

Fall 2019 Meeting
of the ACCCI MESH Committee
Birmingham, AL
September 25-26, 2019

<u>Name</u>	<u>Company</u>	<u>September 25 Meeting/Tour</u>	<u>September 25 Dinner</u>	<u>September 26 Meeting</u>
Dean Bishop	ABC Coke	1	1	1
Scott Castleberry	ABC Coke	1		1
Jay Cornelius	ABC Coke	1	1	1
Tom Klein	ABC Coke	1	1	1
Bill Osborn	ABC Coke	1	1	1
Taylor Owen	ABC Coke (Mary-Katherine Owen)	1	2	1
Scott Woody	ABC Coke	1	1	1
Matthew Blakely	AK Steel - Middletown	1	1	1
Scott Kirley	AK Steel	1	1	1
Thomas Miller	AK Steel	1	1	1
Brenna Harden	DTE-EES	1	1	1
Mike Krchmar	DTE-EES	1		1
Terry Wagaman	DTE-EES	1	1	1
Heath Huschak	Koppers	1	1	1
Kelsey Cameron	Lone Star Specialities	1	1	1
Bill Molnar	SunCoke Energy		1	1
John Quanci	SunCoke Energy	1	1	1
Jeff Wozek	SunCoke Energy	1	1	1
Patrick Nigl	SunCoke Energy IHO (Lora Nigl)	1	2	1
James Weatherly	SunCoke-Middletown	1	1	1
Brian Crawford	USS	1	1	1
Mike Dzurinko	USS	1	1	1
Mike Rhoads	USS	1	1	1
Matt Kraeuter	ThyssenKrupp (Industry Supplier Speaker)			1
David Ailor	ACCCI	1	1	1
	TOTALS	23	24	25

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ANTITRUST REMINDER

1. It is the policy of the American Coke and Coal Chemicals Institute (“ACCCI” or the “Institute”) and its members to strictly comply with all applicable antitrust laws. As part of ACCCI’s antitrust compliance, this Antitrust Reminder is read aloud at the beginning of appropriate meetings of the Institute. The Antitrust Reminder is also recorded in the agenda and the minutes, to emphasize ACCCI’s antitrust compliance as a protection for the Institute and the members.
2. Because ACCCI provides an opportunity for members who may be competitors to communicate on issues that concern them, the Institute and members must be sensitive to the antitrust laws. ACCCI brings significant pro-competitive benefit to its members and the industry, and this is encouraged under the antitrust laws.
3. At the same time, ACCCI and members must ensure the association is not misused as a vehicle for anticompetitive agreements on commercial matters including, prices or other terms or conditions of sale, production volumes, the supply of specific customers and territories, the boycott or exclusion of other firms, or other unlawful activities. In addition, ACCCI and its members must avoid even the appearance of these activities. For these reasons, the following topics may not be discussed without prior review and approval by counsel: (a) current or future prices, or any other terms related to price including discounts, credit and payment terms, or delivery charges; (b) who will serve specific customers, markets or geographical areas; (c) whether or not to deal with a competitor, customer or supplier; (d) non-public marketing, product or service plans; or (e) non-public information concerning costs, profits, customers, booked business, etc.
4. The meeting will follow the approved agenda, and topics not on the approved agenda should not be discussed inside the meeting or in hallway discussions outside the meeting. In addition, minutes will be maintained of the meeting. The use of an agenda and minutes are part of ACCCI’s antitrust compliance policy, and they provide a record of the Institute’s legal compliance. In addition, legal counsel or association staff who have access to legal counsel will be present and will monitor the meeting for antitrust compliance. Please direct any questions regarding antitrust compliance to them, or after the meeting to the legal counsel for ACCCI.

AMERICAN COKE AND COAL CHEMICALS INSTITUTE

Fall 2019 Meeting of the ACCCI MESH Committee
Wednesday, September 25 - Thursday, September 26, 2019
Hyatt Regency Birmingham - The Wynfrey Hotel
1000 Riverchase Galleria
Birmingham, AL 35244

MEETING EVALUATION FORM

On a scale of 1 to 5, with 1 being "poor" and 5 being "excellent," please rate the meeting relative to the following:

MEETING

Poor -----> Excellent

Overall Meeting Format: 1 2 3 4 5

Overall Meeting Content: 1 2 3 4 5

Meeting Management: 1 2 3 4 5

Length of Meeting (circle one): Too short Ideal Too long

Suggested Improvements: _____

FACILITY

Poor -----> Excellent

Hotel Accommodations: 1 2 3 4 5

Hotel Location: 1 2 3 4 5

Food Quality and Selection: 1 2 3 4 5

Hotel Personnel: 1 2 3 4 5

Suggested Improvements: _____

GENERAL COMMENTS

OPTIONAL

Name: _____ Company: _____

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866-422-7794 (eFax) or dailor@accici.org

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ACCCI "ISSUES UPDATE" August 1-31, 2019

Environment

EPA's Coke Pushing, Quenching, and Battery Stack (PQBS) NESHAP. On August 6, Donna Lee Jones, EPA-OAQPS Project Officer on the Agency's PQBS RTR Project, continued moving forward on the Project. That day, **she provided select coke producer member companies for QA/QC review the EPA-developed, company-specific spreadsheets reflecting the information those companies had provided EPA in 2016** in response to a PQBS Information Collection Request (ICR) EPA had sent them that year.

In another rulemaking related to the steel industry, on August 16, **EPA proposed to amend the 2003 National Emission Standards for Hazardous Air Pollutants (NESHAP) for Integrated Iron and Steel Manufacturing Facilities.** The Agency explains that "EPA has evaluated the risks remaining after fully implementing the 2003 NESHAP and determined that risks from this source category are acceptable. In addition, the Agency identified no developments in practices, processes, or control technologies that would further reduce emissions of hazardous air pollutants (HAP). EPA is proposing no significant changes to the original NESHAP for this source category as a result of the residual risk and technology review and has determined the standards continue to provide an ample margin of safety to protect public health and the environment. However, EPA presents an analysis of potential work practices that could be applied to limit HAP emissions from seven types of nonpoint sources and is soliciting comment on the nonpoint sources and the work practices." The proposal can be viewed at <https://www.govinfo.gov/content/pkg/FR-2019-08-16/pdf/2019-17349.pdf>.

