these factors  
3 will mean that the "tailoring rule" only provide an  
4 additional level of uncertainty for facilities  
5 operating throughout the nation.

6           Also, we'd like to add a point about timing.  
7 This rulemaking along with the tailpipe rule, the  
8 endangerment rule, and the "GHG Reporting Rule" are  
9 among some of the most important and far reaching  
10 rules that EPA addressed in the past few years. These  
11 rules are complex, often interrelated and we believe  
12 that the comment periods have been far too brief for  
13 affected parties to fully ascertain their impacts and  
14 to provide complete and meaningful comments, including  
15 suggestions for improvement. Industry's efforts to  
16 extend comment periods in these rules have been  
17 uniformly rejected. We strongly believe that it's  
18 more important that these rules be done right and not  
19 that they fit into an artificial deadline. These  
20 rules are too important to be rushed only to find  
21 flaws and unintended consequences. We're only seeking  
22 these short comment extensions in order to produce a  
23 useful and meaningful end product that benefits both  
24 industry and society as a whole. And thank you for  
25 the opportunity to speak this morning.

1 MR. LING: Thank you. Ms. Hitt?

2 MS. HITT: My name is Mary Anne Hitt. I am  
3 with the Sierra Club as Deputy Director of our Beyond  
4 Coal Campaign, and that's M-A-R-Y, A-N-N-E, H-I-T-T.  
5 On behalf of the Sierra Club, I am pleased to offer  
6 our official support at this public hearing for the  
7 EPA's proposal to require the nation's biggest sources  
8 of greenhouse gas pollution to address their emissions  
9 when they build or modify a facility. The Sierra Club  
10 is the nation's largest grass roots environmental  
11 organization with over one million supporters  
12 nationwide. Our members are deeply committed to  
13 stopping global warming, moving beyond coal and  
14 putting this nation on a path to a clean energy  
15 future. We believe the EPA's proposal to target the  
16 largest sources first is an important common sense  
17 step that is essential to move this nation in the  
18 right direction and to ensure the safety and  
19 prosperity of future generations of Americans.

20 In their 2007 decision in Massachusetts v.  
21 EPA, the Supreme Court ruled that the EPA has the  
22 authority to regulate global warming pollution under  
23 the Clean Air Act. The Bush Administration did  
24 everything it could to ignore that finding. The Obama  
25 Administration has thankfully changed course and has

1 finally begun moving forward to act on the findings of  
2 the Supreme Court and the consensus of the scientific  
3 community both here in the U.S. and around the world.  
4 Having issued a draft finding earlier this year that  
5 global warming does indeed endanger public health and  
6 welfare, the EPA has taken the essential and logical  
7 next step -- preventing increased emissions from our  
8 largest sources of global warming pollution.

9           The Sierra Club supports requiring large new  
10 sources of global warming pollution to install the  
11 best available pollution controls and to require large  
12 existing sources to update their pollution controls  
13 when they increase their emissions. The New Source  
14 Review provisions of the Clean Air Act have proven  
15 successful in reducing other forms of pollution by  
16 requiring that new sources install the Best Available  
17 Control Technology for specific pollutants. Given the  
18 severe and imminent danger that global warming  
19 pollution poses to current and future generations of  
20 Americans, it is only reasonable that EPA would seek  
21 to address this new pollution threat using such time  
22 tested methods.

23           It is also eminently reasonable that the EPA  
24 is starting with the largest sources which emit 25,000  
25 tons or more of global warming pollution annually.

1       These large sources account for over half of global  
2       warming pollution, and they should be the first to  
3       clean up. It is important to recognize that the  
4       Prevention of Significant Deterioration or PSD program  
5       targets increases in pollution from today's levels.  
6       It applies only to new sources of pollution or  
7       existing facilities that increase their emissions.  
8       The level of greenhouse gases in our atmosphere is  
9       already too high, and we need to do everything we can  
10      to reduce those levels. This first step that EPA is  
11      taking is modest in that it simply is designed to  
12      limit increases in greenhouse gas pollution, not to  
13      reduce existing levels.

14               Moreover, the PSD program is not unduly  
15      burdensome to businesses. It requires improved  
16      controls that are economically feasible only when new  
17      facilities are built or existing facilities are  
18      modified, allowing businesses to plan for appropriate  
19      pollution controls as part of their larger planning  
20      processes when they build or modify their facilities.

21               In conclusion, on behalf of the Sierra Club,  
22      it is my pleasure to offer our support for the EPA's  
23      proposed "tailoring rule". Every day the steady  
24      drumbeat of increasingly alarming information about  
25      global warming grows louder. Every day our window of

1 opportunity to avert a climate crisis closes a little  
2 bit more. The time for leadership and action is long  
3 overdue. This proposed rule marks a welcome return to  
4 science and the rule of law, and it is an important  
5 step towards creating a clean energy future for this  
6 country. So thank you for the opportunity to speak.

7 MR. LING: Thank you very much. Any  
8 questions? No questions? I have one question for Mr.  
9 Feldman. I think you described the "tailoring  
10 rule" -- I'm sorry, Mr. Feldman - Mr. Friedman, you  
11 described the "tailoring rule" as unnecessary, and I  
12 think I interpreted your comment as unnecessary  
13 because if we didn't do the light duty vehicle rule,  
14 it would not be necessary.

15 MR. FRIEDMAN: That's correct.

16 MR. LING: But I'm wondering if you've  
17 considered whether it would be necessary in the  
18 context of down the road future regulation, not just  
19 the light duty vehicle rule, but if some other  
20 regulation were to occur under the Clean Air Act,  
21 wouldn't the "tailoring rule" be necessary then?

22 MR. FRIEDMAN: Well, but again we have to go  
23 back to the 250 number and how important that number  
24 is. So I guess there's some concerns that again we  
25 have to be within the statutory confines, and I think

1       that is as important to this as anything is that 250  
2       still means 250.

3               MR. LING:   Okay.   Thank you.   No further  
4       questions.   Thank you all very much.   Let me just  
5       check with our court reporter.   Let us know when you  
6       need a break.   You're good?   All right, and you guys,  
7       too.   The next two witnesses, Emily Figdor and Bob  
8       Pearson.   Ms. Figdor, you can start whenever you're  
9       ready.

10              MS. FIGDOR:   Great.   Thank you very much.  
11       My name is Emily Figdor, and I am here today on behalf  
12       of Environment Virginia and Environment America.   I am  
13       the Federal Global Warming Program Director for these  
14       organizations.   Environment Virginia is a citizen  
15       based nonprofit environmental advocacy organization.  
16       It's part of Environment America which is a federation  
17       of State-based environmental advocacy organizations  
18       with more than 750,000 members across the country.

19              We worked for many years to cut pollution  
20       from dirty coal plants and other big smoke stack  
21       industries and to move America to clean energy.   I  
22       appreciate the opportunity to testify today.   We  
23       support the proposed rule and really applaud EPA for  
24       focusing first and foremost on the nation's big  
25       polluters.   To successfully fight global warming and

1       move America to clean energy, we must finally require  
2       America's big polluters to meet modern standards for  
3       global warming pollution and this proposal is an  
4       important first step.

5               My testimony today will focus on the threat  
6       of global warming, the promise of a clean energy  
7       future and the common sense nature of this proposal.  
8       The impacts of global warming on human and natural  
9       systems are now being observed nearly everywhere. In  
10      2007, the Nobel prize winning U.N. Intergovernmental  
11      Panel on Climate Change, the IPCC, predicted serious  
12      risks and damages to livelihoods, human  
13      infrastructure, societies, species, ecosystems unless  
14      future warming is substantially reduced. However,  
15      emissions, warming and impacts such as ice melt and  
16      sea level rise are all currently at the upper end of  
17      the IPCC's projections.

18             To meet the challenge of global warming, we  
19      must transform the way that America and the rest of  
20      the world produce and use energy achieving dramatic  
21      improvements in the efficiency with which we use  
22      energy in our vehicles, homes and businesses and  
23      moving to clean renewable energy such as wind and  
24      solar power.

25             The challenge also brings great opportunity.

1 Vastly improving the efficiency of our economy and  
2 moving to renewable energy will make America more  
3 energy independent, help rebuild our economy on a  
4 sound foundation and create millions of clean energy  
5 jobs. A relatively small number of high polluting  
6 smoke stacks are responsible for vast amounts of  
7 America's global warming pollution. In particular,  
8 big power plants and especially coal plants are the  
9 worse offenders. They're the single largest source of  
10 global warming pollution in the nation responsible for  
11 40 percent of U.S. carbon dioxide emissions from  
12 energy consumption in 2007.

13 Many of the nation's coal plants are old,  
14 inefficient, and rely on outdated technology. In  
15 addition to the global warming emissions, coal plants  
16 are responsible for disproportionate amounts of smog,  
17 soot and mercury pollution which further threaten our  
18 health and the environment. The National Academy of  
19 Sciences recently found that coal plants cost the U.S.  
20 economy tens of billions of dollars each year in  
21 public health damages.

22 America should be doing everything we can to  
23 clean up or retire these old polluting coal plants and  
24 replace them with clean technologies like wind and  
25 solar power. At the very least, coal plants, both

1 young and old, must meet modern standards for global  
2 warming pollution. Just as emissions standards for  
3 automobiles help ensure that the dirtiest clunkers on  
4 the highway are replaced with newer models, standards  
5 for coal plants will prevent clunker plants, many of  
6 them 40 to 50 years old, from running on efficient  
7 decades old technology. This is a common sense  
8 proposal since it targets big polluters and requires  
9 these polluters to meet modern pollution standards.  
10 It's long past time for coal plants and other big  
11 smoke stacks to meet global warming pollution  
12 standards.

13           The proposed thresholds would cover the  
14 nation's largest polluters such as coal plants, oil  
15 refineries and iron and steel mills. Most of the  
16 sources that will be affected already comply with  
17 similar requirements for other pollutants. The 25,000  
18 tons per year threshold is equivalent to the emissions  
19 from the annual and energy use of about 23,000 homes  
20 or 4,600 passenger vehicles. According to the  
21 Nicholas Institute, only 1.3 percent of facilities  
22 across the manufacturing sector fall above the  
23 threshold. Yet the 25,000 tons per year threshold  
24 will capture approximately 68 percent of global  
25 warming emissions from stationary sources and 87

1     percent of carbon dioxide emissions from stationary  
2     sources.

3             Big polluters can take simple proven methods  
4     to reduce their global warming pollution including  
5     using energy more efficiently, replacing old equipment  
6     or burning cleaner fuels. In fact, according to a  
7     report that Environment America released last week,  
8     global warming pollution declined in one-third of the  
9     States since 2004, long before the onset of the  
10    economic downturn.

11            States are reducing pollution in part by  
12    using cleaner energy that keeps money and jobs in  
13    local economies. For example, four States,  
14    Connecticut, Delaware, Massachusetts and New York,  
15    emitted less carbon dioxide from fossil fuel  
16    consumption in 2007 than they did in 1990. The  
17    biggest factor in all four states was a shift to  
18    cleaner forms of electricity. Notably, these States  
19    cut their pollution levels by five percent since 1997  
20    while increasing their gross State product by 65  
21    percent.

22            In closing, to successfully fight global  
23    warming and build a clean energy future, America's big  
24    polluters must meet modern pollution standards. We  
25    commend you for this proposal and urge you to finalize

1 a strong rule. We'll provide more-detailed  
2 recommendations in our written comments. Thank you  
3 for the opportunity to participate today.

4 MR. LING: And thank you. Mr. Pearson?

5 MR. PEARSON: Thank you very much. I am Bob  
6 Pearson, a private citizen, and I'm here to thank the  
7 EPA for taking the lead on promulgating this new rule,  
8 and I think it makes a lot of sense just as a layman.  
9 I'm not a scientist. I'm not a lawyer. Nobody has  
10 paid me to be here. But I, like many other Americans,  
11 think the time has long passed to take action to limit  
12 our greenhouse gases and to do something about climate  
13 change.

14 I mean, we owe this to our kids and to our  
15 grandkids. And I urge the EPA and the Administration  
16 not to listen to the lawyers and the lobbyists that  
17 are there to protect the big polluters. We should not  
18 be polluting the air. We decided that, with the Clean  
19 Air Act that was signed by President Richard Nixon,  
20 and the EPA has been progressing ever since to try to  
21 clean up our air. We still have a lot of problems  
22 with mercury and sulfur. But we now know that carbon  
23 dioxide and the quantities that we are now emitting is  
24 a direct threat to our health. Vector borne diseases  
25 are spreading throughout the world because of the

1       entire change of the ecosystem. And if we continue  
2       down this road, we're facing one calamity after  
3       another.

4               So I'll be very brief. You know, we are not  
5       the nation that should be protecting old technology  
6       and dirty practices. We should be cleaning up our act  
7       and showing the world as a true leader that we can  
8       innovate, that we can do best practices to become more  
9       energy efficient and to start with green jobs, good  
10      jobs that can lead us to the future. Our future is  
11      with this rule and with the new technology and the new  
12      best practices that we can limit carbon dioxide  
13      emissions.

14             So, again I applaud your efforts. As EPA  
15      staff, I hope the Administration proceeds as  
16      aggressively as possible to clean up this pollution.  
17      I'll just close with a quote. "The significant  
18      problems we have cannot be solved at the same level of  
19      thinking with which we created them." That was said  
20      many years ago by Albert Einstein, and I think we  
21      should listen to him. Thank you.

22             MR. LING: Thank you very much. Any  
23      questions? All right, thank you both. Okay, I have  
24      Mike Fusco and Joelle Novey.

25             MR. HOFFMAN: Just as a reminder, if folks

1 did bring extra copies of your written testimony, we  
2 wouldn't mind seeing those before you speak. But if  
3 you didn't bring them, that's okay. Let's start with  
4 Mr. Fusco.

5 MR. FUSCO: Yes, hi. I did drop a copy of  
6 my comments off in the box outside there, and it's  
7 Mike Fusco, M-I-K-E, F-U-S-C-O.

8 Good morning. My name is Mike Fusco, and I  
9 represent Safety Clean Systems, Inc. I'm here to  
10 provide comments on the EPA's proposed rule Prevention  
11 of Significant Deterioration and Title V Greenhouse  
12 Gas Tailoring Rule. I'd like to thank EPA for holding  
13 this public meeting and providing the opportunity for  
14 stakeholders like Safety Clean to give comments on  
15 this proposed rule. My company believes that  
16 regulation of greenhouse gas emissions is a major  
17 issue that will dominate the environmental regulatory  
18 and legislative strategy for years to come and will  
19 have a significant impact on industry, our economy and  
20 society in general.

21 We're here to highlight the importance of  
22 life cycle analysis in achieving national GHG  
23 management objectives. In many cases, a focus on  
24 facility level emissions may serve to inhibit much  
25 larger scale emission reduction achievements. Our

1 industry, the recycling business, serves as a model  
2 case in point where an increase in facility level  
3 emissions may realistically represent a net decrease  
4 in national level emissions. Safety Clean is  
5 principally involved in the recycling of used oil and  
6 various petroleum based chemicals generally used as  
7 cleaning solvents. We are the largest used oil re-  
8 refiner and one of the largest solvent recyclers in  
9 North America. During 2008, our East Chicago, Indiana  
10 facility re-refined or produced approximately 109  
11 million gallons of used oil into base oil. This base  
12 oil is then enhanced to make lube crank case oils,  
13 hydraulic oils and oils for other industrial  
14 applications. The products of this re-refining meet  
15 the very same standards as the identical products  
16 derived from virgin crude oil. In addition, the  
17 company has five recycle centers, recycled  
18 approximately 13 million gallons of used mineral  
19 spirit solvent into a recycled solvent product in  
20 2008.

21 It's likely that our East Chicago re-  
22 refinery may be regulated under a final "tailoring  
23 rule" as a stationary source since its GHG emissions  
24 from stationary sources will likely exceed 25,000 tons  
25 of CO<sub>2</sub> equivalent annually. Safety Clean understands

1 the rationale for regulating this site for its GHG  
2 emissions. However, we want to make sure that as the  
3 EPA reviews and considers comments on this proposal,  
4 the total GHG mitigation benefits of re-refining and  
5 recycling businesses be considered. Let me explain  
6 this further.

7 Earlier this year, Safety Clean hired  
8 ENVIRON Corporation, a consulting firm with extensive  
9 experience in conducting GHG studies to complete a  
10 full life cycle analysis of our re-refining and  
11 solvent recycled product operations. This LCA was  
12 conducted in peer review in conformance with ISO  
13 standards, the first LCA on re-refining in the United  
14 States to meet these standards, to the best of my  
15 knowledge.

16 They concluded that re-refining resulted in  
17 81 percent fewer GHG emissions than refining lube oil  
18 from crude and combusting resulting used oil. The  
19 total GHG emission savings from Safety Clean's re-  
20 refinery operations was calculated to be over a  
21 million metric tons of CO<sub>2</sub> equivalent per year, the  
22 equivalent of the annual emissions of 190,000 vehicles  
23 or the consumption of more than 100 million gallons of  
24 diesel.

25 Our concern is the companies that burn

1 significant volumes of used oil as a fuel source may  
2 not burn enough at any one location to trigger the  
3 reporting and New Source Review or PSD requirements in  
4 the proposed tailoring rule. Also since burning is a  
5 secondary end use of lube oil, it will not be included  
6 in emissions charged to the refiners that produce the  
7 oil in the first place. If so, the burning of used  
8 oil which accounts for over 57 percent of all end uses  
9 of recovered used oil in the form of recycled fuel  
10 oil, will not be subject to the tailoring rule. If  
11 only those companies that re-refine used oil are  
12 subject to the tailoring rule, there's a potential to  
13 create a significant disincentive for what numerous  
14 governmental studies have shown to be the  
15 environmentally preferable choice.

16 The agency is on record many times  
17 supporting recycling. We are concerned for our  
18 industry that this proposal will have the opposite  
19 effect. Regulating GHG emissions at our facilities,  
20 without giving those facilities credit for other GHG  
21 emission reductions, and taking into consideration  
22 other environmental benefits, may actually discourage  
23 re-refining and recycling and result in higher GHG  
24 emissions nationwide. It will certainly present  
25 barriers for Safety Clean when considering expansion

1 of our facilities to increase re-refining used oil  
2 capacity.

3 In order to incent increased used oil re-  
4 refining and spent solvent recycling along with our  
5 GHG emission reduction effect, we advocate that (a)  
6 combustion of used oil be subject to the "tailoring  
7 rule" by allocating the emissions from used oil  
8 burning to the refiner of the oil from virgin crude  
9 and (b) requiring that emissions from the recycling  
10 process sector consider the net environmental benefit  
11 in the agency's regulatory structure. There are a  
12 number of methods of doing this, one of which is to  
13 exempt recycling facilities which reduce GHG emissions  
14 on a life cycle basis from the rule, and another is to  
15 allow the recycler to capture its life cycle carbon  
16 credits when calculating emissions at the site.

17 Finally, there's one other issue I'd like to  
18 address very briefly. The proposed "tailoring rule"  
19 accounts for GHG emissions differently than the GHG  
20 Reporting Rule. Safety Clean believes this will  
21 confuse the field and add unnecessary complexity to an  
22 already complicated regulatory regime. We recommend  
23 that the agency reconcile these differences and  
24 finalize a uniform accounting standard for GHG  
25 emissions. Thank you very much.

1 MR. LING: Thank you. Ms. Novey?

2 MS. NOVEY: I'm Joelle Novey, J-O-E-L-L-E,  
3 N-O-V-E-Y. I'm here today on behalf of over 350  
4 congregations of all faiths across the D.C. area who  
5 are finding their own religious response to climate  
6 change. There are interfaith power and light programs  
7 working in 29 States with over 10,000 congregations.  
8 And I'm here today to speak in support of the EPA's  
9 big polluters rule which will regulate emissions from  
10 the huge factories and power plants that emit over  
11 half of all U.S. global warming pollution. The EPA  
12 can get to work on reducing emissions without waiting  
13 for the political legislative climate action process.

14 For us, reducing our country's GHG emissions  
15 is a matter of moral urgency. I'm not here to comment  
16 on the specifics of the regulation or the rule. I'm  
17 here to just underscore that for many, many Americans,  
18 regulating GHG emissions is a matter of moral urgency.

19 Public health experts estimate that human deaths  
20 around the world directly attributable to climate  
21 change caused by our emissions this year is already  
22 300,000 deaths a year today. Our traditions teach us  
23 to love our neighbors. So we feel compelled to ask  
24 the EPA to act now to reduce emissions.

25 Unprecedented food insecurity and the human

1 suffering that goes along with hunger would be caused  
2 by unchecked climate change. Our traditions call on  
3 us to feed the hungry. So we feel compelled to ask  
4 the EPA to act now to regulate emissions. Many caring  
5 people are praying today that the EPA will do the  
6 right thing. Thank you.

7 MR. LING: Thank you. Questions?

8 MR. SANTIAGO: Yes, I do have a question for  
9 Mr. Fusco. You mentioned in your comments the  
10 difference in emissions, in the greenhouse gas  
11 emissions of re-refined fuel oil as opposed to refined  
12 for the first time oil. Are you planning to provide  
13 some information on that for the written comment part  
14 of the rule?