On August 5, EPA sent **another RTR proposal** to the White House's Office of Management and Budget for final review – **one that would update its air emissions rules (RIN: 2060-AT86) for the producers of benzene, vinyl chloride, toluene, and other organic chemicals.** EPA is under a court-ordered deadline to make this proposal final by March 13, 2020. When this proposal become final, makers of these chemicals may have to install new technology at their factories to comply with the new air pollution regulations. The March 2020 deadline, established by a federal district court judge, applies to air pollution regulations covering industries in addition to chemical manufacturing, including integrated iron and steel manufacturing, vehicle surface coating, and hydrochloric acid production. The court order stems from the lawsuit *Cal. Cmty. Against Toxics v. Pruitt*, D.D.C., No. 15-cv-00512, 3/13/17.

And, on August 30, EPA released a pre-publication copy of an **RTR proposed rule for the Site Remediation source category.** This source category includes "... any facility engaged in the cleanup of sites that possess contaminated media. Sites undergoing remediation of contaminated media include, but are not limited to, any facility at which organic materials currently are or have been in the past stored, processed, treated, or otherwise managed at the facility. These facilities include organic liquid storage terminals, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with collocated site remediation activities."

Startup, Shutdown and Malfunction (SSM) Provisions in MACT Standards. On August 5, counsel to the SSM Coalition of which ACCCI is a member filed **Coalition comments with EPA on EPA Region 4's proposed adoption of an alternative policy on SSM provisions in SIPs and withdrawal of the SIP call for North Carolina's SSM provisions.** ACCCI provided input on the draft comments. More information is available [here](#), including a [public FAQ document](#).

On August 12, counsel filed **Coalition comments with EPA on the Agency's June 27, proposed Residual Risk and Technology Review rule for the Solvent Extraction for Vegetable Oil Production source**

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category, 84 Fed. Reg. 30812. This RTR rule is significant in that EPA, in addition to proposing work practice standards (based on industry suggestions) that could apply during startup and shutdown periods, requested comment on types of malfunctions that might be addressed through work practice standards, and what potential work practice standards would be. The Coalition commented in support, as a general matter, of EPA's use of work practice standards as an alternative to normally applicable limitations that will apply during malfunction events.

EPA's "Once In, Always In" (OIAI) Proposal. During July, ACCCI accepted an invitation to "... collaborate with the Air Permitting Forum in preparing comments..." on a July 26, **EPA proposed rule "Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act"** (84 FR 36304). The Federal Register notice is available at <https://www.federalregister.gov/documents/2019/07/26/2019-14252/reclassification-of-major-sources-as-area-sources-under-section-112-of-the-clean-air-act>. Comments must be received on or before September 24.

On August 6, counsel to the newly formed coalition provided member associations, including ACCCI, "... **brief survey questions requesting information from your members to assist in the development of comments on the proposed Major MACT to Area Source rulemaking**" Counsel explained that "... examples from your members will be helpful to ensure that the rulemaking record adequately supports EPA's eventual final rule." ACCCI staff circulated the questions to ACCCI's Coal Chemicals Environmental and MESH Environmental subcommittees for response.

Global Climate Change. Based on a study published in the journal PLOS on August 1, by 2100, **winters in Maryland will decrease from an average of 117 days to about 90**. This will result in the waters of the Chesapeake Bay becoming as warm as those in Newport News, VA and, possibly, Morehead City, NC. The projections, if correct, could mean a boon for the bay's blue crab population, which supports a fishery worth hundreds of millions of dollars each year.

On August 1, during the first hearing of the House Select Committee on the Climate Crisis in Boulder, CO, Colorado Governor Jared Polis (D) said that **Colorado's renewable energy goals and greenhouse gas reduction targets provide a road map for other states** as the U.S. confronts the global climate crisis. The focus of the hearing was Colorado's experience with clean energy legislation, as well as measures to address climate change that have been taken at state and local levels. Following Polis, two mayors, a Colorado State University professor, and an industry representative spoke on the topic.

And, on August 1, Florida Governor Ron DeSantis (R) announced that **Julia Nesheiwat would be the state's first chief resilience officer**. Formerly, she served as a U.S. State Department official dealing with energy policy and security.

A study released on August 2 concluded that the **heatwave that Europe experienced in late July "was so extreme over continental Western Europe that the observed magnitudes would have been extremely unlikely without climate change."** The scientists said that the record temperatures recorded in France and the Netherlands could happen every 50-150 years in the world's current climate. Without "human influence on climate," the temperatures would likely happen less than once in 1,000 years.

Storms that are hitting Southeast Asia in increasing frequency and intensity due to warming seas are devastating farms supplying one particular commodity – coconuts. Much of the world's supply comes from the region. Nondairy ice cream makers, who use coconuts as a key ingredient, now are scrambling to find alternatives.

Elsewhere, **farmers are planting non-invasive varieties of the Empress tree to suck carbon from the atmosphere.** These trees can grow 10 to 20 feet tall in their first year, which helps them store carbon

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more efficiently than other tree species. While each acre of most tree species can capture and store 1.1 to 9.5 metric tons of carbon dioxide a year, an acre of empress trees can absorb 103.

On August 2, California, New York and 10 other states **sued the Trump Administration for weakening Obama-era auto regulations intended to increase industry compliance with federal fuel-efficiency standards**. The suit, which was filed in the federal appeals court in Manhattan, challenges a final rule issued by the National Highway Traffic Safety Administration (NHTSA) that reduces financial penalties for companies that fail to meet corporate average fuel economy (CAFÉ) standards.

The U.K.'s Met Office announced that the **country's 10 hottest years since the 19th century have all occurred since 2002**, as climate change makes the U.K. warmer and wetter. In its State of the U.K. Climate report, the Office reported that 2014 was the warmest year in records going back to 1884. The runners-up are 2006, 2011, 2007, 2017, 2003, 2018, 2004, 2002 and 2005. The 10 coldest years were all before 1964.

On August 2, **Mercedes-Benz apologized for an August 1 tweet that appeared to celebrate the carbon dioxide emissions of an SUV model**. The tweet estimated the SUV's emissions at 193 grams per kilometer. Posted above a photo of the vehicle, which was red in color, was the text: "If this summer wasn't warm enough already, the Mercedes-AMG GLA 45 4MATIC will heat things up even more with this red-hot finish." In its August 2 apology, the company tweeted: "Folks, that was really not our finest hour. We apologize sincerely. We're working hard on the transformation of our car fleet. We aim for CO2-neutral mobility."

There's an increasing global awareness that animal agriculture plays a major role in accelerating climate change. Livestock accounts for an estimated 14 to 18 percent of the total human-induced greenhouse gases that are responsible for climate change. The remaining 82 to 86 percent comes from taking carbon out of the ground and pumping it into the atmosphere, whether through methane leaks from natural gas wellfields and pipelines or through burning fuels to produce carbon dioxide.

On August 2, Fire Ecology, a national group that studies wildfire and includes experts from the U.S. Forest Service and U.S. Geological Survey, reported that the **Pacific Northwest faces an increasing risk of significant wildfires due higher temperatures related to changes in its climate**. One researcher commented that "The only thing that's keeping it from going off like a nuclear bomb is the weather."

And, on August 2, NHTSA and EPA announced that part of an **NHTSA-EPA final rule that would significantly ease automobile fuel-efficiency standards had just been sent to the White House's Office of Management and Budget for review**. The agencies first proposed the rule in August 2018, at which time they proposed to cap mileage requirements at 37 mpg after 2020, instead of rising each year to 47 mpg; and, revoke California's authority to regulate greenhouse-gas emissions from automobiles.

On August 3, an unmanned saildrone, "**Saildrone 1020,**" **completed a 13,670-mile journey around Antarctica**. During the 196-day voyage, which was the world's first autonomous circumnavigation of Antarctica, the drone collected oceanic and atmospheric carbon dioxide measurements with an instrument developed by NOAA's Pacific Marine Environmental Laboratory.

On August 5, Politico reported that Lewis Ziska, a 62-year-old plant physiologist who had worked at the USDA for over 20 years, was quitting the Department because the **Trump Administration had attempted to bury a report he authored about rising carbon dioxide levels affecting rice yields**. Ziska alleged that USDA officials not only questioned the findings of the report, but also tried to suppress press coverage of it.

On August 6, Concha y Toro, Latin America's biggest wine producer, **pledged to reach net-zero emissions of greenhouse gases by 2050, the first in its industry to do so**. The company, which shipped 33 million cases of wine last year, said that it has joined a United Nations initiative called Business

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Ambition for 1.5C, whose member companies commit to meeting emission reduction targets set in the 2015 Paris climate agreement. Other companies in the U.N. initiative include Hewlett-Packard, energy group ENEL, Levi Strauss, and U.K. communications giant Vodafone.

Emissions data from the Energy Information Administration indicate that, despite efforts by many states to lower their carbon footprint, the **overall U.S. emissions picture is bleak unless more is done**. As some states lower their emissions, others are increasing their emissions. The net effect is that nationwide carbon emissions rose rapidly in 2018 - the biggest increase in eight years. Carbon emissions from Texas alone increased 20 percent (108 million tons) from 2009 through 2016, offsetting reductions from all states in the West and Northeast, combined.

On August 6, e5 Lab Inc., a new venture between Asahi Tanker Co., Exeno Yamamizu Corp., Mitsui O.S.K. Lines Ltd. and Mitsubishi Corp., released a statement announcing that the **four companies are partnering to build the world's first zero-emission tanker by mid-2021**. The tanker will be powered by large-capacity batteries and will operate in Tokyo Bay. The global maritime industry is facing an onslaught of legislation to improve its environmental performance. Beginning next year, a majority of vessels will have to burn fuel containing less sulfur.

On August 6, Rep. Cheri Bustos (D-IL) **proposed a set of policies to curb warming and extreme weather while spurring economic growth in rural America**. The lawmaker submitted the policies - dubbed the Rural Green Partnership - to the House Select Committee on the Climate Crisis.

On August 7, Democratic Presidential candidate Steve Bullock said that **increasing transparency in campaign finance laws is key to addressing issues like climate change** and gun violence. He spoke after an event at the National Press Club in Washington, D.C.

Meanwhile, Democratic Presidential candidate Senator Elizabeth Warren (MA) announced that she would **pay farmers to fight climate change** if she was elected President. Under her proposal, she would incentivize farmers to invest in sustainable farming practices.

And, Democratic Presidential candidate Cory Booker (NJ) proposed to fight climate change by **planting 15 billion trees by 2050 and spending billions of dollars to help farms cut down on greenhouse gas emissions**. He announced his plan as proposed legislation.

Several of the Democratic Presidential candidates are asking young people to **do more than just vote for them to fight climate change**. Central to their climate plans is the creation of a "climate corps," which would be a climate-focused national service program that would focus on planting trees, restoring wetlands and aiding victims of natural disasters.

A new study published on August 7 predicts that **clear-air turbulence may become more common in the skies above the North Atlantic due to changes in wind shear as a result of climate change**. One of the major causes of such turbulence is wind shear, which occurs when winds vary in speed or direction with height.

On August 7, AccuWeather chief executive Joel Myers posted an essay online **casting doubt on the scientific finding that heat waves in the United States and elsewhere are worsening because of climate change**. His essay, "Throwing cold water on extreme heat hype," is at odds with peer-reviewed science.

And, on August 7, coal mining giants Murray Energy Corp. and Westmoreland Mining Holdings LLC, as well as major utility American Electric Power, **moved to intervene in a lawsuit over EPA's July 8 Affordable Clean Energy final rule (RIN:2060-AT67) that repeals and replaces the Obama EPA's Clean Power Plan**. The National Mining Association and the American Coalition for Clean Coal Electricity also asked to join the lawsuit, in defense of the new EPA rule. Two public health groups - the

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American Lung Association and American Public Health Association – have also sued over the rule. And, on August 13, Attorneys general from 22 Democratic-led states, six cities and the District of Columbia filed suit. The case is being heard by the U.S. Court of Appeals for the D.C. Circuit. The deadline to file suit is September 6.