15 MR. FUSCO: We can. We are going to expand  
16 on the verbal comments here in our written comments,  
17 and we do have the life cycle analysis which we would  
18 be happy to share with the EPA. There are certain  
19 items in there which we consider to be CBI, and we  
20 would ask for that type of protection. But we'd be  
21 more than happy to share that information with you  
22 directly.

23 MR. SANTIAGO: Okay, thanks.

24 MR. LING: Thank you very much. For those  
25 of you, were you guys in the front row able to see

1 the -- no?

2 MR. SANTIAGO: I'll continue to use the  
3 cards.

4 MR. LING: It's just hard to see. Okay.  
5 All right. I have Linda Burchfield and Julian Levy.  
6 We do have our new timer installed. I'm not sure how  
7 visible the light is going to be, but you will see a  
8 yellow light come on when it's time to sum up with two  
9 minutes left and the red light when it's time to stop.  
10 Juan is going to continue holding up the cards just in  
11 case. Right, a little easier to see. Thank you.  
12 Let's begin with Ms. Burchfield. Start whenever  
13 you're ready.

14 MS. BURCHFIELD: My name is Linda  
15 Burchfield. I also am a private citizen not paid to  
16 be here, but I love my country and want what's best.  
17 I congratulate the EPA for developing this rule and  
18 holding this hearing. It's a common sense approach to  
19 limit the increase of greenhouse gases in the United  
20 States. This rule would give the EPA a very effective  
21 and reliable tool to limit greenhouse emissions from  
22 all new major emitting sources and also any existing  
23 sources that make big physical changes to their  
24 plants. Within the decade, most major sources could  
25 be subject to the big polluter rule. It's a time

1 tested rule that requires the EPA to consider the  
2 energy, environmental, and economic impacts before  
3 deciding on the right control for a plant. It has  
4 been used in the past by these same industries to  
5 reduce other forms of pollution. So the principles  
6 are familiar. Their engineers know the drill.

7 The control technologies are also familiar  
8 to these industries. These are technologies and  
9 applications that have already worked in the field.  
10 They're not theoretical designs. In fact, in many  
11 cases, the Best Available Control Technology to reduce  
12 greenhouse gases simply requires retiring old  
13 equipment, burning cleaner fuels or installing more  
14 efficient designs. And the very modification or  
15 technology that reduces greenhouse gases, in many  
16 cases, also reduces other pollutants such as those  
17 that cause smog and lung disease.

18 Big polluters, especially many power plants,  
19 refineries and cement plants, are very concerned about  
20 additional cost. They will, however, be protected by  
21 investment tax credits. We really need to think about  
22 the costs of inaction. Here in this conference room,  
23 it's hard to imagine the costs of global warming. But  
24 in Norfolk last Wednesday, the harsh impact of global  
25 warming was suddenly easier to imagine. We all know

1 the glaciers are melting and sea levels will rise, and  
2 we know the Hampton Roads area is especially  
3 vulnerable.

4 Last week in Norfolk, many roads were  
5 closed, schools were closed, power was out. My  
6 sister's a dental hygienist, couldn't get to work. My  
7 mother lives in a senior center and much of the staff  
8 couldn't get to work. Many small businesses and  
9 industries with no tax protection suffered huge  
10 losses, and two people died. Last week's flooding  
11 were caused by heavy rains. But as sea levels rise  
12 within our lifetimes, flooding will be caused by high  
13 seas from a storm. This was just one day in one town.  
14 But it did begin to make the price of global warming  
15 more real and the cost to the big polluter rule not so  
16 drastic.

17 I urge you to pass the big polluter rule for  
18 the good of America. Thank you.

19 MR. LING: Thank you.

20 MR. LEVY: Your lights work.

21 MR. LING: You can see them? Okay, great.

22 MR. LEVY: Although I'm not sure why you  
23 have two of them up there.

24 MR. LING: Right. Well, this is the old  
25 broken one.

1                   MR. LEVY: Ah, good. I won't press that  
2 one.

3                   MR. LING: And it's no longer even being  
4 used to keep time. So okay, good. You can begin  
5 whenever you're ready.

6                   MR. LEVY: Okay. My name is Julian Levy,  
7 and that's J-U-L-I-A-N, last name is L-E-V as in  
8 Victor, Y, and I thank you for this opportunity to  
9 speak. I've got one specific issue to talk about.

10                  I started my career with EPA. I've been in  
11 the air pollution business for about 35 years now, and  
12 I worked --

13                  MR. LING: I'm sorry. I need to ask you to  
14 stop for just one second. It looks like the new timer  
15 is not moving. Ah, there we go. Sorry.

16                  MR. LEVY: That's all right. All right.  
17 Anyway, I've been in the air pollution business for 35  
18 years, and I started my career with EPA. I wrote the  
19 first PSD rule in the State of Florida, and I've been  
20 working with or around PSD and Title V ever since  
21 then. And my comment addresses process in this case.

22                  This is a major rule with major  
23 environmental and economic impacts. It will change in  
24 many ways, the way not just the industrial folks live,  
25 but the way we all live, and it deserves major public

1 participation opportunities. Instead, in the proposal  
2 there was no hearing proposed. It was only if  
3 somebody requests a hearing, and you all knew that a  
4 hearing would be requested. So it would have been  
5 easy to schedule one.

6 The notice was provided, to my knowledge,  
7 for the first time, that a public hearing would be  
8 held was provided on the EPA website buried down in  
9 the website, and the only outreach notice that I  
10 received was less than 48 hours before the hearing  
11 began. It was issued by EPA to one of its LISTSERVs  
12 at about 2:30 the day before yesterday on Monday.

13 And I want to contrast that with other EPA  
14 rules. Let me read from a *Federal Register* the EPA  
15 published, and it says and I quote, "The administrator  
16 solicits widespread public involvement in all aspects  
17 of the significant deterioration issue, and interested  
18 individuals and groups are encouraged to actively  
19 participate in this rulemaking," and then it goes on  
20 to say all the different ways that EPA is doing that.

21 Also in this proposed PSD rule, EPA listed  
22 two days of public hearings in Washington that would  
23 begin six weeks out from the proposal, and then there  
24 were four additional hearings held around the country,  
25 each two days in Atlanta, Dallas, Denver and San

1       Francisco. And my concern is that, in addition to  
2       that, there were also 90 days for written comments.  
3       For this rule, there are only 60 days and it ends, the  
4       comment period ends, on the 28th of December, which we  
5       know is always an exciting time to finish up your  
6       comments.

7               And my concern is this, that I read from is  
8       from the original PSD rule and it was proposed  
9       July 16, 1973. That was in the Nixon Administration,  
10      one of the most secretive, and to many, repressive  
11      administrations that we've ever had. The current  
12      administration came to power with the promise of an  
13      open and transparent government. And frankly, I'm  
14      offended by the way this has been a very closed and  
15      opaque process. I find, in a way, that the lack of  
16      outreach and the lack of stakeholder involvement and  
17      the lack of reaching around the country to be the  
18      administrative equivalent of a kangaroo court.  
19      Instead of really trying to get it right, it seems as  
20      though you're just trying to get it politically  
21      correct and those are two different things.

22              And I encourage you all on this critical  
23      rule that does affect the environment, will affect the  
24      economy, will affect every citizen in the United  
25      States, will result in a loss of jobs for some people,

1       that you all give the people a chance to speak more  
2       frequently and to reach out to them more. And with  
3       that, I appreciate this opportunity for me to speak  
4       out.

5               MR. LING: Thank you. Questions from the  
6       panel? Thank you both very much. Okay, we have  
7       Virginia Vennett and Glen Besa. All right, we'll  
8       begin with Ms. Vennett. Please, whenever you're  
9       ready.

10              MS. VENNETT: Could you clarify what this is  
11       doing, this?

12              MR. LING: Yes. Can we stop the timer?  
13       Sorry. So what this is saying, whenever you begin  
14       talking, the green light will come on and that means  
15       that your five minutes has started. And then when  
16       there are two minutes remaining, a yellow light will  
17       come on, which is the signal to begin concluding,  
18       summing up. And then when the red light comes on,  
19       it's time to stop, although I've been letting people  
20       go at least another 30 seconds or so. All right,  
21       thank you very much.

22              MS. VENNETT: Good morning. I'm Virginia  
23       Vennett, and I'm currently a resident of Reston,  
24       Virginia. Today I'm here as a concerned human being  
25       almost as everyone in this room is. As a former

1 science teacher, a mother and a grandmother, I urge  
2 you to go ahead with the proposal. I'm here today for  
3 all of the reasons I've stated, but most importantly,  
4 today as a native of Southwest Virginia. I'm not  
5 going to give you any numbers or scientific studies or  
6 results. You've already had enough of those or a lot  
7 of those today. Just this morning as we meet here, a  
8 very important new assessment is being presented to  
9 Congress. The Physicians for Social Responsibility  
10 are releasing the human health effects of coal burning  
11 power plants.

12           When I think of Southwest Virginia, I have  
13 very fond memories. I was born there and grew up  
14 until I was four. And when we moved north to my  
15 yankee father's home in Upstate New York, I still felt  
16 like a southerner. We often traveled back, and I  
17 spent many, many happy times in Southwest Virginia.  
18 And I recalled as I started thinking about what I  
19 wanted to say today a very vivid memory. Back in  
20 those days, there weren't very many interstates.  
21 There weren't any. And as we would come to the top of  
22 the very last mountain and we would start down those  
23 scary switchbacks, I would notice this odor that to me  
24 meant home. It was that sickly, sweet odor. If you've  
25 ever been any place that burns soft coal, you know

1       what I'm talking about. It's indescribable, and it's  
2       unforgettable. But to me, it meant home.

3               So as we started down and I would smell  
4       that, I'd think, oh, I'm almost home. It hung  
5       constantly over the valley. It was a natural part of  
6       life to anyone living there, as normal as blue sky and  
7       sunshine. Thinking about this memory as I began to  
8       put together facts and memories I wanted to share with  
9       you today, something happened and I suddenly realized,  
10      and this is the first time in my life I put this  
11      together, that there are for me more concrete  
12      reminders. Incredibly, I had never ever connected  
13      them until now.

14             Starting at age ten, I had ongoing lung  
15      problems, asthma, bronchitis too numerous to count,  
16      and to date I've had pneumonia seven times. No sane  
17      person would knowingly inhale sulfuric acid, but in  
18      fact that's what I was doing in Pennington Gap in Lee  
19      County from birth to age four. Sulfur, which is a  
20      pollutant when soft coal is burned, combined with  
21      oxygen and hydrogen creates sulfuric acid. So I was  
22      having sulfuric acid in my lungs.

23             As you have heard and will continue to hear,  
24      only a small handful of sources, including coal power  
25      plants, are known to be responsible for more than half

1 of all the global warming in the U.S. It's  
2 unthinkable that we could knowingly allow dangerous  
3 pollutants to be spewed into the air for children to  
4 breathe.

5 I, as I said, I'm just blown away by the  
6 fact that I had never put the fact of what I was  
7 breathing as a child and my lung problems together.  
8 But I'm hoping that today you will certainly go ahead  
9 with your proposal so that in the future other  
10 children and other adults aren't going to have similar  
11 health problems.

12 MR. LING: Thank you very much. Mr. Besa.

13 MR. BESA: Thank you. My name is Glen Besa.

14 I'm the Virginia Director for the Sierra Club, and  
15 we're very pleased that the EPA is here in Virginia  
16 with this hearing and I know our representatives will  
17 be in Chicago tomorrow as well. Again, thank you for  
18 this opportunity. I just want to relate to you that I  
19 appreciate the fact that the EPA proceeded with the  
20 endangerment proceeding and the findings that climate  
21 change is a threat to human health. I was just down  
22 in Hampton this Saturday actually and Sunday cleaning  
23 out my mother-in-law's home, which had been flooded  
24 for the second time in six years. Global warming is  
25 real, and it's having an effect on our climate. While

1 we can't point to any particular incidence and say  
2 that global warming caused it, certainly the increased  
3 frequency of these storm events and a variety of other  
4 impacts are very real and very apparent. And so for  
5 that reason, it's very appropriate that the EPA is  
6 proceeding with these regulations that would control  
7 emissions from large emitters of CO<sub>2</sub>. In Virginia,  
8 I'm engaged in regulatory proceedings related to two  
9 new coal plants that are proposed. At a time when the  
10 climate scientists from across this country and this  
11 world, in fact, are saying that we need to begin to  
12 reduce emissions, it's disconcerting that we would  
13 have emissions expanding and in the case of Virginia  
14 two new coal plants. So it's incredibly important  
15 that the EPA proceed with regulating new sources of  
16 pollution and begin to reduce those emissions if we're  
17 going to address the issues of climate change and  
18 address the issues with respect to human health and  
19 our well being that the EPA is attempting to do with  
20 these regulations. Thank you so much.

21 MR. LING: Thank you. Any questions? Thank  
22 you both. We have Lindsay Arends and Katherine Bowes.  
23 If you've got enough for all of us, that would be  
24 great. All right, welcome. We'll begin with Ms.  
25 Arends.

1 MS. ARENDS: Great. Thank you. Good  
2 morning. My name is Lindsay Arends, and I work for  
3 the Alliance for Climate Protections to Repower  
4 America Campaign here in Virginia. I would like to  
5 speak in support of the Environmental Protection  
6 Agency's new proposed permitting requirements for  
7 large sources of greenhouse gas emissions or the  
8 "tailoring rule". The greenhouse gas "tailoring rule"  
9 is yet another important step in Federal efforts to  
10 enact smart, sound policy to limit the harmful  
11 greenhouse gas emissions from the largest sources  
12 causing this climate crisis. And by taking the steps  
13 to shield small sources of emissions through this  
14 rule, the EPA is wisely utilizing a cost-effective  
15 approach focusing on the largest polluters who account  
16 for the most emissions.

17 Alongside enacting comprehensive clean  
18 energy and climate policies, enacting this rule and  
19 putting the Clean Air Act to work to cut pollution is  
20 a powerful tool for transitioning to a clean energy  
21 economy. Transitioning from dirty fossil fuels like  
22 coal, oil and gas to renewable energy sources like  
23 wind and solar reduce greenhouse gas emissions, the  
24 number one cause of climate crisis. Despite efforts  
25 by fossil fuel interests and their front groups to

1       weaken and undermine the Clean Air Act and block  
2       progress towards America's transition to clean energy,  
3       we know that the Act has protected the health and  
4       welfare of Americans, especially our most vulnerable  
5       from harmful pollutants for nearly four decades. We  
6       need to strengthen this commitment to enforce the  
7       Clean Air Act and supporting the "tailoring rule" is a  
8       critical component to these efforts.

9               Everything we love about America is affected  
10      by the climate crisis. And what we do in the next few  
11      years will determine everything about our country's  
12      future and the world our future generations will  
13      inherit. Coupled with the recent EPA decision to  
14      develop a first of its kind reporting system for  
15      greenhouse gas emissions and recent efforts to  
16      increase fuel efficiency standards and set pollution  
17      limits for cars, the EPA has stepped up to do what is  
18      necessary to protect the health of both the American  
19      people and the planet. Thank you.

20             MR. LING: Thank you.

21             MS. BOWES: Thank you. My name is Katherine  
22      Bowes, and I'm with the National Wildlife Federation.

23      Thank you for holding this hearing and for the  
24      opportunity to testify on this issue of critical  
25      importance to the National Wildlife Federation and our

1       4 million members and supporters across the country.

2               I'd like to start by applauding  
3 Administrator Jackson for directing the Environmental  
4 Protection Agency to fulfill its statutory obligations  
5 under the Clean Air Act to limit emissions of  
6 greenhouse gases. It is clear that the EPA has a  
7 renewed sense of duty to develop and implement  
8 regulations necessary to protect public health and the  
9 environment from the dangers of climate change, and it  
10 couldn't come at a more critical time. This new  
11 leadership from the Obama Administration to confront  
12 global warming is long overdue and very much welcomed.

13              The National Wildlife Federation strongly  
14 supports the proposed Prevention of Significant  
15 Deterioration and Title V Greenhouse Gas Tailoring  
16 Rule at issue today. We believe that EPA has  
17 developed a common sense regulatory approach here for  
18 tackling the country's largest sources of greenhouse  
19 gas emissions. Clarifying the scope of coverage and  
20 regulating these sources provides both large and small  
21 businesses with much needed certainty in this  
22 challenging economy while ensuring that nearly 70  
23 percent of U.S. global warming pollution from  
24 stationary sources is addressed.

25              NWF believes that focusing regulation at

1       this time on the sources most responsible for our  
2       global warming pollution makes both economic and  
3       environmental sense. The vast majority of sources  
4       that would fall under this threshold are longstanding  
5       members of the regulated community. The owners and  
6       operators of these plants are very familiar with  
7       emission regulations and in seeking cost-effective  
8       reductions to comply with their permits. As history  
9       has shown us time and again, American ingenuity and  
10      innovation will lead to dramatic pollution reductions  
11      and much lower costs than are initially projected.  
12      Placing a firm limit on greenhouse gas emissions from  
13      these large sources is essential for ushering in a  
14      clean energy future for America. Companies across the  
15      country will respond with substantial investments in  
16      new energy and efficiency technologies that will  
17      create jobs and drive our economic recovery. Quite  
18      simply, Americans need a better way to power our  
19      future and protect the planet. We must move swiftly  
20      and effectively. It is not an exaggeration to call  
21      what we are facing a climate crisis. This is the  
22      defining challenge of the 21st century. For years,  
23      commentators have framed climate changes such as the  
24      melting of the Arctic ice and rising of the seas as  
25      possible outcomes in the distant future. In fact,

1     these and other profound ecosystem changes and climate  
2     feedbacks are well under way and are occurring far  
3     more rapidly than scientists recently projected.

4             Of particular interest to the National  
5     Wildlife Federation, the fourth report from the  
6     Intergovernmental Panel on Climate Change warns that  
7     in the lifetime of a child born today, 20 to 30  
8     percent of the world's plant and animal species will  
9     be on the brink of extinction if we don't take bold  
10    action now.

11            National regulation of greenhouse gas  
12    emissions in the U.S. is long overdue. For decades,  
13    scientists have been warning of significant  
14    catastrophic threats to human health and welfare from  
15    unchecked global warming. As clarified by the Supreme  
16    Court in 2007, EPA has the authority and the  
17    obligation to respond to this threat with appropriate  
18    regulatory action.

19            It is refreshing to see EPA finally step up  
20    and pursue sensible policies to make up for lost time.  
21    In particular, the National Wildlife Federation looks  
22    forward to the final issuance of a positive  
23    endangerment finding in order to truly kickstart a new  
24    era of national policy action to address global  
25    warming.

1                   Conclusion: On behalf of the National  
2 Wildlife Federation and our 4 million members and  
3 supporters, I would again like to thank the Obama  
4 Administration for proposing this regulation and  
5 taking an essential step forward in crafting effective  
6 common sense policies to cut greenhouse gas emissions.  
7 It is clear that Administrator Jackson has brought a  
8 fundamentally different approach to the agency in  
9 responding to this urgent issue. The National  
10 Wildlife Federation looks forward to the opportunity  
11 to work together to advance our shared goal of solving  
12 the climate crisis. Thank you.

13                  MR. LING: Thank you. Questions from the  
14 panel? Thank you both. Okay, I'll call the next two  
15 speakers. I have Brian Morrissey and Melinda Pierce.  
16 Also, just as a reminder to folks who missed the  
17 opening remarks, if you are here and would like to  
18 speak but have not yet signed up to do so, you do that  
19 outside at the registration table. Thanks. Do we  
20 have Melinda Pierce? It looks like you're by  
21 yourself.

22                  MR. MORRISSEY: Okay.

23                  MR. LING: But go ahead and start whenever  
24 you're ready, and then we'll have Melinda join you  
25 when she comes in. Thanks.

1                   MR. MORRISSEY: Okay. My name is Brian  
2 Morrissey. I'm speaking essentially for myself,  
3 although I am a member of the Sierra Club and I am  
4 very interested in environmental education as part of  
5 my business. So if you take all of the fossil fuel  
6 deposits that are in the ground, extract them and  
7 convert them into energy, then the consequent  
8 accumulation as we all know of CO<sub>2</sub> in the upper  
9 atmosphere will raise the earth's temperature by a  
10 sufficient amount to exterminate ourselves and all  
11 life on the planet.

12                   Until this is more widely understood and  
13 until Congress passes adequate caps on carbon  
14 emissions, EPA's job, your job, is to control and  
15 limit carbon emissions through your authority under  
16 the Clean Air Act to prevent the 400 parts per million  
17 level of carbon dioxide from being reached in  
18 conjunction with, of course, the international  
19 community. As human beings, we have evolved an  
20 economic system, capitalism, capable of motivating  
21 individuals sufficiently to pursue self interest to  
22 the point of accomplishing just that result. Because  
23 of the time involved between burning of fossil fuel  
24 and accumulation of CO<sub>2</sub> in the atmosphere and then the  
25 effect that this has in trapping like greenhouse the

1 infrared or heat portion of the sun's rays, the final  
2 effect in earth temperature rise resulting from  
3 greenhouse gas emission lags behind its cause.

4           Everybody in this room knows that the rate  
5 at which carbon emissions are entering the atmosphere  
6 is not slowing significantly even with the economic  
7 downturn, and of course, our efforts at conservation.  
8 What slowing that has occurred from the U.S. economic  
9 downturn is more than offset by the tremendous  
10 acceleration in carbon emissions taking place in China  
11 and India.