A new U.N. climate report published on August 8 warns that **continued damage to land and forests, including to produce food, will further undermine efforts to hit the goals of the Paris climate agreement.** The 1,300-page report was prepared by the Intergovernmental Panel on Climate Change (IPCC). The report indicates that Earth's land masses, which are only 30 percent of the globe, are warming twice as fast as the planet as a whole and that agricultural practices and people's diets will need to change as rising temperatures diminish the earth's ability to absorb carbon emissions. In terms of dietary changes, the report calls for a shift away from meat-heavy meals toward ones that incorporate more plants, grains and nuts. In terms of changes to agricultural practices, the report calls for a return of significant amounts of farmland to natural habitat, as well as efforts to improve soil quality following decades of high emissions that have reduced the Earth's capacity to absorb greenhouse gasses. The report also highlights the need for the U.S. government to manage its public lands with climate change in mind, such as using prescribed burns to help reduce the risk of catastrophic wildfire and investing heavily in planting trees in areas of deeply scorched earth following catastrophic wildfires. The report was compiled by 107 experts from 52 countries and written cumulatively by 96 contributing authors.

The day before IPCC released its report, German lawmakers **proposed raising the country's tax on meat from 7 percent to 19 percent in an attempt to decrease consumption.** Other countries, including Denmark and Sweden, are also likely to enact a tax on meat both to protect the environment and to improve human health and animal welfare.

On August 8, former Senate Majority Leader Harry Reid **called for Democrats to make tackling the climate crisis a priority, even if it means scrapping the Senate filibuster.** Reid told The Daily Beast that "[T]he No. 1 priority is climate change. There's nothing that affects my children, grandchildren and their children, right now, more than climate."

On August 9, several environmental groups and liberal activists **criticized the Democratic National Committee (DNC) for not committing to sponsor a debate of Democratic Presidential candidates focused exclusively on climate change.** Their criticism followed the DNC's release that day of a messaging resolution entitled "Resolution Recommitting the Democratic Party to the Work of Combating Climate Change and Creating Jobs by Growing our Clean Energy Economy." The document characterizes climate change as a "present, urgent, and growing threat," and criticizes President Trump and other Republican lawmakers for rolling back a slate of environmental protection regulations.

Also on August 9, J.D. Scholten, a Democrat running to unseat Representative Steve King (R) in Iowa's 4th District, said that the **attitude among farmers towards climate change has changed significantly over the past few years.** During an interview with Hill.TV co-host Krystal Ball, Scholten said that "It's night and day with that issue from where we started two years ago to now, especially with all of the 2020 candidates talking about it and going around." Scholten thinks that people in his district are "opening up" to the idea of climate change, which has become a top issue among Democratic presidential candidates in the 2020 race.

Harvard has launched an **animal law and policy clinic under the school's animal law and policy program,** becoming the latest law school to offer a course in the rapidly growing area. Topics include litigation, legislation, policy, and administrative matters relating to issues affecting farmed animals, wildlife, animals in captivity, and threats posed by climate change. The number of U.S. schools offering animal law courses has increased from nine in the year 2000 to 167 today, according to Harvard.

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On August 9, **more than a million Indians planted 220 million trees in a government campaign to tackle climate change and improve the environment.** Planting was carried out in 1,430,381 places, including 60,000 villages and 83,000 sites in forest ranges, in northern Uttar Pradesh, the country's most populous state. India has pledged to keep one-third of its land area under tree cover, but its 1.3 billion people and rapid industrialization are hampering its efforts.

On August 11, during an interview on ABC's "This Week," **former Vice President and environmental activist Al Gore defended the possibility of the U.S. taking on the "brunt" of the global response to climate change.** He commented that the steps the nation takes would have wide-ranging economic benefits, saying "This is where the economic growth of the future is to be found."

Senate Democratic leader Chuck Schumer commented on the Trump Administration's peeling back protections for threatened species. He characterized the peel back as a **"shortsighted decision" and said it was "a slap in the face to those fighting to address the climate crisis and undermines four decades of wildlife conservation efforts."**

On August 12, Canada and the Province of Ontario proposed to **revise an agreement on Great Lakes environmental cooperation to remove references to "goals" because their inclusion was cumbersome and created ambiguity.** The draft Canada-Ontario Agreement on Great Lakes Water Quality and Ecosystem Health will refer to "results" and "commitments" instead of all three terms after the two governments ran into difficulty implementing the existing version of the deal. Critics said the change will make it **more difficult to hold government agencies accountable for their inaction on environmental problems.**

Seattle's City Council **unanimously passed a Green New Deal resolution on August 12.** The resolution calls for eliminating greenhouse gases in the city by 2030 and to make the transition in a way that benefits communities "most impacted by economic, racial, and environmental injustice." A member of the Council that represents King County, which encompasses Seattle, said he intended to introduce a similar resolution in the County Council.

And, on August 12, Bloom Energy Corp., a clean energy company which manufactures fuel cells, **blamed clean energy laws in California and New York for flat earnings in the second quarter.** The two states are among the company's stronger markets. Bloom said that the laws, which commit the states to 100 percent carbon-free electricity by 2045 and 2040, respectively, have confused Bloom customers and caused them to delay orders. Bloom forecast flat revenue in 2020. According to the company, its fuel cells do release greenhouse gases, but the emissions are lower than those from gas-burning turbines in standard power plants.

Research published the week of August 12 in Nature Climate Change combines observations over the past 40 years with results from climate modeling experiments. Scientists found that both sources of data show that **reduced regional sea ice and cold winters coincide, but that one does not necessarily cause the other.** The regions examined included the Barents-Kara Sea and East Siberian-Chukchi seas, which have been implicated by previous studies in causing more Arctic air to flow into North America and parts of Asia during the winter.

On August 13, the **Washington Post ran the first in a series of stories on warming hot spots.** The story presented the results of a detailed analysis of 124 years of climate data across the United States. The analysis, which used National Oceanic and Atmospheric Administration data, shows that the Northeast is one of the fastest-warming regions in the country, with parts of the region exceeding the 2-degree Celsius (3.6 Fahrenheit) warming threshold defined by global policymakers as constituting "dangerous" levels of climate change.