12           The awareness of parts per million levels of  
13 CO<sub>2</sub> in the atmosphere is new. It is a new parameter  
14 for the human psyche and human existence. It's new in  
15 our awareness. In the past, particularly in America,  
16 whatever anyone finds in the ground and exploits for  
17 human progress is theirs to keep. The use and  
18 processing of what the American entrepreneur finds in  
19 the ground has never been limited or constrained in  
20 the past. There's never been a need, scientific or  
21 otherwise.

22           So now the EPA, a U.S. government agency,  
23 must impose a limit on how a resource dug out of the  
24 ground is utilized for the reward and profit of those  
25 who found and extracted it. Now this way of doing

1 business has served this country very well in the past  
2 and moving from the original 13 colonies to the West.  
3 But right at this moment, we have a fundamental  
4 choice. We can either continue with the past and our  
5 beliefs about the past regarding our economic  
6 activity, or we can allow the awareness of the  
7 accumulating CO<sub>2</sub> in the atmosphere to be our  
8 motivating factor. And basically it is EPA's  
9 responsibility until Congress does pass and is  
10 persuaded to pass effective greenhouse control  
11 legislation, it is EPA's job to do everything they can  
12 to cut, stop and reverse the greenhouse gas emissions.  
13 Let's call them unnecessary so we keep efficiency as a  
14 prime criteria here, energy efficiency. But that's  
15 your job is to be strong because of people's vested  
16 self interest in our economic capitalistic system,  
17 there's going to be all this flack in the air to  
18 overcome. And consequently, we need a very strong EPA  
19 right now going forward, of course, with the Obama  
20 Administration, in this rule that you're proposing.  
21 So I support you in that.

22 MR. LING: Thank you very much. Questions?  
23 Thank you. Do we have Melinda Pierce? Okay. All  
24 right, let's call up Alice Altusauer and Norman Hall.

25 MS. ALTUSAUER: My name is Alice Altusauer.

1 I run the Well Mind Association of Greater Washington,  
2 which is a holistic medicine information clearinghouse  
3 focusing on environmental and nutritional influences  
4 on mental and physical well-being. I'm also a member  
5 of the Sierra Club, and I also would like to applaud  
6 the EPA for this encouraging reversal in fulfilling  
7 its mandate to protect the public health and welfare  
8 from various types of pollutions. My concern is that  
9 the minimum 25,000 tons should be viewed as a  
10 beginning when something is known to be harmful.  
11 Ultimately, there really is no safe level of exposure.

12 I also want to talk about landfills. We  
13 have some wonderful up and coming planners,  
14 architects, engineers who are devising truly clean,  
15 renewable, innovative systems to manage all aspects of  
16 our solid waste, waste water. And UCLA and the  
17 National Building Museum had a forum just two days ago  
18 highlighting the top 20 submissions from around the  
19 world in one of their competitions, and the designs  
20 are wonderful. So I would encourage EPA to start  
21 looking at these innovations and begin to give them  
22 some publicity so we can become educated around the  
23 country as to how we can do better with what we have.

24 I also would encourage the EPA to look at  
25 chemical plants to see what is spewing out of those

1 plants in the context of the list of greenhouse gases  
2 that they've narrowed their focus to and consider not  
3 necessarily stationary, but at some point, looking at  
4 land use practices such as lawn mowers. In my area  
5 alone, six huge lawn mowers will go nonstop from seven  
6 in the morning until six in the evening in just one  
7 development spewing out truly enormous amounts of CO<sub>2</sub>.  
8 So I would encourage the EPA to start thinking about  
9 promoting watershed friendly yards and backyards, and  
10 Northern Virginia has some wonderful watershed  
11 friendly campaigns that the EPA should consider  
12 integrating at some point.

13 And also looking at implementing a national  
14 precautionary principle so that we don't have to wait  
15 until there's evidence of harm, and people have been  
16 harmed and communities have been harmed, if not  
17 destroyed. That we, in fact, avert these kinds of sad  
18 situations and that certainly should be consistent  
19 with how the EPA will be protecting our public health  
20 and welfare. And stopping the mountain cap mining is  
21 also of enormous concern, 2,000 miles of streams  
22 destroyed, to say nothing of the ecosystems.

23 And then, one last area of encouragement for  
24 EPA to really focus on is Congress's resistance to  
25 reverse its 80/20 formula. They're still putting 80

1     percent of their funds into roads, 20 percent into  
2     clean transit systems. So in Maryland alone, we're  
3     destroying pristine resources that sequester the  
4     carbon. We're destroying hundreds of acres of trees,  
5     hundreds of acres of topsoil, building humongous  
6     roads, one highway intercounty connector between  
7     Baltimore County and Harford County has 16 on and off  
8     ramps, and we have just completed most of that  
9     construction, and it just seems, not just insane, but  
10    so irresponsible. And EPA is supposed to be issuing  
11    or refusing to issue permits for those kinds of  
12    projects, and I would encourage the EPA to be more  
13    rigorous in stopping that pattern. Thank you.

14           MR. LING: Thank you. Mr. Hall.

15           MR. HALL: Good morning. My name is Norman  
16    Hall, and I'm a parent, an educator and an avid  
17    follower of public policy issues thanks to the way I  
18    was raised by my parents. I'm here today because I've  
19    been taught and I try to teach to my students the  
20    importance of speaking your mind about what your  
21    values tell you matter. Today this means that I feel  
22    committed to connect lessons about science and public  
23    policy considering the effects of global warming.

24           Before making a final decision about coming  
25    here today, I sent my son Zac an email asking him

1       whether I should do this. Zac is a freshman at  
2       McAllister College and is, for now anyway, majoring in  
3       biology. Zac replied within minutes saying yes, you  
4       should testify. Now, if you've worked with young  
5       people the way I have, you're prepared for that kind  
6       of a short answer. But he elaborated on what I might  
7       say, adding that while he didn't have specific  
8       technical points I should stress, all his thinking  
9       about the environment recently has been about how poor  
10      air quality relates to health, contributing to an  
11      enormous number of chronic illnesses.

12             Let me mention that he, my daughter and my  
13      wife, Susan, they all have asthma. I have learned to  
14      be aware of asthma triggers and how outdoor trips can  
15      change quickly from moments of spontaneous wonder to,  
16      well, concern about whether and where we packed the  
17      inhaler just in case it's needed. I grew up with a  
18      strong interest and belief in the fields of science.  
19      Following a graduate degree and a career in public  
20      transportation, I've turned to a second career in  
21      education. I've maintained an interest in making sure  
22      that people of all ages have choices to live their  
23      lives in a way that is true to their personal nature  
24      and protects the earth for future generations.

25             And in my mind, the path to a bright global

1 future requires that everybody with the capacity to  
2 follow the issues related to global warming has the  
3 obligation to do so. I teach the importance of  
4 critical thinking. Today, it's time for me to  
5 practice what I teach.

6 When I started my transit career, a major  
7 issue I worked on before the Americans with  
8 Disabilities Act concerned the decision to buy  
9 wheelchair accessible buses or hold off for other  
10 choices. Today, nobody seriously considers this to be  
11 a legitimate choice. Around the same time that the  
12 Americans with Disabilities Act became law, there were  
13 Clean Air Act amendments, which were another means by  
14 which our nation made laws to protect the public.  
15 Unfortunately, this legislation has not been as  
16 complete in meeting its goal over objections of those  
17 who would say it would cost too much. Others say we  
18 should wait for a better time to impose reductions in  
19 greenhouse gas emissions.

20 I say a reasonable scientific approach  
21 should trump concerns over cost. It's not about who  
22 owns the industrial facilities that are the subject of  
23 today's rule. It's about who owns the air, the layers  
24 of the atmosphere whose chemistry is affected. That  
25 is to say, it's everybody's, everybody who breathes,

1 and that includes those with respiratory diseases and  
2 asthma. With that in mind, let's consider right now  
3 only a handful of sources, including coal power  
4 plants, are responsible for more than half of all  
5 global warming pollution in the United States. Older  
6 energy facilities like the older buses that related to  
7 my work 20 years ago need to be set up with current  
8 and future needs in mind. We cannot wait. We cannot  
9 justify inaction by these operators while smaller  
10 emission sources are held to higher standards. Under  
11 the proposed rule, 25,000 ton per year carbon dioxide  
12 equivalents is what would be known as the major  
13 statutory source threshold facing newer modified  
14 existing facilities. Facilities with a lower  
15 significance level somewhere between 10,000 and 25,000  
16 tons per year carbon dioxide equivalent would also  
17 need a PSD permit should plant modifications be made.  
18 I'm no expert on what this value should be, but I'm  
19 sure that the testimony EPA seeks will include  
20 compelling arguments based on science for setting this  
21 number.

22 It's good to have the opportunity to discuss  
23 this issue today because science matters and numbers  
24 matter too for while we should consider every source  
25 of greenhouse gas emissions in the plans we make, it's

1 clear that the biggest impact we can have on cutting  
2 back emissions starts with those who make the most.  
3 Let's say I'm the manager responsible for running a  
4 large bus garage and I want to show my riders that I  
5 care about their service through a meet-and-greet  
6 campaign. I wouldn't go about doing this through  
7 small ridership bus runs. I would go where ridership  
8 statistics show most of my riders will be. As a  
9 teacher, I don't work with the students who are the  
10 easiest to find to give them extra homework help. I  
11 track down those who need the help most based on their  
12 underperformance.

13 I suggest that it's time that we encourage  
14 the EPA to do likewise when it comes to these proposed  
15 rules. It looks like they're off to a great start.

16 MR. LING: Thank you very much. Any  
17 questions from folks? Thank you. All right. The  
18 next speaker is Marlow Lewis, and according to my  
19 information, that's the only person remaining who has  
20 signed up to speak who is here. We have a few people  
21 signed up to speak who are not here and then several  
22 people who are not here who are not signed up to  
23 speak. So, if you do want to speak, you have the  
24 opportunity to sign up outside, and we will hear Mr.  
25 Lewis' talk. You may begin whenever you're ready.

1                   MR. LEWIS: Okay, thank you. I'm Marlow  
2                   Lewis. I'm with the Competitive Enterprise Institute  
3                   here in Washington, D.C., and I want to thank you for  
4                   the opportunity to speak, especially on immediate  
5                   notice, if you will. I just went outside and asked to  
6                   be put on because I only found out about this meeting  
7                   just a few days ago.

8                   But one of the things I wanted to say about  
9                   the "tailoring rule" is that I think that it confirms  
10                  in spades what a lot of us who are unhappy with  
11                  Massachusetts v. EPA have been saying for some time,  
12                  which is that the Supreme Court set the stage for an  
13                  economic disaster and a constitutional crisis, and  
14                  that's why you needed a "tailoring rule". I think the  
15                  "tailoring rule" brought out better than the ANPR,  
16                  than any of the comments that were submitted on the  
17                  ANPR, the Advanced Notice of Proposed Rulemaking, the  
18                  debacle that would be created if we literally apply  
19                  the Clean Air Act to carbon dioxide under Prevention  
20                  of Significant Deterioration, Title V, other EPA  
21                  programs. A lot of people would say yes, if we  
22                  literally apply the Clean Air Act, so let's not  
23                  literally apply it, which is what the "tailoring act"  
24                  is proposing.

25                  But literal is just another way of saying

1 legal or lawful. If we lawfully apply the Clean Air  
2 Act to greenhouse gases, we get a disaster on many  
3 fronts. One of the things that will happen that the  
4 "tailoring rule" brought out which is nowhere in any  
5 of the comments that I'm aware of on the ANPR is that  
6 6.1 million small entities would have to go through  
7 the Title V permitting process. This would be absurd  
8 because most of those 6.1 million sources would not  
9 have any other Clean Air Act requirements to report  
10 upon. Forty-one thousand small entities would have to  
11 go through the PSD process, and that's just mind-  
12 bogglingly large. I mean, your current load or the  
13 load that EPA shares with about 43 states, if I  
14 understand correctly, is about 300 permits a year.  
15 So, if we lawfully apply PSD to carbon dioxide, we get  
16 a workload of 41,000 permits. And as the "tailoring  
17 rule" points out, what this essentially does is cause  
18 the PSD and Title V programs to shut down. This  
19 cannot possibly be what Congress had intended when  
20 they created those programs.

21 So, as you point out in the rule, the  
22 literal, lawful application of the Clean Air Act to  
23 carbon dioxide produces "absurd results", results  
24 contrary to those Congress intended. And you have to  
25 ask yourself, is this because the Clean Air Act was

1 poorly written? I mean, back in 1970 and 1977 when  
2 Section 202 of the Clean Air Act was enacted and  
3 amended, did Congress insert the statutory equivalent  
4 of malicious code into the Clean Air Act or some kind  
5 of computer virus that suddenly went haywire? No.  
6 What happened was that the Supreme Court made a  
7 decision based on the premise that anything emitted  
8 into the air is an air pollutant. That was the  
9 lynchpin of the whole decision. But if anything  
10 emitted into the air is an air pollutant, then even  
11 totally pollution-free, absolutely clean air, if  
12 emitted into the air, is an air pollutant. From  
13 absurd premises comes absurd results. And now you  
14 have to rescue the country and the economy from what  
15 the Supreme Court did. But the way you're doing it is  
16 to basically act as the legislator. People are  
17 praising you for your common sense. Yes, it would be  
18 common sensical to do it this way. But that's not the  
19 way the law is written. It says 250 tons. No matter  
20 how you squint at the page, you can't see 25,000 tons  
21 there. In order to prevent an economic disaster, EPA  
22 is put in the position of violating the separation of  
23 powers. That's part of what I mean by a  
24 constitutional crisis. The bigger point, though, is  
25 that the "endangerment finding" will set the precedent

1 for another finding that triggers a NAAQS rulemaking  
2 under Section 108, and half the people in this room  
3 believe that 350 should be the new 450 that we have to  
4 set a max below current atmospheric concentrations.  
5 And believe me, there is no way we get there with  
6 known technologies except global economic collapse.  
7 So, you'd have to basically convince China and India  
8 and the rest of the developing world to stop  
9 developing. People talk about a moral high ground  
10 issue here. The only way you feed the hungry is if  
11 you let capitalism make the rest of the world as  
12 wealthy as we are. Thank you.

13 MR. LING: Thank you very much. Questions?  
14 Thank you.

15 MR. LEWIS: Okay. I appreciate it very  
16 much.

17 MR. LING: All right. We will go with  
18 Pamela Liebowitz and Julian Carmona. So, Julian, we  
19 have you for the two o'clock slot, so you're going to  
20 just go early.

21 MR. CARMONA: Thank you.

22 MR. LING: Okay, terrific. But we'll start  
23 with Ms. Liebowitz.

24 MS. LIEBOWITZ: Thank you. My name's Pamela  
25 Liebowitz, and I'm from Baltimore, Maryland. Thank

1       you very much for this opportunity to speak today.  
2       I'm speaking basically as a public citizen on behalf  
3       of myself, and I'm here because I'm very concerned  
4       about global warming, specifically because I have done  
5       work before dealing with poverty and food insecurity  
6       on a worldwide scale.

7               And what really concerns me about global  
8       warming is that by making our climate conditions and  
9       weather conditions more extreme and more  
10      unpredictable, we're jeopardizing lots and lots of  
11      people's ability, people who are farmers and live off  
12      the land to be able to feed themselves and their  
13      families by being able to have the security of knowing  
14      that their crops are going to grow and be able to feed  
15      everyone. And so, as global warming becomes more and  
16      more of a problem, and these weather conditions do  
17      become more extreme, it really threatens basically the  
18      people who are the most vulnerable, already are going  
19      to be the ones most affected by further extreme  
20      climate conditions.

21             And that's why I very much support EPA's  
22      proposed rule and why I wanted to come speak today.  
23      Big coal-fired power plants are the single largest  
24      source of global warming pollution in the nation.  
25      Many coal plants are old, inefficient and rely on

1       outdated technology. I support EPA's proposed rule,  
2       which puts the Clean Air Act to work to cut global  
3       warming pollution from coal plants and other big smoke  
4       stack industries.

5               To successfully stop global warming and  
6       transition to clean energy like wind and solar power,  
7       EPA must hold coal plants and other big smoke stack  
8       industries to modern pollution standards. EPA's  
9       proposal is common sense since it targets only the  
10      biggest polluters and requires these polluters to meet  
11      modern pollution standards. It's long past time for  
12      coal plants and other big polluters to cut their  
13      global warming pollution. It's time for big polluters  
14      to clean up so that America can fight global warming  
15      and move to clean energy.

16             Thank you for this opportunity. I urge EPA  
17      to finalize this important rule to fight global  
18      warming and move America to clean energy.

19             MR. LING: Thank you very much. Mr.  
20      Carmona.

21             MR. CARMONA: Thank you. Thank you for  
22      allowing me to testify. My name is Julian Carmona. I  
23      am here as a concerned citizen and an employee of the  
24      Sierra Club. My position is unpaid, so technically, I  
25      am not paid to be here. I'm a recent graduate of UCLA

1 and a 22-year resident of Los Angeles, California. I  
2 am here because I want to see the biggest polluters  
3 held accountable for their emissions, but I am also  
4 here as a resident of California and a messenger from  
5 those communities that are disproportionately affected  
6 by the actions of big polluters.

7 A lot of people see Los Angeles, California  
8 and California in general as a leader in cutting its  
9 greenhouse gas emissions and on the forefront of the  
10 clean energy economy. To a certain extent, that's  
11 true. But from Los Angeles, the biggest city in  
12 California and one of the biggest cities in the United  
13 States, it is a big contributor to greenhouse gases  
14 from both mobile and non-mobile sources.

15 While we hear a lot of news about Los  
16 Angeles leaders and California leaders cutting their  
17 greenhouse gas emissions with successful policies, we  
18 don't hear the stories from those who are affected by  
19 the actions of local industry. In other words, we  
20 don't see the ever present human effect of the big  
21 polluters.

22 Just take the toxic tour of LA, and you'll  
23 see communities like Southgate, Wilmington and other  
24 areas of Southeast Los Angeles that have, just like  
25 Middle America, huge smokestacks, oil refineries and

1 gas fires. But unlike the rest of Middle America,  
2 these industries are much closer to homes, playgrounds  
3 and schools. And the rate of asthma and other  
4 respiratory illnesses is much higher in these areas  
5 than it is in the rest of California and I would say  
6 in the rest of the United States.

7           What is more unsettling is that in these  
8 populations there is a high incidence of ethnic and  
9 racial minorities. This kind of environmental  
10 injustice must not be tolerated at any level. I am  
11 here to make sure that these big industries do not  
12 inundate these communities with these harmful  
13 greenhouse gases.

14           It is on that note that I support the EPA's  
15 "tailoring rule". These large polluters, like coal  
16 power plants, represent a small portion of sources but  
17 contribute to over half of the United States'  
18 greenhouse gas emissions. I've heard industries here  
19 give the same erroneous excuses about costs. These  
20 supposed costs they talk about are costs to regulate  
21 all forms of emissions and they apply this to this  
22 specific rule. These costs are both hyperbolized and  
23 overestimated. I hear a lot of talk about absurd  
24 rules and absurd numbers. I think their excuses are  
25 absurd. They should be held responsible for their

1 share, and this will only affect two percent of  
2 American businesses or those that emit over 25,000  
3 tons of greenhouse gas emissions. Excuse me.

4 This will allow the U.S. to grow its  
5 economy, put funding into research and development for  
6 clean energy and cut its greenhouse gas emissions. I  
7 commend the EPA and the Administration for taking the  
8 necessary steps towards cutting our greenhouse gas  
9 emissions and taking us into a future with clean  
10 energy. Thank you.

11 MR. LING: Thank you very much. Questions  
12 for either? Thank you both.

13 MR. CARMONA: Thank you.

14 MR. LING: All right. We'll call up Tyson  
15 Slocum.

16 MR. SLOCUM: I just sit here?

17 MR. LING: Yes.

18 MR. SLOCUM: Great.

19 MR. LING: And were you here when I  
20 explained the lighting system?

21 MR. SLOCUM: I was not, unfortunately.

22 MR. LING: Okay. The yellow light comes on  
23 when you have two minutes left, and then the red light  
24 comes on when your five minutes is up. So you may  
25 begin whenever you're ready.

1           MR. SLOCUM: Great. Thank you. My name is  
2       Tyson Slocum. I direct the energy program for Public  
3       Citizen. Public Citizen is a national nonprofit  
4       nonpartisan organization. We are one of America's  
5       largest consumer advocacy groups, and we have a nearly  
6       40-year track record of supporting strong,  
7       progressive, sustainable energy policies that protect  
8       the environment while also protecting household  
9       consumers.

10           And Public Citizen is thrilled that the EPA  
11       is beginning this process. It has already begun this  
12       process of getting the "tailoring rule" to consider  
13       regulating greenhouse gas emissions under the Clean  
14       Air Act. It's fitting that these hearings are  
15       occurring today. We're almost approaching the 40-year  
16       anniversary of the Clean Air Act, which is really one  
17       of the most important critical laws that the United  
18       States and our citizens have to protect our  
19       communities. And we strongly support the EPA using  
20       its authority under the Clean Air Act to tackle one of  
21       its biggest challenges yet, and that is global climate  
22       change.

23           Public Citizen strongly supports the  
24       development of science-based regulations to sharply  
25       reduce greenhouse gas emissions from power plants, oil

1 refineries and other smokestack emitters that are  
2 responsible for nearly 70 percent of our nation's  
3 emissions of pollutants that cause climate change.  
4 The EPA has really emerged as the only arm of the  
5 federal government with the credibility to solve  
6 climate change as Congress, thus far, has produced  
7 what we feel at Public Citizen, to be deeply flawed  
8 legislation that provides billions of dollars in  
9 financial giveaways to polluters while failing to  
10 change our corporate controlled energy system that has  
11 contributed to the unsustainable energy path that  
12 America finds itself on.

13           Using the Clean Air Act as the EPA has done  
14 over 40 years has shown that it can work with industry  
15 to make it more efficient, that there are glaring  
16 inefficiencies in the way that we produce energy, that  
17 we produce goods in this country, and that industry  
18 needs the guidance of science-based thoughtful  
19 regulations that the EPA can produce that will hold  
20 polluters accountable, while still implementing the  
21 strong aggressive targets and greenhouse gas emissions  
22 reductions that the U.S. and the world desperately  
23 needs to head off what many scientists believe to be  
24 catastrophic climate change catastrophies.

25           You know, we understand that there is a very

1 big push by a lot of folks in industry to avoid having  
2 to comply with EPA regulations. We see in the  
3 legislation passed by the House of Representatives  
4 that it would eviscerate the ability of the EPA to  
5 conduct rulemakings to regulate greenhouse gas  
6 emissions under the Clean Air Act. Public Citizen  
7 will oppose any legislation that takes away the  
8 ability of the EPA to do its job to protect citizens  
9 and the world from the effects of climate change.

10 We feel that under the leadership of the  
11 EPA, that your agency is far more shielded from the  
12 effects of lobbyists and special interests that have  
13 proven to be so effective at getting what they want  
14 out of legislation and we think out of regulation  
15 where science rather than lobbyists will prevail.

16 It's also appropriate that you are holding  
17 these hearings on the eve of the global climate change  
18 talks in Copenhagen next month. There, the United  
19 States along with most of the nations of the world are  
20 going to be working together on how to solve climate  
21 change, and I think that the eyes of the world will  
22 not be on Congressional leaders but on the  
23 Environmental Protection Agency and the pronouncements  
24 that the Obama Administration makes and EPA officials  
25 make on the progress that the EPA is planning on

1 regulating greenhouse gas emissions under the Clean  
2 Air Act.

3 So thank you very much for the opportunity  
4 to make my remarks today, and Public Citizen looks  
5 forward to supporting the EPA authority under the  
6 Clean Air Act with all of our resources that we have  
7 available. Thank you so much for your time.

8 MR. LING: Thank you. Questions? All  
9 right, thanks. Okay. We are scheduled to break at  
10 12:30. However, in the absence of any speakers  
11 scheduled to speak between now and then, I'm going to  
12 suspend the hearing for now and I'm going to take a  
13 break and give the court reporter a break. And then  
14 we'll return and see if there's anyone else who wants  
15 to speak before we officially adjourn for lunch.

16 (Whereupon, a short recess was taken.)

17 MR. LING: All right. Good morning, folks.  
18 We're going to reconvene briefly here. We have three  
19 speakers who would like to go before lunch, and so I  
20 will call them up two at a time. The first two are  
21 Lauren Glickman and Richard Krause. You guys can sit  
22 at the table together. If you weren't here when I  
23 explained the lighting system, basically you start  
24 speaking whenever you're ready. The timer will give  
25 you five minutes, and then the green light will come

1 on. When the yellow light comes on, you will have two  
2 minutes to begin summing up, and then when the red  
3 light comes on, the time is up. And I guess that's  
4 pretty much it. So, Ms. Glickman, whenever you're  
5 ready to begin, go ahead.

6 MS. GLICKMAN: All right, thank you. Again,  
7 my name is Lauren Glickman. I am the Virginia  
8 Campaign Coordinator with Chesapeake Climate Action  
9 Network, and I'm here today as an ordinary citizen  
10 just because this is really a huge opportunity we have  
11 in front of us to really have a huge impact and take  
12 on the largest offenders regarding climate change  
13 pollution and hold them accountable. It is becoming  
14 increasingly clear to me that the question is no  
15 longer if we should address climate change but when  
16 and how. And this rule that is under review today  
17 provides a huge opportunity to answer the latter part  
18 of that question by offering a solution that would  
19 make the largest impact on the shortest timeframe.  
20 And so, really briefly, I have chosen my current  
21 profession, and to dedicate myself to what I do  
22 because I do not believe that clean air and clean  
23 water are to be seen as privileges entitled to people  
24 based on where they live or how much money they make.  
25 And it's clear that the pollution from the coal

1 industry is in fact suffocating parts of this country.

2 We cannot designate areas safe for breathing  
3 and not safe for breathing. And it appears that those  
4 are the two roads that we have in front of us. Just  
5 this September, I was fortunate to be able to travel  
6 to Southwest Virginia to see firsthand the costs of  
7 this so-called cheap energy, and what I saw were  
8 leveled mountains. I saw streams that were running  
9 orange with heavy metals and even more so, I was able  
10 to step outside and the air was so thick it was hard  
11 to breathe. The worst part, though, the thing that  
12 struck me the most was, that as I was driving through  
13 Wise County to my friend's house, I drove past the  
14 construction site of Dominion's proposed -- it's  
15 actually not proposed now -- their current constructed  
16 coal-fired power plant in Wise County, and I had to  
17 stop and take stock that this, what was standing right  
18 in front of me, is the path that we're headed on.  
19 This new huge facility took up most of the landscape.  
20 And then, even more so, the part of it that's complete  
21 is that smokestack, so that part that is going to be  
22 dumping carbon dioxide and other global warming  
23 pollutants without prejudice and suffocating that  
24 local community and then being dispersed throughout  
25 the rest of the commonwealth and our country with

1 wind, was already finished.

2 And I had to take stock and think for a  
3 minute. And when I come back, it's again that it's  
4 not the question of if we should do something about  
5 that. It's when and how. And as all of these coal  
6 plants are, you know, in the race to be permitted  
7 right now and get themselves in as Congress is  
8 thinking about legislation, now is the time to take  
9 this on and make sure that all of these plants that  
10 are in the process of being permitted and constructed  
11 have the best technologies in place because they are  
12 the biggest polluters.

13 And so, I commend the agency for looking at  
14 this rule. I think it is hands down the most bang we  
15 can get for our buck regulating, you know, those that  
16 are emitting I believe it's over 25,000 tons of  
17 greenhouse gases each year. Those are the big guys.  
18 If we can start there, we can put ourselves on this  
19 path, this path to a just transition, to a sustainable  
20 future and really take it on. So, I support the rule  
21 and I commend the agency and really encourage its  
22 implementation. And thank you so much for having me  
23 here today, and I'll finish a little early.

24 MR. LING: Thank you very much. Mr. Krause.

25 MR. KRAUSE: Thank you very much. My name

1 is Richard Krause. I'm Senior Director of  
2 Congressional Relations for the American Farm Bureau  
3 Federation. I appreciate your holding this hearing  
4 today and providing us the opportunity to comment on  
5 the proposed "tailoring rule".

6 The "tailoring rule" is an attempt to  
7 mitigate the indisputable economic and regulatory  
8 burdens of applying the New Source Review and  
9 Prevention of Significant Deterioration and Title V  
10 programs to the regulation of greenhouse gases under  
11 the Clean Air Act. This mitigation would presumably  
12 result by administratively raising statutorily  
13 mandated thresholds of 100 or 250 tons of emissions  
14 per year to 25,000 tons per year for a period of at  
15 least five years. The rule does not replace the  
16 statutory thresholds but seeks to delay implementation  
17 of those thresholds until the highest level emitters  
18 have been permitted.

19 Regulation of greenhouse gases under the  
20 Clean Air Act, under the full weight of the Clean Air  
21 Act, will have significant adverse consequences for  
22 agriculture. Our analysis indicates that application  
23 of Title V alone will significantly burden over 90  
24 percent of the livestock production in the United  
25 States. Application of NSR PSD will regulate many

1 dairy barns, greenhouses and other agricultural  
2 structures for the first time.

3           It's difficult to determine the precise  
4 impacts, because the Environmental Protection Agency  
5 had failed to conduct a proper regulatory analysis  
6 like the statute requires it to do. We agree with  
7 President Obama and Administrator Jackson that  
8 regulation of greenhouse gases by EPA is not the  
9 appropriate way to proceed. We oppose such  
10 regulation. Moreover, we have some significant  
11 concerns with how this "tailoring rule" could be  
12 implemented.

13           First, we have some fundamental doubts about  
14 the legality of an agency seeking to administratively  
15 raise statutorily mandated thresholds. The threshold  
16 levels of 100 and 250 tons are clearly set forth in  
17 the Clean Air Act. The agency's reliance on two very  
18 narrow and limited judicial exceptions such as the  
19 "absurd results" and "administrative necessity" that  
20 are not generally favored by the courts is further  
21 cause for concern.

22           Our doubts are further strengthened by the  
23 fact that while the rule cites some cases to define  
24 what is meant by "administrative necessity," none of  
25 these arguments or none of these cases found in favor

1 of those proponents of the "administrative necessity"  
2 doctrine.

3 This is not a case in which Congressional  
4 action caused the agency to invoke the doctrines in  
5 question. In this case, EPA freely chooses to  
6 regulate, a posture not adopted by the previous  
7 administration, and it did so knowing full well the  
8 statutory requirements. If regulation would produce  
9 "absurd results" or create an administrative nightmare  
10 as the agency seems to indicate, the answer is clear.  
11 Defer the endangerment finding and don't regulate  
12 until the agency receives policy guidance from  
13 Congress. EPA clearly has that option but has  
14 declined to pursue it.

15 But, even if this rule were to pass legal  
16 muster, there are some other concerns that we have.  
17 It would seem to have very limited effect on small  
18 entities. While EPA approves State Implementation  
19 Plans and Title V programs, they're largely  
20 administered by State law. And the agency freely  
21 acknowledges in the proposed rule that these entities  
22 would still be subject to State law even if the  
23 Federal requirements were raised. That leads to the  
24 issue that they encourage States to raise their limits  
25 to 25,000 tons in accordance with the "tailoring

1 rule". But in the event that they don't, these small  
2 entities that supposedly the "tailoring rule" is to  
3 address would not be impacted. The economic impacts  
4 would still be the same, and it would be of limited  
5 utility.

6 So, as now appears likely, the very  
7 catastrophic economic effects to small entities and  
8 the extreme administrative burdens faced by States in  
9 administering these programs would remain and wouldn't  
10 be fixed by the "tailoring rule" unless the State law  
11 question is satisfactorily addressed. It could result  
12 in millions of entities being subject to PSD and Title  
13 V. At best, it will only delay the inevitable  
14 regulatory nightmare that will come as a result of  
15 implementation. At the worst, it could be found  
16 illegal and still have these entities subject to state  
17 law.

18 Thank you very much, and we will submit more  
19 detailed comments.

20 MR. LING: Thank you. Questions for either  
21 of the speakers? I have one question for Mr. Krause.  
22 You gave a figure of about 90 percent of livestock  
23 production being covered by Title V.

24 MR. KRAUSE: Yes.

25 MR. LING: It wasn't clear. Was that under

1 the 250 threshold or 25,000?

2 MR. KRAUSE: That's under the 100 ton  
3 threshold for Title V.

4 MR. LING: Okay, thank you.

5 MR. KRAUSE: Yes. So yes.

6 MR. LING: There's no other questions?  
7 Thank you both very much. And the last speaker before  
8 lunch is Ernest Lehman.

9 MR. LEHMAN: Which is the better microphone?

10 MR. LING: Sit closer to us.

11 MR. LEHMAN: I can sit next to you. Hi.  
12 I'm Ernest Lehman. I'm a citizen of Alexandria, and I  
13 appreciate the opportunity to say a few words to you.  
14 It won't be very technical. I believe we should be  
15 looking at the focus and the balance.

16 My background is, seven years ago I moved to  
17 Alexandria just down the road from here, and it was my  
18 misfortune that my home is located less than half a  
19 mile from one of the oldest and certainly now active,  
20 continues to be active, coal-fired power plants in  
21 this area. It's called Potomac River Generating  
22 Station, otherwise known as the Mirant Plant, single  
23 source, highest source of pollution in this  
24 metropolitan area.

25 Well, you know what that means. There's

1 plenty of expert testimonies describing the pollutants  
2 emitted by this plant. In a few words, 2.6 million  
3 tons of carbon dioxide annually, and certainly how  
4 that affects the climate, and we endorse what you're  
5 doing to try to cut that down.

6 Now the focus is quite simple. It's clean  
7 up or close down. Either you clean up your act or we  
8 don't want you around anymore. And we've been working  
9 and succeeding to a fair amount with the Mirant Plant.  
10 But we think that's necessary throughout the United  
11 States, and we appreciate what you're doing to help  
12 that out.

13 And we don't want any more excuses or dodges  
14 or weasling. We don't want to hear that electricity  
15 will cost more and there are enough studies saying  
16 we'll pay more money for cleaner electricity or that  
17 grandfathering. The plant down there certainly is a  
18 grandfather. It's time to retire it. It's been  
19 around long enough. As a grandfather, I can speak  
20 from personal knowledge. As a matter of fact, I have  
21 a granddaughter a few days old, and I worry about her  
22 lungs because of the junk that comes out of those  
23 towers.

24 Also, it will reduce employment. It will  
25 damage the economy. And then pollution controls are

1 too expensive. All of these are just obfuscations.  
2 They're really not serious. The power and the energy  
3 companies are making plenty of money, plenty of money.

4 So again, I say clean up or close down,  
5 okay? That's the focus. Now the balance. How do we  
6 balance corporate greed with public health? That's  
7 basically what the issue is here. It's been reported  
8 that there are about eight energy company lobbyists  
9 for each citizen who speaks here. Speaking as a  
10 social activist, I am comfortable saying that each  
11 citizen that I know, and I'm very active in the  
12 Alexandria community, represents about 10 other  
13 citizens when it comes to who it is that is for this  
14 particular action. There are about 140,000 citizens  
15 in Alexandria. I would say, from all my social  
16 action, thank you, that this may be about 10,000 that  
17 really like to breathe dirty air. The rest of us want  
18 fresh air, clean air, the kind of air that George  
19 Washington breathed. That's what we would like to  
20 have.

21 And so, I would say that even though there's  
22 so few of us here, we really represent the majority of  
23 the people, and that should be well taken into  
24 account. So, I say to you to complete this that  
25 public health must trump corporate greed. Again, to

1 summarize, clean up or close down. The focus, the  
2 balance, is public health does trump corporate greed.

3 Thank you very much.

4 MR. LING: Thank you very much. And now I  
5 have one more speaker that we're going to squeeze in  
6 before lunch. I know everybody's probably really  
7 hungry. But let's hear Peter Pennington. You may  
8 start whenever you're ready. Thanks.

9 MR. PENNINGTON: Morning, gentlemen.  
10 Morning, Ernie. I'm Peter Pennington, and I'm a  
11 resident of Ft. Picklecombe in Cornwall. Ft.  
12 Picklecombe was built to keep the French out. It  
13 doesn't work too well because there's a ferry going to  
14 Brittany that goes past my bedroom twice a day. Sea  
15 level is rising four and a half millimeters a year.  
16 Sea temperatures are rising. We are planning on 100-  
17 year storms occurring every 20 years. In fact, this  
18 Saturday morning the wind exceeded 100 miles an hour.

19 We are planning for the fishing industry to  
20 go into rapid decline as sea acidity rises and the  
21 fish stocks just die. Every inch of coastline has  
22 been mapped and statutorily designated as being lands  
23 that will be abandoned or they will be managed retreat  
24 or it will be held at whatever cost when, as the sea  
25 level rises.

1           We look across the Atlantic at America and  
2   wonder what on earth is going on. The last  
3   administration put its head in the sand and refused to  
4   have anything to do with it. America is the world's  
5   biggest polluter. I have just come from a meeting  
6   about global trade. This wasn't an environmental  
7   meeting. These were hard-headed businessmen and  
8   bankers from all over the world. There was an  
9   underlying feeling that America very soon is going to  
10   be number two. There was an underlying feeling that  
11   America's bully tactics of the past will not succeed.  
12   If America doesn't get its act together on global  
13   warming, it will be seen as the pariah of the world  
14   and trade will suffer.

15           We hear industry over here whining that it's  
16   going to cost more, that they can't bear the cost.  
17   Goodness me, I'm glad I wasn't here in the 19th  
18   century as we converted from horses to the automobile.  
19   You may recall the automobile was only brought in, in  
20   order to get away from all that horse dooey that was  
21   lying in the road. I bet the livery stables moaned.

22           If I was in charge of China, in spite of  
23   whatever I might have said to the President in the  
24   last two days, come December 6, I would announce and  
25   introduce the biggest climate change proposals going

1 and therefore totally wrongfoot America. Businessmen  
2 complain about China and India and Brazil. These  
3 countries are doing something about their climate, but  
4 they're coming from a much lower base. But they are  
5 picking up speed.

6 So, from my point of view in Ft.  
7 Picklecombe, I welcome the EPA's move. I welcome the  
8 Administration that you serve as opposed to the  
9 previous one and say to America stop prattling about  
10 and get on with it.

11 MR. LING: Thank you very much. Any  
12 questions? Thank you. And with that, we are  
13 adjourned until 2:00 p.m. Thank you all for your  
14 participation this morning.

15 (Lunch recess.)

16 MR. LING: Thank you for coming out. I  
17 recognize a few faces from the morning. I see a few  
18 new faces. I will not reread my entire opening  
19 statement from this morning, but I just wanted to  
20 touch base with some important information for those  
21 of you who weren't here this morning.

22 This is the first of two public hearings on  
23 the EPA's Prevention of Significant Deterioration and  
24 Title V Greenhouse Gas Tailoring Rule. There will be  
25 another hearing tomorrow in Chicago. My name is

1 Michael Ling, and I am an Associate Director in the  
2 EPA's Office of Air Quality, Planning and Standards.  
3 And with me on the panel is Juan Santiago, who is the  
4 Group Leader of the Operating Permits Group, also with  
5 Office of Air Quality, Planning and Standards, and  
6 Howard Hoffman, who is an attorney in our Office of  
7 General Counsel.

8 We're here today to listen to your comments  
9 on the proposed rule. Copies of the proposed rule are  
10 available outside. I want to just very briefly  
11 describe the rule. It's a rule that establishes  
12 thresholds for applicability of the Title V program  
13 and the Prevention of Significant Deterioration  
14 program for greenhouse gases. These proposed  
15 thresholds are necessary to preserve the ability of  
16 these programs to continue to operate and achieve and  
17 maintain public health and environmental protection  
18 goals while avoiding an administrative burden that  
19 would prevent State and Local permitting authorities  
20 from processing these permits efficiently if they were  
21 done at the levels that are in the statute of 100 and  
22 250.

23 So, under this approach, we are taking  
24 comment on the thresholds that are proposed: a 25,000  
25 ton major source threshold for Title V and a 25,000

1       ton major source threshold for PSD along with a  
2       significance level for PSD which is the level that's  
3       used to determine whether changes at an existing  
4       source are triggering review. And for the  
5       significance level, we are proposing a number between  
6       10 and 25,000, and based on comments and information  
7       we get, we will select a number within that range.

8               We will be also developing additional  
9       supporting information to assist permitting  
10      authorities with implementing the PSD program,  
11      initially for those sources that are covered by the  
12      rule, which would be those above 25,000. But we also,  
13      under this rule, have an approach to look at those  
14      thresholds five years from now, do a study and, after  
15      reviewing the results, determine whether it's  
16      necessary to retain the higher thresholds or to lower  
17      them. And again, we're taking comment on that five-  
18      year proposal of whether five years is the appropriate  
19      length of time.

20             Just a couple of logistics. I'm going to be  
21      calling up speakers two at a time, and we will be  
22      accepting oral comments on the proposal today. We  
23      will be putting together a written transcript. We  
24      have a court reporter here, and that transcript will  
25      be available as part of the official record for this

1 rulemaking and we will consider it as we move forward.

2 Separately, we are accepting written  
3 comments on the proposed rule up through December 28,  
4 2009, and there's a Fact Sheet available, as I  
5 mentioned. The proposal itself is also available at  
6 the registration table. If you will be providing oral  
7 comments today, I'll be calling your name in pairs.  
8 When it's your turn, come up to the table, state your  
9 name and affiliation. And if the court reporter needs  
10 help spelling your name, we appreciate that. And in  
11 order to be fair to everyone, we are limiting  
12 testimony to five minutes each and we're asking you to  
13 remain at the microphone if you're part of a pair.  
14 Remain there until both speakers in a pair are  
15 finished. And then, after that, the panel may ask  
16 clarifying questions. And you can also, if in  
17 addition to your oral testimony, you want us to put a  
18 written copy of your remarks in the docket, please  
19 leave a copy with us here at the table before you  
20 testify or leave one at the table outside.

21 We have this timekeeping system for the  
22 five-minute time limit which consists of green, yellow  
23 and red lights. So when you begin speaking, a green  
24 light will come on and you will then have five minutes  
25 to speak. The yellow light will signal that you have

1 two minutes left, and then I will ask you to stop  
2 speaking when the red light comes on.