Meanwhile, **40 million people in the Central and Southern United States were under heat alerts the days leading up to August 13** as a hot and sultry air mass led to dangerously hot conditions. Houston

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hit 100 degrees, Dallas reached 101, and Oklahoma City hit a high of 103 degrees. Some locations set daily records for high temperatures.

Witnesses at a public hearing on August 13 voiced **strong support for Colorado's proposal to adopt the California Zero-Emission Vehicle program**, under consideration by the state Air Quality Control Commission. If the proposed revisions (Regulation 20) are approved, Colorado would become the 10th state to adopt the program, which has been targeted by the Trump Administration. The proposal arises from an agreement announced in July between Colorado transportation and energy officials and two auto manufacturer associations. In January, Governor Jared Polis (D) issued an executive order directing state agencies to propose the zero-emission vehicle rule this year, making the state the first in about a decade to enter the program and the first to do it by a negotiated settlement with the auto industry.

During an interview with CBS News released on August 13, 16-year-old Swedish environmental activist **Greta Thunberg called the possibility of meeting with President Trump a "waste."** Thunberg, whose activism for climate change sparked demonstrations across Europe, made the comments as she prepared to sail for the U.S. as part of her campaign to pressure politicians to put climate change at the top of their agendas. On August 14, she departed Plymouth, England for a two-week trip to New York City aboard a high-tech, "zero-carbon" yacht, the Malizia II. She plans to attend U.N. climate summits next month in New York and in Santiago, Chile, in December.

As of August 14, the Trump EPA was readying a **proposed rule to end direct Federal regulation of methane leaks from oil and gas facilities**, even as some energy companies insist they did not want the relief. The White House's Office of Management and Budget was finishing its review of the proposed rule that would prevent the Federal government from directly targeting methane, a potent greenhouse gas, as it restricts emissions from oil wells and infrastructure. Some energy companies fear that the proposal will undermine the oil industry's argument that natural gas is a climate-friendly source of electricity -- a cleaner-burning alternative to coal. A number of oil companies have made voluntary pledges to keep methane in check, and some have warned the Trump administration that federal regulation specifically targeting it is essential for natural gas to maintain that reputation.

According to new research published in Science Advances on August 14, **global vegetation growth has been in decline since the late 1990s, due to changes in the water content of the atmosphere.** The changes are linked to climate change.

On August 14, the U.S. National Oceanic and Atmospheric Administration (NOAA) reported that **July was hottest month measured on Earth since records began in 1880.** Specifically, July was 0.95 degrees Celsius (1.71 degrees Fahrenheit) warmer than the 20th century average of 15.8 C (60.4 F) for the month. According to NOAA's records, nine of the 10 hottest Julys on record have occurred since 2005 and last month was the 43rd consecutive July above the 20th century average.

On August 15, the Trump Administration announced that it **would not list as "threatened" under the Endangered Species Act a tree species facing extinction because of climate change** -- the Joshua tree. Research published in July by scientists at the University of California, Riverside, the Great Basin Institute, and the Joshua Tree National Park in California, indicated that the tree, which grows only in the Mojave Desert and surrounding areas, faces extinction because of climate change. The U.S. Fish and Wildlife Service announced its decision not to list the species shortly after WildEarth Guardians filed a lawsuit in the U.S. District Court for the Central District of California attempting to force the Service to decide whether to grant the group's petition to list the Joshua tree as threatened.

On August 15, EPA announced that it was joining with the Federal Emergency Management Agency (FEMA) and other federal partners, in the **National Mitigation Investment Strategy (NMIS).** The NMIS provides a national, whole-community approach to investments in mitigation activities and risk management across federal, state, local, and tribal and territorial government and the private and

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non-profit sectors. The investment strategy's overarching goal is to improve the coordination and effectiveness of "mitigation investments," defined as risk management actions taken to avoid, reduce, or transfer risks from natural hazards, including severe weather. For more information on the NMS, visit www.fema.gov/national-mitigation-investment-strategy.

On August 15, Democratic Presidential candidate Tom Steyer said in an interview that **he is the only 2020 candidate willing to declare climate change a national emergency**. Doing so, he claims, would allow him to bring the full power of the executive branch to bear on what he sees as an economic and ecological crisis that for years has defined his public and philanthropic persona.

On August 15, the U.S. Bureau of Reclamation announced that **Lake Mead has enough water to avoid mandatory cuts to users next year. But, it will be low enough that Nevada, Arizona and Mexico will make voluntary reductions**, which they agreed to earlier this year under a drought contingency plan.

Democratic Presidential candidate Bernie Sanders' latest idea to fight climate change is to **aggressively transition the nation away from fossil fuels via electrifying the nation**. The campaign announced the idea in mid-August. On August 22, Sanders released the details of his \$16.3 trillion plan. The plan builds on the Green New Deal and calls for the U.S. to move to renewable energy across the economy by 2050 and declare climate change a national emergency.

On August 16, environmentalist and children's television host **Bill Nye criticized President Trump over his stance on climate change**. Nye argued that arguing his Administration is going in the "wrong direction."

Frontier Airlines sought to **raise awareness of its sustainability efforts by putting more people on planes - specifically, those named Green or Greene** - and flying them around the country for free. Nearly 2,000 fliers took Frontier up on the offer. The airline said it had "planted enough trees to offset the carbon footprint" of the flight.

On August 16, Wisconsin Governor Tony Evers issued an **executive order creating a new office to help his administration achieve his goal of 100 percent carbon-free electricity in Wisconsin by 2050** after Republicans killed the proposal in the state budget. The governor issued an executive order creating the Office of Sustainability and Clean Energy within the state Department of Administration. The order requires the office to work with other state agencies and utilities to achieve the goal of ensuring all electricity used within the state is generated from sources that don't emit carbon dioxide as coal and natural gas do.

Colorado tightened its air quality regulations on August 16. That day, the state Air Quality Control Commission passed a **rule on an 8-1 vote that requires at least 5 percent of the vehicles sold in the state by 2023 emit zero pollution**. Colorado is the 11th state to adopt zero-emission standards.

On August 17, the sailing team that was taking climate activist Greta Thunberg from England to the U.S. to attend a United Nations climate summit in New York announced that **it would fly two crew across the Atlantic to bring the boat back**. But, the **carbon emissions from their flights will be offset**. Greta Thunberg made landfall in the United States on August 28.

According to the National Oceanic and Atmospheric Administration, **July was Alaska's warmest month ever**. Brian Brettschneider, an Associate Climate Researcher at the University of Alaska Fairbanks' International Arctic Research Center. Noted that Alaska has seen "multiple decades-long increases" in temperature. Alaska's average temperature in July was 58.1 degrees (14.5 Celsius), 5.4 degrees (3 Celsius) above average and 0.8 degrees (0.4 Celsius) higher than the previous warmest month of July 2004. **Salmon returning from the sea to spawning grounds in some Alaska rivers this summer swam through water so warm it killed them**, scientists said.

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On August 18, Singapore Prime Minister Lee Hsien Loong spoke about climate change during a National Day Rally speech. He warned that **Singapore is vulnerable to rising sea levels as a low-lying nation.**

In an August 19 statement, the Business Roundtable announced that, in addition to serving shareholders, **companies should work for their customers, employees, suppliers, and communities.** The Roundtable is an association that lobbies on behalf of CEOs. The statement was signed by 181 CEOs, including the group's chairman, JPMorgan Chase & Co. CEO James Dimon. It's reflective of a recent shift in thinking as companies and their investors pay more attention to climate change, workforce diversity, and other social issues.

Senator Mitt Romney (R-UT) said on August 19 that **he believes climate change is happening and that human activity is a significant contributor.** He made the announcement during a speech at the conservative Sutherland Institute in Salt Lake City.

According to a report from Greenpeace, the **Japanese government and public financing agencies including Japan Bank for International Cooperation are helping to finance coal-fired power technology overseas** that are dirtier than what is allowed in Japan. Japanese-financed coal plants overseas emit up to 13 times more nitrogen oxide, 33 times more sulfur dioxide and 40 times more dust than similar facilities in Japan

An analysis by BloombergNEF indicates that the **cost of producing hydrogen gas with renewables is likely to plummet in the coming decades**, making economical one of the most radical technologies for reducing greenhouse gases. The findings add to the potential for widespread use of hydrogen.

On August 21, Washington Governor Jay Inslee rolled out a **strategy for how farmers and rural communities can help fight climate change**, which is the focus of his Presidential campaign. Inslee's plan is the sixth and final proposal under his sweeping climate agenda, which commits to shifting the American economy to 100 percent clean energy by 2030, rejoining the Paris climate agreement and seeking environmental justice for communities most affected by pollution.

On August 21, Rebecca Mitchell, Director of the Colorado Water Conservation Board announced that **Colorado's revision of its 2015 state water plan could put it at the forefront of resource planning for the nation, especially on climate change.** The technical update is the first revision of the Colorado Water Plan, which was finalized in November 2015. A draft version of the update was released in July. Over the next few months, the board will refine it and release it again.

On August 21, senior officials with the Trump Administration said that **President Trump planned to skip the upcoming United Nations Climate Action Summit.** EPA Administrator Andrew Wheeler will lead the U.S. delegation at the September 23 summit in New York.

On August 22, veteran Republican pollster **Frank Luntz disavowed his work in the early 2000s to cast doubt on the science behind climate change.** He said that America, on the whole, wants the federal government to "do more, right now, to address it."

Republicans are beginning to feel the heat on climate change. Some senior Republicans are showing a willingness to consider incremental legislation to advance clean energy research funding, invest in greening buildings, support electric vehicle charging infrastructure and promote energy efficiency. And a few are going farther, supporting a carbon tax.

On August 22, the **Democratic National Committee's resolution committee voted against a proposal for a debate focused on climate change.** The committee defeated the resolution 17-to-8 vote.

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In an August 22 meeting with local leaders and environmentalists, **Congressman Frank Pallone, Jr. (D-NJ) provided an update on his legislation to protect coastal communities from the effects of climate change**, including sea level rise and biodiversity loss, while sequestering carbon emissions. The Living Shorelines Act would create a federal grant program through the National Oceanic and Atmospheric Administration to assist states, localities and non-governmental organizations (NGOs) in constructing living shorelines.

According to the European Union's Copernicus Climate Change Service, the **fires in Brazil's Amazon have led to a clear spike in carbon monoxide emissions as well as planet-warming carbon dioxide emissions**. The emissions pose a threat to human health and aggravating global warming.

Under a program set to take effect in late August, **Japanese consumers who power homes with rooftop solar panels will be able to sell credits for reducing carbon dioxide emissions**. Smart meters will track how much solar-panel-generated energy households use, and the resulting credits will be linked to users via blockchain.

On August 23, 32 leading companies in the fashion and textile industry announced that they had **agreed on a set of shared goals under a "Fashion Pact" aimed at reducing the environmental impact of their business**. The pact focuses on three key areas: global warming, biodiversity and reduction of the use of single-use plastics in the oceans.

On August 25, IFM Investors of Australia pledged to **remove 200,000 tons of annual carbon emissions from Australian infrastructure assets within a decade**. IFM would achieve the target via use of alternate power sources and rooftop, large scale solar, uptake of electric and low-emissions vehicles, LED lighting, energy efficient office space and smart management systems.

On August 26, when asked about climate change during a news conference following the G-7 summit in France, President Trump said that the **U.S. has a "tremendous" wealth of energy resources, and he's not going to lose it on "dreams, on windmills."** Trump closed by emphasizing that "I'm an environmentalist." Former Vice President Joe Biden assailed Trump for skipping the G-7 climate talks.

On August 27-29, **NOAA's Hydrographic Services Review Panel held a public meeting in New Orleans** on national and regional navigation services activities and resource needs, precision navigation, subsidence, sea-level rise and coastal inundation, geospatial and positioning data, technology, unmanned systems, the NOAA fleet, priorities for the Arctic, integrated coastal and ocean mapping, as well as recommendations from stakeholders and partners. The Panel is a federal advisory committee that advises the NOAA Administrator on products and services related to navigation services, water levels and currents, and global positioning. It will consider information from this meeting as it makes recommendations to the NOAA Administrator and considers issue papers on emergency response, sea level rise and Arctic matters. Agendas, updates and more information are available at <https://www.nauticalcharts.noaa.gov/hsrp/hsrp.htm>.