3 So, we are going to stay this evening until  
4 everyone who wishes to comment has a chance to do so.  
5 If you would like to testify but are not yet  
6 registered to do so, you can sign up at the table  
7 outside. And for those who have already registered to  
8 speak, we have tried to accommodate your requests for  
9 timing for specific slots. So, again, thanks,  
10 everybody, for participating. We just have one  
11 speaker who's signed up in this first time block, and  
12 it's Steve Woock. So I'd like to invite Mr. Woock to  
13 come up. And, Mr. Woock, you can just start whenever  
14 you're ready, and the timer will start then.

15 MR. WOOCK: Okay, thank you. I'm Steve  
16 Woock. I'm a Federal Regulatory Affairs Manager with  
17 Weyerhaeuser. Weyerhaeuser is a forest products company  
18 headquartered in Federal Way, Washington. I will  
19 address two critical issues today. First is our  
20 preference for dealing with greenhouse gases through  
21 new legislation designed for that purpose, and second,  
22 if the agency decides to continue with the rules as  
23 proposed, then the CO<sub>2</sub> neutral emissions from biogenic  
24 sources need to be excluded from the applicability and  
25 significance thresholds.

1           Please note that I'm speaking on behalf of  
2           Weyerhaeuser on both of these issues. I will also be  
3           speaking on behalf of the National Alliance of Forest  
4           Owners on only the second issue. We also plan to file  
5           more detailed written comments.

6           Weyerhaeuser believes the best approach to  
7           address climate change in greenhouse gas emissions is  
8           through economy-wide cost-effective approaches, and  
9           the only way to achieve that is through new  
10          legislation. Weyerhaeuser supports legislation that  
11          directs the U.S. approach to climate change in a  
12          coordinated fashion, including energy efficiencies,  
13          emission reductions and provisions for cost  
14          management. Such provisions can include a cap and  
15          trade program, prevention of greenhouse gas leakage  
16          overseas and provisions for cost-effective carbon  
17          offsets. We believe EPA's proposed "tailoring"  
18          approach does not address greenhouse gases properly  
19          and still will lead to "absurd results".

20          The agency should defer any regulation of  
21          stationary sources for greenhouse gases under the  
22          current Clean Air Act and leave Congress to enact  
23          appropriate legislation addressing greenhouse gases.  
24          Nonetheless, assuming EPA continues with the proposed  
25          "tailoring approach", we note that EPA's proposal is

1       silent on whether and how the CO<sub>2</sub> neutral emissions  
2       from biogenic sources should be treated. We urge EPA  
3       to explicitly exclude CO<sub>2</sub> emissions from biogenic  
4       sources such as forest biomass and biofuel combustion  
5       from the proposed thresholds and from the PSD  
6       significant emissions rate.

7               EPA should do so based on the  
8       internationally established recognition that CO<sub>2</sub>  
9       emissions from forest biomass are neutral with respect  
10      to the CO<sub>2</sub> inventory in the atmosphere.

11             So, how can EPA accomplish a biomass CO<sub>2</sub>  
12      exclusion? We believe EPA should make this exclusion  
13      explicit within the rulemaking, and we note precedents  
14      to do so exist. For example, EPA could exempt biomass  
15      CO<sub>2</sub> just as certain volatile organic compounds are  
16      exempted from being regulated with other VOCs as a  
17      class because their photoreactivity is negligible.

18             Finally, EPA could make the exclusion more  
19      generally within the pending rulemaking on the  
20      endangerment finding. Our request is based on the  
21      universal technical recognition that CO<sub>2</sub> emissions  
22      from forest biomass combustion are neutral with  
23      respect to the CO<sub>2</sub> inventory. Within the framework of  
24      sustainable forest management practice by the U.S.  
25      forest products industry, biogenic CO<sub>2</sub> emissions have

1 no effect on the atmospheric GHG inventory.

2 This concept of biomass CO<sub>2</sub> neutrality is  
3 widely recognized internationally and in the U.S.,  
4 including by EPA, and there are several examples of  
5 that you'll find in our written comments. If EPA does  
6 not exclude biomass CO<sub>2</sub> emissions, we believe the  
7 proposed rules will capture far more small emission  
8 source operations than EPA has estimated. For  
9 example, in our industry, this includes many smaller  
10 wood product mills combusting biomass for process  
11 heat. EPA also will disincent the use of CO<sub>2</sub> neutral  
12 biomass as an energy source. This could have  
13 downstream economic impacts on both small and large  
14 forestland owners who are not intended to be regulated  
15 by this regulation.

16 In summary, EPA should leave GHG regulation  
17 of stationary sources to new legislation from Congress  
18 that's appropriate to the task, and EPA should  
19 explicitly exclude CO<sub>2</sub> neutral biomass from greenhouse  
20 gas regulation in this and all other regulatory  
21 programs going forward. I thank EPA for this  
22 commenting opportunity today.

23 MR. LING: Thank you. Questions? I do have  
24 one question for you. You mentioned that there's a --  
25 I think you described it as a large number of mills

1       that use biomass for process heat that could be  
2       subjected to permitting.

3               MR. WOOCK:   That's correct.

4               MR. LING:   I guess, I was wondering, are you  
5       planning on providing some data on the extent of the  
6       number of mills that would fall into that category?

7               MR. WOOCK:   We will do that for Weyerhaeuser  
8       facilities. I think you have another speaker this  
9       afternoon from the American Forest and Paper  
10      Association, and they, I believe, will be providing  
11      data on a broader cross-section of the industry on  
12      that kind of information.

13              MR. LING:   Okay. Yes, I'd certainly be  
14      interested in Weyerhaeuser, as well, as the broader  
15      perspective.

16              MR. WOOCK:   Right.

17              MR. LING:   Thanks. Okay, we have one other  
18      speaker signed up. It's Tim Stevens. Thank you. You  
19      may begin whenever you're ready.

20              MR. STEVENS:  Thank you. Good afternoon and  
21      thank you for holding these hearings. My name is Tim  
22      Stevens, and I'm retired. I'm not associated with any  
23      of the power companies or any of the other companies  
24      that you're associated with today in your rulemaking.  
25      I just wanted to express my opinions as a concerned

1 citizen. I live here locally in the Falls Church  
2 area. I think enforcing this rule that you're  
3 proposing --

4 MR. LING: Can I ask you to stop for one  
5 second, please? The timer did not start. Ah, there  
6 we go. Okay. Sorry.

7 MR. STEVENS: Enforcing this rule is not, in  
8 my opinion, the only thing that needs to be done to  
9 address the greenhouse gas issue from carbon dioxide,  
10 but it's probably one of the most important. Getting  
11 ourselves from the average of 20 tons of carbon per  
12 year that we as Americans emit down to the 2 tons,  
13 which apparently is the level that we have to get in  
14 order to sustain and equalize the level of carbon  
15 dioxide, is going to be terribly difficult. And I  
16 think taking the actions that you're proposing is  
17 certainly a big step in that direction.

18 I believe if you adopt these rules, it will  
19 set in motion a series of multiple steps which will  
20 help all of us get down to the level of carbon dioxide  
21 emissions that we have to. Higher prices for emitting  
22 carbon dioxide will set in motion a lot of other  
23 adjustments in the economy both to economize, to  
24 conserve, as well as to move to renewable energy,  
25 which ultimately is a solution that we're going to

1       need.

2               I believe that failing to adopt this rule  
3       will make it too easy for us to maintain the status  
4       quo, and I believe there's also a national security  
5       risk insofar as other nations will view us in an  
6       extremely negative light if we continue to conduct  
7       ourselves with business as usual.

8               I note with a bit of irony that the name of  
9       this room is Tidewater, and my concern is that if we  
10      don't begin to change the way that we conduct  
11      ourselves over time, that this room, in fact, will  
12      become officially a tidewater room. So, with that,  
13      thanks again for holding this hearing. You're asking  
14      the difficult questions and best of luck.

15              MR. LING: Thank you. All right. So I am  
16      going to suspend the hearing for just a minute until I  
17      get the list of the next two speakers. I don't think  
18      they're here yet.

19              (Whereupon, a short recess was taken.)

20              MR. LING: Okay, we have a few more  
21      speakers, so we're going to reconvene here and go  
22      through a couple of more names until we run out of  
23      speakers again. I'd like to call up Kate Smolski and  
24      Bahri Aliriza. Yes. And since you guys may not have  
25      been here when I explained this, we're going to ask

1       you to both go, and we'll have you go first, Ms.  
2       Smolski, and then we may want to ask questions of both  
3       of you at the end after you've both gone. And this is  
4       the timer. It will turn yellow when you have two  
5       minutes left, and then it will turn red when your five  
6       minutes are up. And whenever you're ready, just start  
7       and then the timer will start automatically. Thank  
8       you.

9               MS. SMOLSKI: Okay, and I'm going first,  
10       correct?

11              MR. LING: Yes.

12              MS. SMOLSKI: Great. Well, my name's Kate  
13       Smolski. I'm the Domestic Policy Director at U.S.  
14       Climate Action Network, and I appreciate the  
15       opportunity to come and speak today, so I thank you  
16       for that.

17              I'm here to express the support of U.S.  
18       Climate Action Network or USCAN as our short name is  
19       called and its member groups for the EPA's proposal on  
20       proposed Prevention of Significant Deterioration and  
21       Title V Greenhouse Gas Tailoring Rule or just the  
22       "tailoring rule" as I'll refer to it. USCAN is the  
23       largest U.S. network of organizations focused on  
24       climate change with over 80 member groups. We are the  
25       U.S. node, if you will, of CAN International, which is

1 over 450 organizations that work on climate change  
2 issues.

3 We work to connect organizations working  
4 towards similar goals across the country at all levels  
5 of the debate: Local, State, Federal and  
6 International. The goal of this coalition is to  
7 support the design and development of an effective,  
8 equitable and sustainable global strategy to reduce  
9 greenhouse gas emissions, and we strongly believe that  
10 EPA's proposal on greenhouse gas polluters supports  
11 this mission and therefore urge you to finalize this  
12 rule to help us move it forward towards a clean energy  
13 future.

14 First, the rule proposes a regulatory method  
15 that has been proven as an effective means of  
16 achieving pollution reduction. EPA's analysis has  
17 found that the Clean Air Act achieved cost-effective  
18 reductions in sulfur dioxide, nitrogen oxides and  
19 particulate matter with an economic benefit  
20 demonstrated to be 42 times greater than the cost of  
21 compliance. Therefore, applying Best Available  
22 Control Technology standards under the Clean Air Act  
23 to greenhouse gas emissions continues the legacy of a  
24 successful program to now meet the grave threats of  
25 global climate change and energy independence.

1           Second, the rule establishes an equitable  
2     framework by setting a regulatory threshold that holds  
3     the largest polluters accountable while protecting the  
4     nation's schools, farms and small businesses. This  
5     arrangement would most-fairly assign responsibility to  
6     the small handful of big polluters who account for the  
7     majority of the nation's global warming pollution.  
8     This allows the EPA to achieve the greatest impact  
9     with the fewest agency resources and the short  
10    timeframe needed to protect the public from the risks  
11    to health and welfare posed by climate change.

12           Next, the finalization of this rule  
13    facilitates a sustainable energy strategy for the  
14    country's future. By applying New Source Review  
15    standards for greenhouse gas emissions, the EPA sends  
16    a strong signal of support to the clean energy  
17    industry. No longer will fossil fuel facilities reap  
18    the unfair advantage of being financially  
19    unaccountable for the costs of their pollution. Such  
20    signals are necessary to drive investments in low  
21    carbon technologies that will spur sustainable growth  
22    and create valuable jobs.

23           Finally, climate change is a global problem,  
24    and it will require a global solution. As nations  
25    gather at the U.N. Framework Convention on Climate

1 Change this December, it is imperative that the U.S.  
2 reestablish itself as a world leader in solving the  
3 complex challenges posed by climate change. The U.S.  
4 must do our fair share to reduce domestic emissions as  
5 quickly as possible, and that requires we use all  
6 means at our disposal from both the Executive and  
7 Legislative branches of government plus State and  
8 Local action.

9 In addition to answering the call of the  
10 science, strong U.S. emissions reductions commitments  
11 will enable a wide range of developing economies to  
12 take more ambitious domestic action and create new  
13 markets to grow the global green economy from which we  
14 will all benefit.

15 For these reasons, I am here on behalf of  
16 the U.S. Climate Action Network to applaud the EPA for  
17 their intent to regulate major greenhouse gas  
18 polluters and urge the EPA to take the final steps to  
19 implement a strong rule to aid in our transition to a  
20 clean energy economy. Thank you.

21 MR. LING: Thank you very much. Mr.  
22 Aliriza?

23 MR. ALIRIZA: Hi. My name is Bahri Aliriza.  
24 I'm the President for Northern Cyprus Culture. I'm  
25 sorry, got too many hats here. I'm just coming from

1 another meeting. I'm the President for Polytrade  
2 International Corp. and I want to first of all thank  
3 the panel for inviting me to speak here today which I  
4 think is a very worthy cause to hear from the public  
5 and for coming here also.

6 We want to encourage the EPA, and thank you  
7 for everything that you're doing, and we want to  
8 encourage, specifically, any actions to reduce the  
9 emissions and the looking at the specific power  
10 plants, coal-fired power plants that are emitting  
11 tremendous emissions into the air. And one of the  
12 reasons I wanted to come here and speak is, I'm like  
13 one of many companies out there that have a technology  
14 to reduce emissions. Ours doesn't do it 100 percent,  
15 unlike solar and wind energy, which I encourage that  
16 we should have here in this country because solar is  
17 100 percent no pollution and wind energy same thing.  
18 But they both have their limitations, because you've  
19 got to have wind for one, and you've got to have the  
20 sun for the other one.

21 We have a technology which is a catalyst  
22 that you could use with all the liquid fuels and even  
23 with coal, and it will at least, with the liquid  
24 fuels, you can reduce the emissions about 38 to 60  
25 percent, and I'm talking about all the harmful

1 emissions like NOX, which is nitrogen oxide,  
2 hydrocarbons, carbons, sediment, ash, sulfur. You can  
3 actually spray our technology onto the coal, just as  
4 it's crushed and pulverized before it's -- and then  
5 you can spray with our product before it goes into the  
6 burner and you can actually reduce about 82 percent of  
7 the emissions from coal.

8           And it's unfortunate that we are a small  
9 company and we do not have a quarter million dollars,  
10 which is what is required to get an independent lab  
11 testing. So we are looking for investors. We are  
12 looking for anyone that's interested in reducing  
13 emissions, and I know, with the EPA, I have not found  
14 any program that also encourages small businesses or  
15 has any programs that we can take advantage of. I  
16 know there's a program, there's a verification  
17 program. But you still have to go and spend about a  
18 quarter million dollars to get an independent lab  
19 test, and then it's just verifying what somebody else  
20 has already done. So this is one thing that the EPA  
21 can do, either working through the universities or  
22 through other programs, and taking advantage of small  
23 businesses like us, that have some solutions to help  
24 in reducing the emissions in the air.

25           And our technology, besides reducing the

1 emissions, it also gives you fuel efficiency anywhere  
2 between 15 to 20 percent. So that's another  
3 advantage, and makes your engine last longer, run  
4 smoother, have more power, and besides an anti-  
5 pollutant at 38 to 60 percent reduction in emissions,  
6 also it's an anti-gel, so guaranteed your diesel fuel  
7 or your fuel oil will not gel up. So, it will not  
8 freeze up basically.

9           And again, I encourage the EPA to look at  
10 all technologies out there because it's not just one  
11 technology that's going to help us. It's taking  
12 advantage of all the different technologies out there.  
13 With our product, it does not reduce global warming in  
14 the sense that what causes global warming which is  
15 carbon dioxide. But because our product reduces the  
16 emissions -- I mean because it increases the fuel  
17 efficiency 15 to 20 percent, you're going to have 15  
18 to 20 percent less emissions causing global warming  
19 and climate change. So this is why our technology  
20 will help with the environment also and with the  
21 specific threats that we face with the global warming  
22 issue at hand. Thank you very much, and that's all I  
23 have.

24           MR. LING: Thank you. Questions for the  
25 panelists?

1           Mr. ALIRIZA: Oh, I just wanted to add also,  
2 most of my information is on our website under  
3 www.polytrade.net. And Polytrade is P-O-L-Y-Trade,  
4 all one word, dot net. Thank you.

5           MR. LING: Thank you both very much. I  
6 would like to call up Bryan Brendle. Sorry, we don't  
7 have anyone to sit with you.

8           MR. BRENDLE: That's all right. Thank you  
9 for pushing me up in the schedule. I appreciate that.

10          MR. LING: Sure. Just whenever you're ready  
11 to start.

12          MR. BRENDLE: Okay, yes. My name is Bryan  
13 Brendle. I'm the Director for Energy and Resource  
14 Policy at the National Association of Manufacturers  
15 headquartered here in Washington, D.C. And by way of  
16 background, the NAM is the nation's largest industrial  
17 trade association representing more than 11,000 small,  
18 medium and large manufacturers in all industrial  
19 sectors and in all 50 states. The NAM is the  
20 country's leading voice for the manufacturing sector  
21 and we employ several million American workers.

22               Thank you for the opportunity to comment on  
23 the Environmental Protection Agency's proposal to  
24 impose first-time ever greenhouse gas emissions  
25 controls on industrial facilities through the

1 Prevention of Significant Deterioration program and  
2 Title V permitting programs, also known as the EPA's  
3 "tailoring rule".

4 The NAM has long urged the EPA to defer to  
5 Congress when considering establishment of Federal  
6 climate policy, especially one that uses the Clean Air  
7 Act as a tool which regulates emissions from  
8 stationary sources. As Congress continues to debate  
9 the outlines for comprehensive Federal climate policy,  
10 the NAM urges the Administration not to circumvent the  
11 ongoing legislative debate on an issue that would  
12 impact all sectors of the economy struggling to regain  
13 its equilibrium. The NAM opposes regulation of large  
14 stationary sources, those emitting more than 25,000  
15 tons per year of carbon equivalent as outlined by the  
16 tailoring proposal under the decades old PSD program.  
17 Additionally, manufacturers have serious concerns  
18 about the legal foundation on which EPA is basing its  
19 proposal.

20 The EPA is definitely entering uncertain  
21 legal territory by proposing to regulate very large  
22 facilities initially at least at the 25,000 ton per  
23 year level for GHGs under programs that federal law  
24 requires be regulated at the 100 to 250 ton level. At  
25 the same time, EPA proposes to establish a process, by

1     which, it will immediately consider ways to regulate  
2     even smaller sources, therefore laying the groundwork  
3     for even greater expansion of its regulatory power.

4             Furthermore, litigation offers another  
5     avenue to regulation of small and mid-sized  
6     manufacturers as litigants will force EPA to adhere to  
7     the requirements of Federal law. Federal law does not  
8     allow EPA unilaterally to raise the PSD threshold.  
9     The Clean Air Act explicitly states that PSD includes  
10    any source with the potential to emit 250 tons per  
11    year or more of any air pollutant. To add to the  
12    uncertainty, the tailoring proposal also allowed  
13    States to move forward with more stringent permitting  
14    programs which could lead to the creation of a  
15    patchwork of State regulatory programs, leading to  
16    compliance obstacles for what would amount to first-  
17    time regulations.

18            According to EPA, though, the "tailoring  
19    rule" will directly impact approximately 13,000  
20    facilities. The scope is actually greater because  
21    sources below the proposed 25,000 ton threshold will  
22    also, eventually, be covered by the proposed rule.  
23    Despite the relatively limited scope claimed by EPA,  
24    unfortunately for manufacturers, the 25,000 ton level  
25    threshold requirement and the uncertainty in what will

1 be required to obtain permits will result in the  
2 inability of industry to plan and expand their  
3 operations and facilities and subsequently result in a  
4 continued loss of potential revenue, jobs and  
5 improvement of the United States economy.

6           Such a one size fits all standard will also  
7 not take into account impacts on energy markets to  
8 which the manufacturing sector is especially  
9 vulnerable. Between 2000 and 2008, the manufacturing  
10 sector lost more than 3.7 million high wage jobs due,  
11 in large part, to energy price volatility. New  
12 mandates from EPA, especially establishing permitting  
13 requirements on GHG emissions using programs designed  
14 to limit criteria pollutants, will further erode U.S.  
15 industrial competitiveness and eliminate jobs by  
16 limiting energy choices available to consumers.

17           Along with lengthier permitting  
18 requirements, EPA would also mandate Best Available  
19 Control Technology on all plants subject to new  
20 requirements. These mandate controls ranging from  
21 increased energy efficiency, co-firing of biomass to  
22 generate electricity, fuel switching to natural gas  
23 and possibly carbon capture and sequestration  
24 technology, which is still being developed for wide-  
25 scale commercial viability.

1           Sorting through the definition of backed and  
2     imposing technology requirements on a case-by-case  
3     basis as outlined by Federal law will further add to  
4     project uncertainty and increase costs to facilities  
5     subject to the new rule. NAM would like to point out  
6     that with respect to the Clean Air Act amendments of  
7     1990 and EPA's implementing programs, the technology  
8     necessary to reduce the target pollutants, including  
9     the impacts of acid rain, already existed and were  
10    largely commercially-viable.

11           The Administration must allow elected  
12    officials to address the climate change issue through  
13    public and transparent debate and craft a  
14    comprehensive Federal policy that will achieve  
15    environmental results while inflicting no economic  
16    harm. By resorting to decades old programs under the  
17    Clean Air Act, which were designed to reduce emissions  
18    of local pollutants rather than more globally  
19    distributed concentrations of GHGs, the EPA is not  
20    embarking on a course that will adequately address the  
21    complex issue of climate change.