On August 26, Democratic Presidential candidate **Andrew Yang released a climate plan that meets its goals via private sector investment and nuclear power**. According to a plan rolled out that day, Yang would invest billions in the private sector to create technologies needed to curb carbon emissions, such as the creation of new nuclear facilities, and build electric grid resilience to achieve his goal of a "fully green" economy by 2049.

Four Democratic Senators – Sheldon Whitehouse (RI), Jeff Merkley (OR), Dianne Feinstein (CA) and Ben Cardin (MD) - **alleged on August 27 that the White House is ignoring scientific expertise "to cater to the interests of the fossil fuel industry"** with its June 26 guidance to agencies on how to consider greenhouse gases when evaluating possible actions. They said the guidance would weaken analysis of project-related emissions and alternative mitigation measures, and it cites "no scientific, economic, technical or other expertise to justify these changes." The Senators' comment called on White House

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Council on Environmental Quality to withdraw the guidance. Environmental critics and industry supporters alike are warning that the guidance may not be enough to shield federal agencies' decisions on infrastructure and energy projects from being reversed by the courts.

On August 28, Bill Johnston, Energy Minister of Western Australia, announced in a statement that the **state would work towards a goal of net zero carbon emissions by 2050 and align its policy with the country's Paris climate targets**. The announcement was welcomed by the energy industry.

On August 29, **EPA proposed updates to the Obama EPA's national standards for the oil and natural gas industry**. EPA explained that "The proposal would remove regulatory duplication and save the industry millions of dollars in compliance costs each year – while maintaining health and environmental regulations on oil and gas sources that the agency considers appropriate." The primary proposal would rescind emissions limits for methane, a potent greenhouse gas. **British Petroleum, ExxonMobil and Royal Dutch Shell voiced opposition to the proposal but smaller oil and gas companies welcomed it**.

According to a report released on August 30, **long-term prospects for Australia's Great Barrier Reef, the world's largest coral ecosystem, have been downgraded to "very poor" from "poor" by its governing body**. The report is published every five years. The report's author, the Great Barrier Reef Marine Park Authority, concluded that **"Climate change is escalating and is the most significant threat to the Region's long-term outlook."**

And, **rising sea levels are threatening poorer neighborhoods and archaeological sites in Egypt's coastal city of Alexandria**. Authorities are erecting concrete barriers out at sea to break the tide.

EPA's Revision to NAAQS. On August 6, counsel to a coalition of which ACCCI is a member that is focusing on the stringency of the Ozone and PM NAAQS alerted the coalition that, on August 7, EPA would be publishing a **notice announcing that EPA was taking nominations through August 21 for consultants with "demonstrated expertise and research in the field of air pollution related to PM and ozone."** The notice as published can be viewed at <https://www.govinfo.gov/content/pkg/FR-2019-08-07/pdf/2019-16913.pdf>.

On August 8, EPA released **nonbinding guidance to explain how to prepare an exceptional event demonstration when an exceedance of a PM.25 or ozone NAAQS is attributable to a prescribed fire on wildland**. This could occur, for example, when a Federal Land Manager uses a controlled burn for resource management purposes. This guidance explains what is required for an exceptional events demonstration to establish that such a fire, although caused by human activity, is "unlikely to recur at a particular location." It also explains how the demonstration can address the requirements that an exceptional event not be reasonably controllable or preventable. Details can be found on EPA's exceptional events website at: <https://www.epa.gov/air-quality-analysis/treatment-air-quality-data-influenced-exceptional-events-homepage-exceptional>.

On August 9, EPA **proposed significant changes to the New Source Review (NSR) program under the CAA**. 84 Fed. Reg. 39244. The rule would revise the process for evaluating projects under the major NSR program. It would streamline permitting processes and procedures through adoption of an approach EPA refers to as "Project Emissions Accounting." NSR provisions require covered facilities to obtain a preconstruction permit prior to the construction of a new major stationary source or a "major modification" to an existing stationary source. EPA is accepting comments on the proposed rule until October 8. To read EPA's the press release, click [here](#).

On August 13, EPA published a notice in the Federal Register **announcing EPA's Air Quality Modeling Conference**. The conference will take place October 2-3, 2019. The notice also announces that comments on potential revisions must be submitted before November 4.

On August 20, EPA released **guidance to assist states as they develop plans to address visibility impairment for the second implementation period under EPA's Regional Haze Rule**. EPA explained that "This is one of a series of implementation tools and guidance documents that will help focus states' efforts and reduce and streamline the time and resources needed to meet the statutory and regulatory requirements for reducing regional haze in National Parks, wildlife refuges, and wilderness areas." Additional information: <https://www.epa.gov/visibility>.

On August 23, the U.S. Court of Appeals for the D.C. Circuit released its **decision in the challenges to the 2015 ozone NAAQS**. Briefly, the court upheld the 0.07 ppm 8-hour primary NAAQS, remanded the identical secondary NAAQS, and vacated the PSD grandfathering provision. In upholding challenges to the NAAQS by industry petitioners, including ACCCI, and state petitioners, the court held that "the Clean Air Act prohibits EPA from adjusting for background ozone in setting the NAAQS." In remanding the secondary NAAQS, the court found that EPA had not explained why it set a standard using a 3-year averaging time instead of the single year standard that CASAC recommended and faulted EPA's justification for failing to set a standard to protect against visible leaf injury. With regard to the vacated PSD grandfathering provision, the court held EPA's provision "contradicts Congress's 'express policy choice' not to allow construction which will 'cause or contribute to' nonattainment of 'any' effective NAAQS, regardless of when they are adopted or when a permit was completed." This will likely affect EPA's analysis for the ongoing review.

On August 27, EPA's Science Advisory Board held a **teleconference related to the Agency's 2018 proposed rule on "Strengthening Transparency in Regulatory Science"**. The NAAQS Implementation Coalition of which ACCCI is a member submitted comments on the proposal. Details on the teleconference, which NIC monitored, were published in the August 8 Federal Register (see <https://www.govinfo.gov/content/pkg/FR-2019-08-08/pdf/2019-16791.pdf>).