22           The U.S. needs a modern, comprehensive and  
23    thorough policy based on innovative approaches vetted  
24    through the legislative process. The manufacturing  
25    sector urges the Administration not to circumvent that

1 process. The NAM looks forward to continuing to work  
2 with Congress.

3 MR. LING: I'm going to have to ask you --  
4 you're a minute past time. Can you just sum up?

5 MR. BRENDLE: Great. Well, we look forward  
6 to working with the EPA, the Administration and  
7 Congress to craft modern policy and to avoid using  
8 programs in the Clean Air Act to regulate stationary  
9 sources. Thank you.

10 MR. LING: Thank you very much. Okay. I'm  
11 seeing that we have no more names signed up, so we  
12 will suspend again until some more witnesses arrive.  
13 Thank you.

14 (Whereupon, a short recess was taken.)

15 MR. LING: We are reconvened for at least  
16 two speakers, especially since one of them was signed  
17 up to speak at 2:50. So, I'd like to invite to the  
18 table Joe Smythe and Simon Bennett. And I'll ask Mr.  
19 Smythe to go first here in just a minute, and then  
20 I'll ask Mr. Bennett to go and then the panel may have  
21 questions. And so, you'll each have five minutes, and  
22 the timer will start when you begin speaking and the  
23 yellow light will come on when you have two minutes  
24 left. So, Mr. Smythe, whenever you're ready.

25 MR. SMYTHE: Thank you for the opportunity

1 to testify before you today on the EPA's proposed rule  
2 to regulate greenhouse gas emissions from large  
3 stationary sources. My name is Joe Smythe. I'm a  
4 spokesperson for Greenpeace USA. Greenpeace is an  
5 eminent campaigning organization that uses peaceful  
6 direct action and creative communication to expose  
7 global environmental problems and to promote solutions  
8 that are essential to a green and peaceful future.  
9 So, my comments today will be relatively brief as  
10 Greenpeace plans to submit more substantive remarks on  
11 this rule in writing.

12 Global climate change is the greatest  
13 environmental, humanitarian and economic challenge the  
14 world has ever faced. Millions of people are already  
15 feeling the impacts of climate change, and an  
16 estimated 300,000 people die each year from its  
17 effects. Avoiding the worse of climate change,  
18 including widespread drought, flooding and massive  
19 population displacement caused by rising sea levels,  
20 means that temperature increases must peak as far  
21 below two degrees as soon as possible compared to  
22 preindustrial levels. The Intergovernmental Panel on  
23 Climate Change in its Fourth Assessment Report states  
24 that avoiding a temperature rise above two degrees  
25 requires that global greenhouse gas emissions peak by

1       2015 or sooner.

2               By 2020, developed countries like the United  
3       States will need to have cut emissions by at least 40  
4       percent from 1990 levels. Greenpeace applauds the  
5       EPA's efforts to regulate greenhouse gas emissions.  
6       In April 2007, the Supreme Court determined in its  
7       landmark ruling in Massachusetts v. EPA that the  
8       agency has the authority to regulate greenhouse gas  
9       emissions under the Clean Air Act. It's encouraging  
10      to now see the EPA moving forward with this proposed  
11      rule. Action on this matter is long overdue.

12             Stationary sources covered by this proposed  
13      rule account for a third of all greenhouse gas  
14      emissions. Greenpeace supports the agency's decision  
15      to address a group of six greenhouse gases, carbon  
16      dioxide, methane, nitrous oxide, hydrofluorocarbons,  
17      perfluorocarbons and sulfur hexafluoride. We also  
18      support the proposal to use carbon dioxide equivalents  
19      as a preferred metric for determining greenhouse gas  
20      emission rates for any combination of these six gases.

21             It is important to note, that as a first  
22      step, a majority of sources covered by this rule can  
23      dramatically reduce emissions with currently available  
24      pollution control technology as well as energy  
25      efficiency. So, as noted by Administrator Lisa

1 Jackson in her announcement of the rule, "We have the  
2 tools and the technology to move forward today, and we  
3 are using them." Energy efficiency in particular has  
4 enormous potential to reduce greenhouse gas emissions.  
5 Yet, we have only harnessed a fraction of its  
6 potential. A detailed study released earlier this  
7 year by McKinsey & Company on the potential of energy  
8 efficiency to cut emissions reveals that an integrated  
9 set of energy efficiency investments and solutions  
10 would reduce nontransportation energy consumption by  
11 23 percent. This translates into a CO<sub>2</sub> abatement of  
12 1.1 gigatons. In other words, through energy  
13 efficiency alone, the potential exists to surpass  
14 carbon caps in the Congressional climate bills many  
15 times over. The icing on the cake is that these  
16 investments would come at virtually no cost.

17 On top of promoting smarter energy use, this  
18 proposed rule would also create incentives to  
19 producers and innovators of green technology, as well  
20 as give preference to clean renewable energy, which  
21 will lead to further emissions reductions in the near  
22 future. The potential for renewable energy technology  
23 to curtail CO<sub>2</sub> emissions is vast. A 2007 study by the  
24 American Solar Energy Society outlines how deployment  
25 of a suite of clean energy technologies would cut U.S.

1 emissions by 1.9 gigatons by 2030, more than 15  
2 percent of current annual U.S. emissions. What's  
3 more, other renewable energy forums, such as Marine  
4 North Wave and Title Power, are nearing  
5 commercialization. When they become available, their  
6 deployment could allow the U.S. to cut emissions even  
7 further and repower the economy even faster.

8 And despite what some opponents have said,  
9 regulating greenhouse gas emissions will not ruin the  
10 American economy. On the contrary, studies show that  
11 strong Federal climate policy will help the economy  
12 get back on its feet. A recent report from the  
13 University of California at Berkeley shows that under  
14 comprehensive energy and climate policy the U.S. could  
15 gain 918,000 to 1.9 million jobs and grow household  
16 income by \$488 to \$1,176 by 2020. In fact, according  
17 to the International Energy Agency, it is the  
18 postponing of transitioning the energy sector to  
19 renewables and greater efficiency that will be costly,  
20 not to mention the exorbitant costs that will come  
21 with doing nothing to mitigate climate change.

22 The IEA concluded in a recent report that  
23 the economic downturn has "created an opportunity to  
24 put the global energy system on a trajectory to  
25 stabilize greenhouse gas emissions." Investing in

1 important technologies and efficiency will be cheapest  
2 now. IEA Executive Director Nobuo Tanaka notes that  
3 "This gives us a chance to make real progress towards  
4 a clean energy future but only if the right policies  
5 are put in place promptly."

6 Finally, it is critical to realize the  
7 regulation of greenhouse gases by the EPA and the Cap  
8 and Trade Program as proposed by Congress are not  
9 mutually-exclusive. Emissions limits and requirements  
10 for Best Available Control Technology for greenhouse  
11 gases are complementary to and can even facilitate  
12 implementation of a legislatively-mandated cap-and-  
13 trade program. Therefore, regardless of the action by  
14 Congress, we urge the EPA to move toward finalizing  
15 this rule sooner rather than later. Thank you for  
16 taking our comments into consideration.

17 MR. LING: Thank you. Mr. Bennett.

18 MR. BENNETT: Yes, my name is Simon Bennett.

19 I want to thank the panel for the opportunity to  
20 testify here as a private citizen. I served four  
21 years in the U.S. Air Force in the early '50s. Then,  
22 as an electrical engineer over a period of 45 years, I  
23 worked on specification, design, testing, operation  
24 and management of communication satellites and their  
25 associated systems. After that, I retired.

1           My career allowed me to visit and observe  
2   many parts of the world. In my spare time, I've  
3   enjoyed watching and studying birds, collecting  
4   mushrooms and doing photography. As a science-  
5   oriented person, I'm very much aware of and concerned  
6   about global warming. I have followed all sorts of  
7   reports and studies, and this gentleman just mentioned  
8   a lot of them, on this issue and have concluded that  
9   greenhouse gas emissions are a real problem for the  
10   long-term well-being of earth's environment. On this  
11   issue, I'm very pleased and proud that the EPA and  
12   President Obama are accepting the scientific results  
13   and taking action now.

14           The big polluter rule under current  
15   consideration by the EPA is, in my view, very  
16   reasonable and proper if we are to keep this planet  
17   earth from overheating. The rule would apply only to  
18   new facilities and to expanded or modified existing  
19   facilities that are emitting at least 25,000 tons of  
20   greenhouse gases every year. The rule would exempt  
21   small businesses, churches, apartment buildings while  
22   addressing the bulk of the nation's global warming  
23   pollution. It would require the worst offenders, like  
24   new coal plants and other big polluters, to install  
25   the best available technology to clean up pollution

1       that causes global warming.

2               As a person that studies and believes in  
3       science and in practical solutions to problems, I know  
4       that there are many technological solutions that can  
5       be applied today and that further advances will  
6       develop if the proposed big polluters rule is enacted  
7       and enforced. As with communication satellites, we  
8       cannot wait to do the right thing. Once a satellite  
9       is launched, you cannot fix a problem that then  
10      arises. The design and testing and analyses done  
11      before launch is therefore crucial.

12             A similar situation exists with global  
13      warming. Many people argue that we can wait to reduce  
14      what is clearly a major problem: the global warming  
15      due to greenhouse gas air pollution. We must reduce  
16      it now. We must not wait, not for ourselves, not for  
17      our children, not for our grandchildren.

18             A final note. My wife and I visited Egypt  
19      in April this year. We were delighted to run into  
20      many children and adults and many adults who, upon  
21      hearing that we are Americans, smiled very broadly and  
22      shouted "Love Obama." It was delightful to see and  
23      hear. Thank you.

24             MR. LING: Thank you. Questions for the  
25      panel? No questions. Thank you both very much.

1 We're going to suspend until four o'clock and  
2 reconvene at that time. Thank you.

3 (Whereupon, a short recess was taken.)

4 MR. LING: Okay, good afternoon, folks.  
5 Thanks to the folks who stuck around and I understand  
6 we have a group of new folks who are ready to speak,  
7 so we will reconvene the hearing, and I will call up  
8 Rhea Hale and A.G. Randall. And since you folks  
9 weren't around when I explained this earlier, I don't  
10 believe, we'll ask both of you to speak. We'll have  
11 Ms. Hale go first. When you begin speaking, the timer  
12 will come on and you'll have five minutes. When  
13 there's two minutes left, the yellow light will come  
14 on. And then when your time is up, the red light will  
15 come on. If you're having difficulty seeing the  
16 lights, Juan will hold up cards as well. And then,  
17 after both of you, if you could remain at the table  
18 until both of you have spoken, then the panel may ask  
19 you questions after that. So, with that, Ms. Hale,  
20 you may begin speaking whenever you're ready.

21 MS. HALE: Okay, thank you. Can you hear  
22 me? Okay. Good afternoon. My name is Rhea Hale,  
23 Director for Climate and Air Programs at the American  
24 Forest and Paper Association. I appreciate the  
25 opportunity to speak at today's hearing. The primary

1 point of my remarks today is to recommend that EPA  
2 acknowledge the carbon neutrality of biomass in the  
3 PSD greenhouse gas "tailoring rule".

4 AF&PA is the national trade association for  
5 the forest products industry representing land owners,  
6 pulp, paper, packaging and wood products  
7 manufacturers. The industry is among the top 10  
8 manufacturing sector employers in 48 states, employing  
9 approximately 1 million people. Not only do our  
10 companies make products from renewable and recyclable  
11 biomass raw materials, but we also derive over 65  
12 percent of our energy needs from carbon neutral  
13 biomass. In the "tailoring rule", EPA has justified  
14 raising the significance threshold based on the  
15 doctrine of "absurd results". We believe that if EPA  
16 does not clearly acknowledge carbon neutrality in the  
17 rule, that too will result in "absurd results" and  
18 upend years of established policy in both U.S. and  
19 internationally.

20 Carbon neutrality is universally-recognized  
21 as a basic tenet of renewable energy and climate  
22 change policy. It is incorporated into the  
23 Intergovernmental Panel on Climate Change Guidance and  
24 the UNSCCC reporting protocols which the U.S. EPA  
25 itself uses to calculate its annual greenhouse gas

1 inventory of emissions in sinks. Both the House  
2 passed and Senate proposed climate bills specify that  
3 fossil fuel based carbon dioxide is included in the  
4 required 25,000 ton CO<sub>2</sub> equivalent threshold to be  
5 considered a covered entity. Both bills also have a  
6 corresponding exemption for carbon dioxide emissions  
7 from renewable biomass.

8 Finally, in its own proposed rule issued in  
9 May or its proposed rule issued in May of this year,  
10 to implement the Renewable Fuel Standard, EPA again  
11 recognized the carbon neutrality of biomass. In  
12 addition, reporting protocols developed by the World  
13 Resources Institute, World Business Council for  
14 Sustainable Development, International Standards  
15 Organization, the Climate Registry, Environment  
16 Canada, U.S. EPA Climate Leaders, Midwest Greenhouse  
17 Gas Accord Advisory Recommendations, U.S. Department  
18 of Energy 1605(b) Program, and most recently, EPA's  
19 Mandatory Reporting Protocol of Greenhouse Gases, all  
20 differentiate biogenic from fossil carbon dioxide  
21 emissions.

22 These policies and protocols all recognize  
23 that carbon neutrality is an inherent property of  
24 biomass based on the natural carbon cycle. The carbon  
25 dioxide removed from the atmosphere during

1     photosynthesis is converted into organic carbon and  
2     stored in biomass. When harvested and combusted, the  
3     carbon in the biomass is released as carbon dioxide,  
4     thus completing the carbon cycle. This convention is  
5     universally-accepted and has been incorporated into  
6     every climate change policy in existence today except  
7     for EPA's PSD greenhouse gas "tailoring rule".

8             The IPCC recognized that an imbalance  
9     between the rate of uptake of CO<sub>2</sub> by plants and the  
10    rate of return of biogenic carbon to the atmosphere  
11    through combustion, decay or respiration can affect  
12    the carbon cycle. In the United States, harvested  
13    forests are replanted or regrown, resulting in  
14    increases in carbon stocks. Based on comprehensive  
15    accounting reported in EPA's annual greenhouse gas  
16    inventory, U.S. forest land carbon stocks are  
17    increasing and the biomass carbon cycle in the U.S. is  
18    acting as a net sink for carbon dioxide rather as a  
19    source of emissions.

20            Carbon dioxide stocks in U.S. forests  
21    continue to grow at a rate of over 800 million metric  
22    tons of CO<sub>2</sub> equivalents per year. Even on U.S.  
23    timberland supplying wood to the forest products  
24    industry, carbon stocks are stable or increasing.  
25    There are significant consequences should the PSD

1 greenhouse gas "tailoring rule" not recognize the  
2 carbon neutrality of biomass. First, treating biomass  
3 based fuels essentially the same as fossil fuels under  
4 climate policy would increase the adverse  
5 environmental impacts associated with fossil fuel use.  
6 Entities would prefer to use fossil fuels which have a  
7 higher heating value and are therefore more efficient  
8 in terms of energy production. Beyond greenhouse gas,  
9 fossil fuels also produce more sulfur dioxide when  
10 burned than do biomass based fuels.

11 Second, failing to recognize the carbon  
12 neutrality of biomass would create substantial  
13 uncertainty, deterring markets for renewable energy  
14 and upsetting strategies to address climate change and  
15 energy security. Investors in industries planning to  
16 undertake investments in these areas would be  
17 paralyzed, precisely at a moment when the national and  
18 global economies need these types of investments.

19 Third, economic and job dislocation would  
20 result in jurisdictions that do not recognize biomass  
21 as carbon neutral in climate policy. EPA would be  
22 eliminating a potential cost-mitigating compliance  
23 strategy, the use of carbon neutral biomass fuel, for  
24 not only the forest products industry but other  
25 manufacturing facilities as well. Can I go on one

1 more second?

2 EPA has ample legal authority to exclude  
3 carbon dioxide emissions generated by combustion of  
4 biomass from the determination of whether a facility  
5 is a major stationary source or is undergoing a major  
6 modification for PSD purposes. In fact, EPA has  
7 asserted that it does have similar types of  
8 flexibility to interpret the PSD provisions of the  
9 Clean Air Act, including the proposed "tailoring  
10 rule". For example, EPA shows its discretion in  
11 defining the pollutants that will be subject to PSD  
12 permitting as the aggregate of six chemicals whose  
13 emissions are thought to contribute to global warming.

14 EPA also differentiates among VOCs that do  
15 or do not contribute to ozone formation when applying  
16 PSD under the NAAQS. Given the scientific and policy  
17 precedent supporting the carbon neutrality of biomass,  
18 EPA's current recognition of this principle in  
19 existing rules and programs and the high level of  
20 discretion that EPA has in this rulemaking, AF&PA  
21 believes that EPA should exclude biogenic CO<sub>2</sub>  
22 emissions from the major source and major modification  
23 threshold determinations. Thank you.

24 MR. LING: Thank you. Go ahead, Mr.  
25 Randall. Start whenever you're ready.

1           MR. RANDALL: Fine. Thank you for the  
2           opportunity to provide a brief comment. In June, I  
3           submitted comments on the EPA proposed endangerment  
4           finding. To date, there has been no response to the  
5           public comments, not mine, nobody else's. So I have  
6           no idea what you feel about those comments. Those are  
7           pertinent to your rulemaking, your proposed  
8           rulemaking.

9           And we have recently learned that EPA has  
10          suppressed internal dissent on this very issue of  
11          climate science, and this from an organization that  
12          committed to make decisions based on science and  
13          transparency, a huge disappointment. Unfortunately,  
14          EPA is proceeding without any validation. This  
15          process is a total waste of taxpayer funds, money that  
16          we have to borrow from the Chinese to get this stuff  
17          done.

18          I would like to make three points today.  
19          First, an inconvenient fact: The climate models that  
20          EPA uses are fatally flawed. The models all predict  
21          warming, but the atmosphere and the surface have been  
22          cooling since 1998, and we are now at roughly 1988  
23          levels. Europeans are predicting cooling for another  
24          20 years. If the *New York Times* knows this, why  
25          doesn't EPA?

1           The question then, if the basis for the rule  
2   is without merit, how can EPA justify any action, any  
3   action? Second, EPA's recent analysis shows that  
4   greenhouse gas concentrations will continue to  
5   increase no matter what we do, your own analysis. On  
6   October 23, you submitted a report to the Senate  
7   Environment and Public Works Committee. Here's an  
8   excerpt from page 25: "EPA has now analyzed" -- you  
9   had until that time -- "how U.S. targets combined" --  
10   now these are the targets from the Obama  
11   Administration in their 2010 budget -- "combined with  
12   international actions could affect global  
13   concentrations." So, up until recently, basically the  
14   same timeframe for this ruling, this rulemaking, you  
15   had not done the analysis, which is incredible,  
16   because President Obama went to Italy and made all  
17   these claims without having any backing for whether or  
18   not we could even survive this.

19           Now, the key conclusion was, "It should be  
20   noted" -- this is EPA's words -- "It should be noted  
21   that carbon dioxide equivalent concentrations are not  
22   stabilized in these scenarios." How in the world can  
23   EPA do an analysis at the same time you're proposing  
24   this that says you can't control concentrations, no  
25   matter what we do? "Thus, EPA's current analysis

1 demonstrates that we have no control over global  
2 concentrations." How can EPA propose to control any  
3 concentration, which you're going to have to, by  
4 controlling a limited number of U.S. sources as  
5 proposed with this 25,000 ton threshold for PSD?

6 The staff responsible for this rule needs to  
7 digest the October 23 report. Now I'm not saying what  
8 the modeling says. They ran the minicam and the magic  
9 model. You have all the data. Go back and get that  
10 data. Can we ever compare the two results of what we  
11 want to do with the PSD rule and the data? There's no  
12 way to make these things converge.

13 Third, EPA cannot cherrypick which sources  
14 it will regulate. In your ANPR, EPA contends that any  
15 greenhouse gas emissions at any level creates a  
16 problem, no matter what they are. If it's methane, if  
17 it's nitrous oxide, anything. So, if you look at the  
18 ANPR and the words in that proposal, you know that you  
19 said if these things follow, then we can get you on  
20 this stuff. Even though EPA claims that there is no  
21 standard currently, the current policy is headed  
22 towards a greenhouse gas NAAQS with the entire country  
23 in nonattainment. You know fully well what that  
24 means. Maybe the people in the audience don't, but  
25 you have to explain that clearly to everybody in this

1 country.

2 Under NAAQS, EPA must reduce concentrations  
3 of the pollutants to a level that protects the public.

4 Some have argued like in the Mass. v. EPA case that  
5 current greenhouse gas levels are already harmful.  
6 So, what would it take to actually lower global  
7 concentration levels? A perpetual recession in this  
8 country leading to a depression will not be enough to  
9 decrease concentrations. So what gives?

10 The only question then, is 450 PPM carbon  
11 dioxide equivalent harmful? If it is and I know a lot  
12 of people have talked about that stuff, you've got  
13 comments on the record. You're asking for more  
14 comments. Then we are already at the threshold. We  
15 are already at 450 PPM equivalent. CO<sub>2</sub>, 390. The  
16 rest of the greenhouse gases, we're at that level now.  
17 So there's no question about we're already there. So  
18 we're already what, in nonattainment? So, if EPA  
19 proceeds with this rule, it must evaluate the impact  
20 and a full impact of triggering greenhouse gas NAAQS  
21 on the condition that we're already at the threshold  
22 and the whole country, every locality, every plant,  
23 every region is in nonattainment, and nobody else  
24 understands, but you do, what this means. This has a  
25 huge impact on our future, high impact on our energy

1 production, our economy, and our national security.

2 Thank you.

3 MR. LING: Okay, any questions? All right.

4 No questions, but I did just want to make one comment,

5 which is that you began by saying that we haven't

6 responded to the comments on the endangerment finding.

7 That's a separate action from today. We haven't gone

8 final with that, and traditionally our responses to

9 the comments are provided when we go final. So that's

10 why. And then, similarly, the comments that you've

11 made today we would look at in the context of the

12 final "tailoring rule". So no questions. Thank you

13 both very much for your testimony.

14 And I will call the next two speakers.

15 Timothy Wise and Jonathan Blockson. Okay, so I think

16 you guys were here when I explained it. But just in

17 case, you can start speaking whenever you're ready,

18 and the timer will start at that time and then yellow

19 means two minutes left. So we'll start with Mr. Wise.

20 MR. WISE: Okay. For the record, my name is

21 Timothy Wise and I live here in Arlington, Virginia.

22 Although many think I'm a global warming skeptic, I

23 must say that I keep looking for evidence of global

24 warming, but the best explanations come from those of

25 the skeptics.

1           The problem, in my view, is the introduction  
2 of politics rather than the analysis of quality  
3 science. In the words of Christian Burns, "When a  
4 scientist publishes a study, that study should be  
5 reviewed by another, or a group of scientists, who  
6 then publish their review. The initial scientist then  
7 has an opportunity to refute anything in the review.  
8 A separate group of scientists should then publish an  
9 objective finding of what was learned. This process  
10 would ensure a much more effective advancement of  
11 science and learning. But unfortunately," she  
12 concludes, "that's not the case."

13           In many ways, mankind has made tremendous  
14 progress in the 400 years since Galileo was almost  
15 burned at the stake for arguing the sun, and not the  
16 earth, was the center of the solar system. However,  
17 it seems in some ways, mankind has made virtually no  
18 progress. Scientists Willie Soon and David Legates  
19 have a column in I believe it's today's Townhall.com.  
20 In it, they discuss how they were invited and then  
21 disinvited to host a session at the fall 2009 meeting  
22 of the American Geophysical Union in San Francisco.  
23 It involved an "integrated assessment of the vast  
24 array of disciplines that affect and, in turn, are  
25 affected by the earth's climate." As Soon and Legates

1 write, "Scientific inquiry has once again been  
2 silenced just as it was 400 years ago. The AGU should  
3 be ashamed and its members should be outraged."

4 From the stories I see written by the  
5 science and climate reporters of the *New York Times*  
6 and the *Washington Post*, there is none of this  
7 scientific method in climate science. Even worse, are  
8 the stories blaming this catastrophe, or that  
9 calamity, on global warming. Just yesterday, I saw a  
10 list of 100 items caused by global warming, for  
11 example, the deaths of aspen trees in the West or the  
12 incredible shrinking sheep. If high quality, good  
13 quality science was being practiced, such stories  
14 would not survive, let alone even being introduced  
15 after some time.

16 While I don't know the scientific practices  
17 of EPA scientists, it appears someone needs to assess  
18 those practices. For example, on pages 112 and 113 of  
19 Dr. Fred Singer's book, *Unstoppable Global Warming*  
20 *Every 1500 Years*, he reports on the huge climatic heat  
21 vent found by MIT's Richard Linson and a team of NASA  
22 scientists. The existence of this heat vent has been  
23 confirmed by two other teams. However, search of  
24 EPA's climate change webpages found no mention of  
25 these climatic heat vents. I find that especially

1       troubling.

2               In addition, I also find EPA's climate  
3       change webpages incomplete with regard to the last  
4       2000 years of climate change. Like the infamous  
5       documentary, the 2000 year EPA cutoff seems to be a  
6       convenient occurrence. Why? On pages 21 and 22 of  
7       Dr. Singer's book, he mentions an unnamed cold period  
8       from 600 to 200 B.C. which preceded the Roman warming,  
9       which itself lasted from 200 B.C. to 600 A.D.

10              Also missing from the EPA list is the 300  
11       years of the Dark Ages, cold period. It's important  
12       to ask at this point, what causes these warming  
13       periods since humans were not burning fossil fuels to  
14       release CO<sub>2</sub>, and what happened to flip the earth from  
15       cool into warming if we know the *Post* and *Times*  
16       reporters haven't written about it.

17              In closing, it seems an essential issue of  
18       the "tailoring rule" is whether any regulation of  
19       greenhouse gases, especially CO<sub>2</sub>, is justified by the  
20       science. Thank you.

21              MR. LING: Thank you. And Mr. Blockson.

22              MR. BLOCKSON: Yes. Hi. I'm Jonathan  
23       Blockson. I'm here today as a private citizen. I  
24       live in Vienna, Virginia. I'm employed as a software  
25       engineer at Google here in Washington, D.C.

1           So every month or two, Dominion Virginia  
2     Power, which is my power company, sends out a nice  
3     little newsletter with their bill and they include a  
4     little pie chart of where my power comes from. And  
5     it's always very distressing to me to see that  
6     somewhere between a third and a half comes directly  
7     from coal and the majority of the rest is purchased  
8     from other power companies which they don't attribute  
9     a source to. So basically, all the energy I'm using  
10    to power the devices in my house is coming from coal.  
11    And that kind of concerns me, because I do believe in  
12    global warming, and I think it's a significant threat  
13    to our planet.

14           So, I also have two children, ages 4 and 5-  
15    1/2, and we use a discipline system, 1-2-3 that you  
16    may have used where you count them if they do  
17    something wrong and you give them some time to correct  
18    that behavior. And if they get to three, then the  
19    hard part comes where you actually have to enforce  
20    something and you have to take them and put them in  
21    time out or something. And what you find is if you're  
22    not willing to actually put them in time out, maybe  
23    you're trying to get their clothes on and you need to  
24    get to school, then it doesn't do anything. So I kind  
25    of believe that if this rule is on the books for

1       whatever reason, we should enforce it.

2               Now some of the things I like about the rule  
3       are that it targets big polluters like the people who  
4       are providing my power. And now, while my homeowners  
5       association won't let me go put up solar panels on my  
6       roof, if we change the economics of the situation,  
7       then we're much more likely to get to a point where as  
8       a society we're not putting more CO<sub>2</sub> into the air.

9               So I think this is a pretty good idea, and  
10       it seems like we should start enforcing it and make  
11       these polluters clean up. So thank you very much.

12              MR. LING: Thank you. Questions? All  
13       right, thank you both very much. All right, I'm going  
14       to call up two more speakers. We have Ken Haapala and  
15       Donna Childress, and I would ask you as a courtesy to  
16       spell your name for the court reporter when you  
17       introduce yourself. And we will start with you, Ken.

18              MR. HAAPALA: Also, can I introduce here,  
19       documents for this part of my testimony?

20              MR. LING: Absolutely. So whenever you're  
21       ready, feel free to start and the timer will start at  
22       that time. Thanks.

23              MR. HAAPALA: Thank you. Kenneth Haapala,  
24       H-A-A-P-A-L-A, Nongovernmental International Panel on  
25       Climate Change. Four hundred years ago, educated

1 Europeans strongly disagreed as to what determines  
2 scientific knowledge. Was it statements by  
3 authorities such as Aristotle or religious leaders, or  
4 was it physical evidence as advocated by Galileo?

5           Since then, the miracle of Western science  
6 was built on the dictum that science must never ignore  
7 physical evidence. Unfortunately, the EPA has  
8 reverted to medieval science. The EPA has failed to  
9 present any compelling physical evidence that man's  
10 emissions of greenhouse gases caused 20th century  
11 warming. Instead, it relied on the U.N.  
12 Intergovernmental Panel on Climate Change and its  
13 faulty computer models that are biased, obsolete and  
14 wrong. Atmospheric carbon dioxide continues to rise,  
15 but the globe stopped warming over a decade ago. The  
16 science used by the EPA cannot explain why.

17           Prior to the formation of the IPCC, it was  
18 widely recognized by those who studied the physical  
19 evidence that the earth's climate is constantly  
20 changing. Since the last ice age, there have been  
21 periods of warming and cooling. The most striking  
22 warm period, at least for the Northern Hemisphere, was  
23 one of over 3,000 years when it was about five degrees  
24 Fahrenheit warmer than today. These scientists  
25 concluded that, generally warm periods were beneficial

1 to humanity, and cold periods harmful.

2 This physical evidence has continued to grow  
3 enormously. Yet it is ignored or dismissed by the  
4 EPA's science. The earth's climate is subject to  
5 natural variation the EPA ignores. The oceans have  
6 natural oscillations, which the EPA ignores. The  
7 first part of the 20th Century, there were four major  
8 disappearances of arctic ice, which the EPA ignores.

9 The most powerful force in the solar system,  
10 the sun, upon which the earth's climate depends is  
11 changing in ways the EPA never considered even though  
12 observations of such changes have been made since  
13 Galileo pointed his telescope towards the sun. These,  
14 and other physical evidence ignored by the EPA and the  
15 IPCC, are discussed in two reports by the  
16 Nongovernmental Panel on Climate Change. Nature, not  
17 human activity rules the climate in the extensive  
18 report, Climate Change Reconsidered.

19 The EPA regulations before you assume  
20 without physical evidence that increased atmospheric  
21 carbon dioxide is harmful to public health and  
22 welfare. This assumption is contrary to the physical  
23 evidence. Carbon dioxide is a necessary food for  
24 green plants, thus necessary for life on this planet  
25 as we generally recognize it. As discussed in the

1 second report, thousands of experiments and  
2 observations show that virtually all food crops and  
3 green plants thrive better in an atmosphere enriched  
4 in carbon dioxide and better resist stress such as  
5 drought and insect attacks.

6 Contrary to the EPA's claims, carbon dioxide  
7 enrichment, condemned by these regulations, is in the  
8 benefit of agriculture, humanity and the planet.  
9 Thank you.

10 MR. LING: Thank you. Ms. Childress.

11 MS. CHILDRESS: Hi. I'm Donna Childress,  
12 last name is C-H-I-L-D-R-E-S-S, and I live here in  
13 Arlington. I have my own writing business, and I want  
14 to thank you for the opportunity to speak. I'm here  
15 simply to support EPA's rule to cut global warming  
16 emissions by big polluters. I do believe the science  
17 that EPA is following on this. I do believe that  
18 global warming is a huge threat.

19 I wanted to tell you why I care about this  
20 issue. Just from a personal standpoint, I grew up  
21 playing outside. I had many happy hours in my  
22 granddad's cabin nearby in the Blue Ridge Mountains  
23 hiking, horseback riding, appreciating the great  
24 outdoors. Until a few years ago, though, I didn't  
25 really know anything about environmental issues. I

1 loved to be outside, but I didn't know any of the  
2 science. I didn't know much about global warming,  
3 none of that. When I found out, I was horrified. I  
4 was horrified at what we're doing to our mountains,  
5 what we're doing to our lakes, what we're doing to our  
6 air and how our actions are causing climate change  
7 that not only endangers the planet's natural beauty  
8 but also ultimately human existence.

9 I also was horrified at how, in the name of  
10 improving our quality of life, we're releasing poisons  
11 into the air that cause an increase in diseases like  
12 asthma and cancer, which I understand that, by curbing  
13 pollutions that contribute to global warming, we also  
14 would be curbing some of those pollutants.

15 I feel that from talking to friends, family,  
16 even strangers about these issues over the past couple  
17 of years, there are scores of other Americans just  
18 like I was two years ago that are blissfully unaware  
19 of what's going on, of what carbon dioxide and these  
20 other pollutants are doing to our planet.

21 And so, I'm here because I feel it's a broad  
22 issue that affects a lot of people, even though a lot  
23 of people may not be aware of it. I'm very pleased  
24 that President Obama and the EPA are paying attention  
25 to the science that says we need to move quickly to

1 cut our greenhouse gas emissions in proposing this  
2 rule. I believe it moves us in a positive direction,  
3 quickly cutting our global warming emissions in half.

4 Cost, of course, is an issue. While coal-  
5 fired power plants and large factories will incur  
6 costs to meet the requirements of this rule, I believe  
7 we're past the point where we can simply shrug our  
8 shoulders and say we can't afford to address it.  
9 Keeping our air free of these pollutants and  
10 greenhouse gas emissions isn't and never should have  
11 been an optional expense.

12 What we need to do now is look beyond the  
13 next quarter's profits and on to the greater good of  
14 having a stable climate and healthy population. To  
15 accomplish that goal, let's create new green jobs that  
16 further develop and refine the clean energy technology  
17 and move to a new way of thinking about this.

18 I ask that as you hear comments and consider  
19 how best to implement this rule that you think of how  
20 you can make it the strongest to achieve the greatest  
21 reduction in pollution in the fastest way. Thank you  
22 for the opportunity to speak and for your time.

23 MR. LING: Thank you. Any questions for the  
24 panel? Oh, you were asking about the written  
25 comments, written material to put into the record? If

1       you will just leave that at the table outside with the  
2       request that you have written materials to put into  
3       the record, they'll make sure that it gets there.

4               MR. HAAPALA: Thank you.

5               MR. LING: So no questions. Thank you both  
6       for your testimony. Okay. Now we call Ana Prados and  
7       Steve Thompson. Welcome. Ms. Prados, you can start  
8       whenever you're ready.

9               MS. PRADOS: Okay. My name is Ana Prados.  
10       I live in Springfield, Virginia. I am an emissary  
11       scientist with 15 years experience in air pollution  
12       research, including the monitoring of air pollution  
13       and air pollution trends using satellite data. I  
14       work with the University of Maryland at Baltimore  
15       County, although I'm here representing myself today.

16              I'd like to express first of all my support  
17       for the PSD and Title V Greenhouse Tailoring Rule.  
18       Personally, before I go a little more into that, I  
19       want to thank the EPA for the new direction it has  
20       taken since January 2009. I think I speak, not just  
21       for myself, but for a lot of my colleagues that we  
22       really appreciate the new direction EPA has taken in  
23       respecting science in its decisionmaking, particularly  
24       with regard to global warming, and we hope that this  
25       new direction will continue and that the latest

1 science of climate change, which is always changing,  
2 is fully incorporated into regulation and rulemakings  
3 such as the one you're considering today.

4 So NASA's top climate scientists, for whom I  
5 have the most respect, tell us that we must phase out  
6 all coal emissions rapidly. Specifically, the  
7 timeline that he has come up with based on his studies  
8 is 20 years maximum. So I think this in my opinion I  
9 think requires two important actions: (1) no new coal  
10 plants, and the other one is the phasing out of  
11 existing coal plant emissions, which the current rule  
12 would help with that. It's a necessary step towards  
13 the urgent task of phasing out greenhouse gas  
14 emissions altogether.

15 Even as the scientists tell us that we must  
16 make these reductions, and this is coming from the  
17 experts, what we do know from the satellite data and  
18 from the observations is that coal emissions such as  
19 greenhouse gas emissions from coal are actually  
20 increasing worldwide, and we are getting further and  
21 further away every day from the 350 PPM target, which  
22 as you probably have heard is the target that we must  
23 meet to avoid catastrophic climate change, and we're  
24 already well beyond that. We're at 387 parts per  
25 million.

1           So, I really think the U.S. now really can  
2     and must lead in making these reductions. I urge you  
3     to please consider the part of the Clean Air Act to  
4     require BACT for facilities currently emitting 25,000  
5     tons or more per year as you have suggested. And as  
6     for the significance levels, I think that given what  
7     the science is telling us, I think you should go with  
8     the lower limit of 10,000 tons for that threshold.

9           Regarding the new sources, that's the only  
10    part that I'm not so sure of. I have some  
11    reservations about it because I think we need  
12    something a little tighter as a threshold for  
13    triggering PSD for the new sources as a disincentive  
14    for new coal plants. Specifically, I'm talking about  
15    coal here, not the other sources. But I think that we  
16    need some kind of a disincentive. We cannot -- and  
17    this is what the scientists tell us -- we cannot meet  
18    that 350 PPM target if we allow construction of new  
19    coal plants. So I would hope that you will consider  
20    lowering that threshold to something more like along  
21    the lines of half of that.

22           The Clean Air Act has worked before. I  
23    mean, we see it in our observational data. It has  
24    worked so well, and an example of that is the Acid  
25    Rain Program. I think that cutting back on greenhouse

1 gas emissions from these large sources will also have  
2 an additional benefit, which is on the criteria  
3 pollutants, because you are giving these sources a lot  
4 of flexibility on how they can cut these emissions.  
5 And some of the measures such as efficiency are  
6 definitely going to decrease our criteria pollutant  
7 concentrations. And so, we're going to have a lot of  
8 added benefit from that, and there are plenty of areas  
9 still not meeting attainment. So, just here in the  
10 D.C. area where we still don't meet the ozone NAAQS.

11 So those are my comments. Thank you for  
12 your time and the opportunity to speak today.

13 MR. LING: Thank you. Mr. Thompson.

14 MR. THOMPSON: Thank you for allowing me to  
15 speak today. I'm speaking extemporaneously because I  
16 would like to have been here this morning at 9:30 for  
17 the Sierra Club press conference. Then, I would have  
18 been more informed of what I'd like to say today,  
19 because I support their position, whatever it is. I'm  
20 a member and I think they're on the right track and I  
21 think EPA is, and I commend the Obama Administration  
22 and President Obama for the initiatives he's taking in  
23 helping us to curb dramatic and harmful climate  
24 change.

25 And I am Steve Thompson. I live in the

1 District of Columbia. So I'm here as a private  
2 citizen. I would support no new coal plants, electric  
3 generating plants and the phasing-out of all current  
4 coal electric generating plants, and that we focus on  
5 solar renewable biofuels and wind. I would say I'm a  
6 Ph.D in economics. I don't have any background in my  
7 professional career regarding climate change or those  
8 subjects. But I do think we need to be careful how we  
9 phase-in things so that we don't hurt the economy any  
10 more than we have to and don't harm it irreparably.  
11 But we do have to transition to renewable sources and  
12 we can do that and we should do it. And I think the  
13 future of humankind on the planet depends on us doing  
14 it in a timely way. Thank you very much.

15 MR. LING: Thank you. No questions. Thank  
16 you both very much. I'm going to hold on for just a  
17 second while I check to see if we have any more  
18 speakers.

19 (Whereupon, a short recess was taken.)

20 MR. LING: Okay, we're all caught up. So  
21 I'm going to again suspend. We do have a few more  
22 people signed up who are not yet here, so I will not  
23 adjourn the hearing yet, but I'm going to suspend and  
24 will not be able to estimate when we might reconvene.  
25 But I do expect we'll reconvene once more for folks

1       who are interested. Thank you.

2                   (Whereupon, a short recess was taken.)

3               MR. LING: All right. So while I'm waiting  
4       to see if anybody else is going to come in and listen,  
5       I'll just explain to you that we're using this  
6       timekeeping system and we'll call you up to the table.  
7       And whenever you start speaking, we'll just start the  
8       timer and you'll have five minutes. And then that  
9       little yellow light will come on when it's down to two  
10      minutes, and then you can sum up and then a little red  
11      light will come on when the five minutes is up. All  
12      right. So Terry Armao, all right. Come on up. How  
13      do you spell your name again?

14              MS. ARMAO: A-R-M-A-O. I didn't prepare any  
15      remarks. I just came to give comment. So I've been  
16      following the problem for probably about two years  
17      with fossil fuel pollution. Unfortunately, I was a  
18      little late to the game. You guys were way ahead of  
19      me on that one. But now I'm paying attention, and I'm  
20      not liking what I see. These coal companies and the  
21      coal plants and the oil industries are basically  
22      destroying our planet to the point where it's going to  
23      be unlivable if we let them keep getting away with  
24      this.

25              So, I can only tell you that it's your job

1 to make them stop. The fact that the room is empty is  
2 kind of sad. But I think most people anyway, you  
3 know, don't want pollution. They don't want to  
4 breathe it. They don't want to drink it, and that's  
5 what we're subjected to. So the fossil fuels came out  
6 of the earth. They need to stay right there. They  
7 don't need to come up and poison every living thing on  
8 the planet, which is what's happening.

9 The problem with ocean acidification I guess  
10 was a kind of a newer thing that science was not aware  
11 of. And to me, it's almost the most critical because  
12 when you destroy the food chain in the ocean, you just  
13 basically can't live here anymore. I mean, too many  
14 people rely on that and making a planet that isn't  
15 going to be habitable by humans or animals anymore.  
16 And so people talk economy, economy, but what's the  
17 point of having an economy if you don't have a planet?

18 So, yes, people may lose jobs and coal  
19 companies may have to spend more. But they need to be  
20 regulated. They need to stop polluting. And if we  
21 need to get off coal, we need to get off coal  
22 permanently. I, for one, feel so strongly about it,  
23 I'd rather light candles at night than do what we're  
24 doing now to the planet.

25 So, I mean, basically, that's my comment. I

1 think a lot of people don't realize how drastic the  
2 situation has become, and otherwise the room would be  
3 quite full. But they don't realize it, and they also  
4 think that left in your hands you're going to do the  
5 right thing and take care of it. That's why you get  
6 paid. You're not paid to be mouth pieces for the coal  
7 industry. You're paid to keep the planet clean.  
8 That's the deal.

9 So, I think that's why people don't bother  
10 showing up, and that's too bad. But I'm here, even  
11 though I was driving around in circles for 40 minutes.  
12 I'm here. So it's important, and you've got to do it.  
13 That's what we pay you for. You've got to get it  
14 done.

15 MR. LING: Thank you very much. Any  
16 questions? And if it makes you feel any better, we  
17 did have a nearly full room earlier today. So thank  
18 you very much.

19 MS. ARMAO: You're welcome.

20 MR. LING: So we will now suspend again  
21 until we get a couple more speakers. And again, there  
22 are still three folks signed up, so we will not yet  
23 adjourn. Thank you.

24 (Whereupon, a short recess was taken.)

25 MR. LING: All right, do I have a timekeeper

1 ready back there? Okay, great, and court reporter's  
2 ready? Great. We're going to reconvene. We're going  
3 to have a short session here with at least two  
4 speakers who are here and are signed up to speak. So,  
5 I will call up both of you, and then after you've both  
6 spoken, we may ask questions. And then both of you  
7 remain at the table until both of you have spoken, and  
8 then we may ask questions. The yellow light will come  
9 on when there are two minutes left, and the red light  
10 will come on when your five minutes is up.

11 So, at this time, I will call Al Burt and  
12 Sadaf Mortezaavi. Either one's fine, yes. Mr. Burt,  
13 if you could go first, that would be good and the  
14 timer will start whenever you start speaking. So just  
15 whenever you're ready.

16 MR. BURT: I'm ready.

17 MR. LING: Go right ahead.

18 MR. BURT: Thank you for giving me an  
19 opportunity to speak this evening. I'm going to try  
20 to come up with some potential solutions. They may be  
21 a little bit bizarre, but here we go. I'm advocating  
22 that instead of increasing the power supply in the  
23 United States over the next 10 years that we whittle  
24 away at the waste of electric power. I'm talking  
25 about electric power mostly now. Some figures I've

1 found in the last few months, the waste approximately  
2 is 30 percent of our consumption of electric power,  
3 and I'm suggesting we try to reduce that by three  
4 percent a year. That way, we would not have to build  
5 more coal plants and pollute the air anymore.

6 So how do we get Americans to cut down on  
7 our waste? Well, one way is to raise the price. I  
8 know energy is not that elastic, but there is some  
9 elasticity. The reduction in driving last year when  
10 the gas prices got up shows that there is some  
11 elasticity. So what I'm suggesting is in the cap-and-  
12 trade system that's being proposed now, instead of  
13 giving away 85 percent of the credits that all the  
14 credits be auctioned. This would also help our budget  
15 a little bit, and it would make it more expensive for  
16 the power suppliers and they would then have to pass  
17 the increased cost along to the people and the people  
18 then, including myself, would have to cut back on the  
19 waste or would cut back on the waste once the price  
20 got up there.

21 So taken over 10 years, we should then have  
22 our consumption go down at about the same rate as  
23 increased requirements go up due to population growth  
24 and more gizmos that you plug in. So that's my  
25 suggestion for the next 10 years. As far as gasoline

1 goes, raising the excise tax to make gasoline more  
2 expensive, people would cut down on waste driving and  
3 we might have a little bit of money to fix our broken  
4 down bridges. So that's consumption for the next 10  
5 years, try to cut the waste down rather than just  
6 supplying more power to feed more waste.

7           Okay, now that we've solved the problem for  
8 the next 10 years, going out into the long range, I'm  
9 suggesting that during the 10 years that I just talked  
10 about we start building nuclear plants. I have no  
11 financial interest in uranium, nuclear plants or  
12 anything else, so I'm speaking just as a person here.

13    If we build nuclear plants, which emit nothing but  
14 steam over the next 10 years, thank you, while we're  
15 using the conservation to keep us from increasing the  
16 pollution, we would then, I believe, solve our  
17 problems from the 10 years on out.

18           Why not wind mills? Well, I've got some  
19 numbers here, and this is what's probably going to  
20 sound bizarre. But one nuclear power plant with two  
21 reactors can replace 388 miles of wind mills stretched  
22 along the ridge of a mountain. That would be almost  
23 the entire Blue Ridge Parkway could be replaced by one  
24 nuclear plant with two reactors.

25           Now, if you put wind mills up along that

1 range and you have people looking at them, it distorts  
2 the view or disturbs the view, and this is assuming a  
3 450 foot wind mill on top of a 1,000 foot mountain, a  
4 swath of approximately 80 or 90 miles wide. If you  
5 take that swath and run it down the 388 miles from  
6 peak to peak, you are destroying a view of 66,247  
7 square miles of disruptive view shed for hikers and so  
8 on. Peak to level, if you're talking about a ridge  
9 and a plain, again the same heights and so on, it's  
10 36,192 square miles. So, I'm trying to get it across  
11 to people that we can either destroy America the  
12 Beautiful with all these wind mills with the idea of  
13 having clean air, and if you have clean air, you can  
14 just see more wind mills. Thank you.

15 MR. LING: Thank you very much. You can  
16 remain at the table. That would be fine.

17 MR. BURT: Oh. May I? I have a meeting at  
18 the Air and Space Museum.

19 MR. LING: Oh, you need to get going? Okay.  
20 Any questions?

21 MR. SANTIAGO: No, no questions.

22 MR. LING: All right. No questions for you,  
23 Mr. Burt. If you need to go, go right ahead. Thank  
24 you.

25 MR. BURT: Okay, thank you. I left my email

1 on the thing if you have any questions about where  
2 those numbers came from.

3 MR. LING: Okay. Thank you very much.

4 MR. BURT: Thank you.

5 MR. LING: Ms. Mortezaavi.

6 MS. MORTEZAVI: Hi. So my name is spelled  
7 S-A-D-A-F. I'm just here to show that I care and --

8 MR. LING: Did you also spell your last name  
9 for him already?

10 MS. MORTEZAVI: Oh, no.

11 MR. LING: Okay.

12 MS. MORTEZAVI: M-O-R-T-E-Z-A-V-I. So it's  
13 kind of embarrassing to go after him because he had  
14 all these statistics and I'm just here to say that I  
15 care and to show support. I'm a student. I'm an  
16 activist, and I'm here because I want to hold  
17 polluters accountable. I never used to give them much  
18 thought or really care about environmental issues  
19 until I started working at Fund for the Public  
20 Interest and I started working there on another  
21 campaign.

22 But when I found myself exposed to all this  
23 information about the environment and all the stuff  
24 that was going on that I had no idea about, I realized  
25 that, wow, I should care and I shouldn't be so

1 passive. So I don't want to be passive anymore, and I  
2 don't want polluters to be passive about their  
3 actions. And I believe that they should be held  
4 accountable, and that's why I'm here today.

5 Global warming is a really serious issue,  
6 and the coal industry is one of the very serious  
7 problems that's causing global warming. Big coal-  
8 fired power plants are the single largest source of  
9 global warming pollution in the nation, and many coal  
10 plants are old, inefficient and rely on outdated  
11 technology.

12 So what I would like to see is that they  
13 update this technology and become more efficient and  
14 start to care about the environment and the  
15 atmosphere. And it's time to ask them to stop using  
16 the atmosphere as their personal dumping ground. It's  
17 time for big polluters to clean up so that America can  
18 fight global warming and move towards clean energy.  
19 It's important to move to clean energy sources like  
20 wind and solar power. They don't harm the  
21 environment, and they don't run out and they create  
22 new jobs. Companies such as Solyndra would do just  
23 that. They create jobs that also can't be outsourced,  
24 which is a big plus.

25 Global warming isn't something that we

1       should be passive about and wait for someone else to  
2       clean up. We need to stop treating the environment as  
3       our own personal dumping grounds and take action now.  
4       And I really thank you for this opportunity, and I  
5       hope that you guys finally finalize this important  
6       rule to fight global warming and move America towards  
7       clean energy.

8               MR. LING: Thank you very much. Any  
9       questions?

10              MS. SANTIAGO: No questions.

11              MS. MORTEZAVI: Thank you.

12              MR. LING: Thanks for coming. Okay. I will  
13       now call up Ellen Bateman, already on her way up.

14              MS. BATEMAN: Hi. I'm Ellen Bateman.

15              MR. LING: Hi. Great. Hang on just one  
16       second. I think the court reporter's distracted.  
17       Okay, great. So the yellow light comes on when  
18       there's two minutes left, and then the red light comes  
19       on when the five minutes are done and the timer will  
20       start whenever you're ready.

21              MS. BATEMAN: Okay. Well, thank you very  
22       much. I'm Ellen Bateman. I want to thank the EPA for  
23       its commitment to environmental justice, which is  
24       probably why I'm here participating. I'm a student of  
25       environmental conflict resolution at the Institute for

1 Conflict Analysis and Resolution, and I'm also a  
2 concerned citizen and advocate for green jobs and  
3 renewable energy technologies, of course.

4 I'm also a parent of two youngsters who love  
5 the outdoors. So I want to tell you about a time that  
6 I took my kids to visit Cumberland Falls in Corbin,  
7 Kentucky. I don't know if you've ever been there.  
8 It's gorgeous. We drove to Daniel Boone National  
9 Forest from Central North Carolina one summer weekend  
10 to get a glimpse of the famed Moonbow. It's a  
11 phenomena that appears each month when the full moon  
12 shines over Cumberland Falls, which is sometimes  
13 referred to as the Niagara Falls of the South.

14 The drive was memorable. We passed through  
15 Pisgah National Forest in North Carolina and ascended  
16 the mountain slowly. I don't think my car had ever  
17 done anything like that. We passed Nantahala National  
18 Forest and continued on to Daniel Boone National  
19 Forest, which is named for the heralded pioneer. I'm  
20 sure you're familiar with the legend of Daniel Boone.

21 So when we arrived and set up camp, I was  
22 surprised by the hazy conditions and the very close,  
23 humid, uncomfortable almost, air quality. I expected  
24 to breathe more deeply, and with more refreshment. We  
25 enjoyed the beauty of the mountain ecosystem. I had

1 never seen rocks like that in my life, and we set up a  
2 tent and sleeping on the ground in a sleeping bag in a  
3 tent was a very hard experience, shall I say. We kept  
4 sliding down because it was basically just grass over  
5 rock.

6 So we crowded the rails of the falls at  
7 midnight with the other tourists to try to catch a  
8 glimpse of this Moonbow, but we never did. But we did  
9 enjoy the trip, and we'll never forget -- I'll never  
10 forget the sound of the toy long gun that my son got.

11 It's like a Daniel Boone thing. I'll never forget  
12 the sound of that popping. But I'll also never forget  
13 the image of those rolling green mountains shrouded in  
14 haze. So ladies and gentlemen, only a handful of  
15 sources, including coal power plants, are responsible  
16 for more than half of all the global warming pollution  
17 in the United States. These megapolluters should be  
18 held responsible for their share. The EPA is  
19 proposing a rule to clean up these big polluters under  
20 the Clean Air Act, and we should definitely enforce  
21 that Act.

22 By targeting the worst offenders, the big  
23 polluters rule will quickly cut global warming  
24 pollution while still helping our economy grow. I'm  
25 sure you've heard this today before. The rule would

1       only apply to offenders emitting at least 25,000 tons  
2       of greenhouse gases each year. In the Appalachian  
3       region, I think there's 109 tons of mercury being  
4       emitted into the atmosphere, and there are several  
5       complicating factors associated with mountaintop  
6       removal which impact not only our air but our clean  
7       water supply as well, which could have a very  
8       detrimental effect on the entire water supply for the  
9       East Coast.

10               Under the big polluters rule, the worst  
11       offenders, like new coal plants and other big  
12       polluters, would have to install technology to clean  
13       up pollution that causes global warming, and I hope  
14       that you will transform the energy future of our  
15       nation by supporting the big polluters rule,  
16       eliminating mountaintop removal and helping to create  
17       green jobs. Thank you for your consideration.

18               MR. LING: And thank you. Questions? No  
19       questions. Thanks very much. I think, okay, we are  
20       now caught up on speakers. I'm going to suspend again  
21       until we have another speaker. I don't know exactly  
22       when that will be. And then if we don't have anyone  
23       show up, we'll still I think hold open until seven.  
24       So we're suspended until another speaker shows up.  
25       Thank you.

1 (Whereupon, a short recess was taken.)

2 MR. LING: Great. We're going to reconvene  
3 for our last scheduled speaker, and we also have one  
4 other speaker. Again, we will hold the sign-up  
5 process open until seven tonight in case there's  
6 others who want to speak. But our last scheduled  
7 speaker is Malin Moench, and we also have Mary  
8 DiSenna. So, if you could both come up at the table  
9 here, I will invite you to both give your testimony  
10 and then we may ask questions after both of you have  
11 spoken. If you could just remain at the table until  
12 both of you have gone.

13 We do have this timing system set up. The  
14 timer will start when you start. And then the yellow  
15 light will come on when you have two minutes left, and  
16 the red light will come on when your five minutes are  
17 up. So, Mr. Moench, whenever you're ready, you can  
18 begin. Thank you.

19 MR. MOENCH: Okay. My name is Malin Moench.  
20 I spent all my professional life in the East, but I'm  
21 counting the days until I retire and can go back to  
22 the Colorado Plateau where I grew up to turn to nature  
23 photography full-time. The Colorado Plateau is the  
24 most spectacular 140,000 square miles in the world.

25 It troubles me greatly that this may not be

1 true when I finally have enough time to record it with  
2 my camera. I visited the Colorado Plateau several  
3 times this summer. The evidence in my camera lens  
4 shows climate change is beginning to overwhelm its  
5 natural systems.

6           Why blame greenhouse gases for the dying  
7 forests I see each summer and the smoke that seems to  
8 always be in the air? The American West is warming  
9 twice as fast as the rest of the country.  
10 Climatologists tell us that the buildup of greenhouse  
11 gases is causing the polar air mass to shrink. This  
12 is causing the subtropical jet over the American West  
13 to migrate northward at the rate of 100 miles each  
14 decade. Heat and drought creep northward as the jet  
15 retreats. The greatest warming in the West is  
16 occurring in the Colorado Plateau and the West's great  
17 mountain ranges. These areas of highest impact  
18 unfortunately are also the areas containing the  
19 country's iconic national parks: Grand Canyon, Zion,  
20 Bryce, Yosemite, Yellow Stone, the Grand Tetons,  
21 Glacier and the North Cascades. Winter snows are  
22 shifting to rain. Spring rain is disappearing. Less  
23 snow means less stream flow and less groundwater. The  
24 shortage is stressing ecosystems now and will strangle  
25 the economies of the West very soon.

1           Specific signs that natural systems are  
2   deteriorating are all around. Fire is becoming to the  
3   West what hurricanes are to the Gulf. I head west  
4   with my camera two to three times a summer. Over the  
5   last decade, the majority of photography trips have  
6   been fruitless. This is because the summer skies are  
7   so often brown rather than blue from massive fires  
8   whose pall is often spread over three, four or even  
9   five states at once.

10           According to a recent study, since 1987,  
11   higher spring and summer temperatures and earlier snow  
12   melt have caused a fourfold increase in the number of  
13   western wildfires, burning 6.5 times as much land area  
14   each year as they did before 1987. This is spurred by  
15   warmer temperatures, invasive grasses and weeds that  
16   thrive in spring and dry out in summer, have turned  
17   Bandelier National Park and Mesa Verde into  
18   tinderboxes. Catastrophic fire is now so inevitable  
19   that it is expected to permanently eliminate the  
20   forest cover in both parks.

21           If nothing changes, Western glaciers are  
22   doomed. Sixty percent of the glaciated land in the  
23   lower 48 is in North Cascades Park. Since 1958, 80  
24   percent of that mass of glaciers has been lost. In  
25   the last 20 years, half of the glacial mass in Glacial

1 National Park itself has melted. In the next 20  
2 years, it will all be gone.

3 With higher temperatures, high mountain  
4 tundra is disappearing and alpine wildflower meadows  
5 are turning to grassland. Subzero temperatures are  
6 increasingly rare in high mountain ranges of the West.

7 This means that populations of bark beetles of every  
8 type, spruce, white pine, you name it, no longer die  
9 off in the winter. The result is that vast swaths of  
10 forest in the high country are sick and dying.

11 I recently attended a family reunion in  
12 Cedar City, Utah. We stayed in a cabin on the edge of  
13 Cedar Breaks National Monument. On the last day, we  
14 gathered to watch the sun setting from the rim of the  
15 monument 10,000 feet above the valley floor. I looked  
16 out over the 2,500 foot deep amphitheater carved out  
17 of soft pink and white limestone with fins, columns  
18 and spires of every hue. It was like an enormous  
19 choral garden framed by the deep shadow green of fir  
20 trees. A silver ribbon swerved in the sun and lost  
21 itself in a dozen layers of purple mountain ranges  
22 stretching 100 miles to the west.

23 But this magic was an illusion. It could be  
24 sustained only as long as our gaze avoided the harsh  
25 reality of the views North, East and South. Global

1 warming has laid the plateau from which Cedar Breaks  
2 was carved and its vast spruce forest at the mercy of  
3 the spruce bark beetle. Turning our heads to either  
4 side required us to face the gray ghosts of what were  
5 once a million spruce trees leaning like vertical  
6 driftwood waiting for the torch of a summer lightning  
7 strike. Can I have 10 more seconds?

8 MR. LING: Yes, if you're close to the end,  
9 that's great. Go right ahead.

10 MR. MOENCH: Similar scenes, heartbreaking  
11 to a photographer, are spreading all over the West  
12 from Arizona to Montana. It is the buildup of  
13 greenhouse gases that is bringing nature to its knees  
14 in the American West. Politics has become so  
15 dysfunctional I despair that Congress will ever act to  
16 rescue this land. Our only hope lies with  
17 administrative action: this rule that you are now  
18 considering to control the major sources of greenhouse  
19 gases that have unleashed this damage on the crown  
20 jewels of the West, please implement it as quickly as  
21 possible. Everything is riding on it. Thank you.

22 MR. LING: Thank you. And Ms. DiSenna.

23 MS. DISENNA: I'm a citizen living here in  
24 the D.C. area and a former editor of a national  
25 publication called *U.S. Water News*, and I followed,

1 both as a citizen and a professional person, this  
2 issue of climate change before, long before it was  
3 accepted or while it was still being undermined by  
4 many and not paid attention to, and I applaud the  
5 former speaker's comments on the gravity of this  
6 situation.

7           To get to another issue, the acidification  
8 of the ocean is accelerating so fast that not only the  
9 life in the ocean, but all life on earth, would be  
10 impacted because when the plankton goes, as the folks  
11 at the Center for Biological Diversity say, as the  
12 plankton go, so goes all life on this planet. It's  
13 the building block of our ecosystems, and our ocean  
14 cannot take what we're doing. Of course, our forests  
15 cannot take what we're doing. Our glaciers cannot  
16 take what we're doing.

17           And the Arctic, I recently attended a  
18 workshop on issues of the Arctic and of course there's  
19 so many that I don't have time to detail it all. But  
20 the Arctic Ocean or the Arctic Region is responsible  
21 for regulating so much of our climate. And when that  
22 goes and the sea ice all melts, we are then  
23 accelerating the process of the warming by exponential  
24 degrees. And all that we are doing, all that we can  
25 do now, right this minute, is still going to leave us

1       trying to patch a lot of holes and trying to scurry to  
2       make sure that total devastation doesn't result.

3               So we have no time. I applaud this rule,  
4       and I agree with the former speaker, I've been  
5       following the House and Senate bills on the climate  
6       and it is very discouraging that we have so much  
7       leverage from the industries that we need to better  
8       regulate, that every time something is put into the  
9       bills to make it actually do what it's supposed to do,  
10      it's removed and we get a bill that everybody  
11      applauds. And it doesn't do any good. That is ever  
12      more dangerous because we are deceiving ourselves.

13              So I applaud this rule, and I believe as the  
14      former speaker said, we have to act now. And I thank  
15      you for the opportunity to talk.

16              MR. LING: Thank you very much. Questions?

17              MR. SANTIAGO: No questions.

18              MR. LING: No questions. Thank you both for  
19      coming. So the last signed up speaker has now gone,  
20      and so we're going to hold the hearing open. And  
21      whenever anyone shows up to speak, we will let them  
22      speak right away at that time until seven o'clock.

23              (Whereupon, a short recess was taken.)

24              MR. LING: It is now seven o'clock. And  
25      seeing nobody else signed up to speak, we will adjourn

1 the hearing, thank everybody for their attendance and  
2 we'll be in Chicago tomorrow.

3 (Whereupon, at 7:00 p.m., the hearing in the  
4 above-entitled matter was concluded.)

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REPORTER'S CERTIFICATE

DOCKET NO.: EPA-HQ-OAR-2009-0517

CASE TITLE: Prevention of Significant Deterioration  
and Title V Greenhouse Gas Tailoring  
Proposed Rule

HEARING DATE: November 18, 2009

LOCATION: Crystal City, Virginia

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes or digital recording reported by me at the hearing in the above case before the Environmental Protection Agency.

Date: November 18, 2009

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