On August 28, EPA released its **Integrated Review Plan (IRP) for completing its on-going review of the ozone NAAQS**. The complete IRP can be downloaded at <https://www.epa.gov/naaqs/ozone-o3-standards-planning-documents-current-review>. The Agency hopes to complete its review of the NAAQS by December 2020.

EPA's Proposal Regarding CWA Section 401. On August 22, EPA published a **proposed rule to revise its regulations (40 C.F.R. Part 121) implementing Section 401 of the Clean Water Act (CWA) to ensure that states adhere to the statutory language and intent of the CWA**. The proposed rule is the latest in a series of initiatives identified in Executive Order 13868 aimed at streamlining the procedures by which states and tribes verify that a federally licensed or permitted project within their borders complies with water quality standards. The rule formalizes the substantial change in current practice proposed by EPA in nonbinding Section 401 guidance. The comment period ends on October 21. A final rule is not expected until May 2020.

Also that day, EPA Administrator Andrew Wheeler signed **final action that established no new regulatory requirement under the Clean Water Act to prevent discharge of hazardous substances**, according to a statement. EPA said that current standards are sufficient to protect human health.

Federal Water Quality Coalition (FWQC) Activities. On August 14, **counsel to the FWQC of which ACCCI is a member informed the Coalition that EPA had just released the latest update to its list of approved CWA test methods in 40 CFR 136** (see <https://www.epa.gov/cwa-methods/methods-update-rule-2019>). Once it is published, there will be a 60-day comment period.

On August 19, counsel reported that the Federal district court for D.C. had recently issued a **decision regarding TMDLs for the rivers in the DC area** (the Anacostia and the Potomac). The decision, which contains some significant rulings concerning TMDL and narrative standard issues, has implications for how TMDLs are set – not just for bacteria, but for other parameters as well.

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In December 2018, EPA issued final recommended aquatic life criteria for aluminum. On August 20, counsel reported that **EPA had issued draft guidance on implementation of aquatic life criteria for aluminum** (see <https://www.epa.gov/sites/production/files/2019-08/documents/aluminum-isd-2019.pdf>). The draft Technical Support Document addresses four issues: (1) flexibility that a state has when adopting the EPA recommended criteria; (2) frequency and time period for collection of input parameter data; (3) methods to reconcile model outputs and derive criteria values; and (4) methods for a State to implement the criteria in its CWA programs. Comments are due by September 13 and the FWQC plans to comments.

And, on August 27, counsel reported that **EPA's Assistant Administrator for Water, David Ross, had just issued a new "Policy for Draft Documents."** This policy states that the Office of Water has identified 70 draft guidance and policy documents that have been issued by the Office, but never issued in final form or formally withdrawn. **Effective immediately, "all draft documents that were issued more than two years ago and that have not been finalized are hereby rescinded."** Also, any draft documents issued recently must be finalized within two years of when they were issued, or they are automatically rescinded, and any future draft documents that are not finally issued within two years of their draft dates will be automatically rescinded. If existing drafts are "important to the Office of Water's national programs," they will need to be reissued and finalized in a timely manner.

PFAS Developments. On July 31, California Governor Gavin Newsome (D) signed a bill, AB 756, which **gives the State Water Resources Control Board the power to order multiple water districts to test for per- and polyfluoroalkyl substances, or PFAS.** Previously, the Board had to issue orders individually to water districts and for each chemical. And water suppliers only had to notify their governing boards of detections.

On August 12, Linda Birnbaum, head of the National Institute of Environmental Health Sciences, said that **PFAS exposure is widespread and that researchers need to take a broader look at the issue.** She was speaking at a meeting of the Society of Environmental Toxicology and Chemistry in Durham, NC.

On August 23, California's State Water Resources Control Board **lowered the level of "forever chemicals" detected in water that would trigger notification requirements.** The updated guidelines change notification levels from 14 parts per trillion for perfluorooctanoic acid (PFOA) to 5.1 parts per trillion, and from 13 parts per trillion for perfluorooctanesulfonic acid (PFOS) down to 6.5 parts per trillion.

TSCA Reform Implementation. On August 1, EPA announced that it was **making additional information about new chemical notices available on its website.** The new web page, "Statistics for the New Chemicals Review Program under TSCA" (see <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>) allows users to view and search monthly updates for any active Premanufacture Notice (PMN), Significant New Use Notice (SNUN), and Microbial Commercial Activity Notice (MCAN) of interest by case number. Users can also download a spreadsheet with a list of all active cases and each case's status.

On May 15, 2019, EPA published a Federal Register notice announcing the availability of a signed action **identifying chemical substances for inactive designation according to the TSCA Inventory Notification (Active-Inactive) Requirements rule.** 84 Fed. Reg. 21772. The signed action, dated May 6, 2019, initiated a 90-day period after which substances identified as inactive would be designated as inactive. **Inactive designations for chemical substances on the TSCA Chemical Substance Inventory were effective on August 5.**

On August 9, EPA released a **draft risk evaluation for 1-bromopropane (1-BP), the fourth of the first 10 chemicals undergoing risk evaluation under the amended Toxic Substances Control Act (TSCA).** The draft risk evaluation (see <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/draft-risk-evaluation-1-bromopropane>) states that there could be unreasonable risks to workers,

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occupational non-users, consumers, and bystanders under certain conditions of use. EPA did not find unreasonable risk to the environment under any of the conditions of use. Because the TSCA Science Advisory Committee on Chemicals (SACC) will be peer reviewing the draft risk evaluation at its September 10-12, meeting, EPA requested comments on the draft risk evaluation by August 30. EPA will continue to accept comments on the draft risk evaluations until October 11.

TSCA Section 5(g) requires EPA to publish a statement of its findings after its review of TSCA Section 5(a) notices when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. On August 12, EPA **published a statement of its findings for June 2019**. 84 Fed. Reg. 39828. EPA notes that such statements apply to premanufacture notices (PMN), microbial commercial activity notices (MCAN), and significant new use notices (SNUN) submitted to EPA under TSCA Section 5. This document, which EPA published on August 12 and which covers the period from 06/01/2019 to 06/30/2019, can be viewed at <https://www.govinfo.gov/content/pkg/FR-2019-08-12/pdf/2019-17151.pdf>.

On August 13, EPA released the **list of 20 chemical substances that it proposes to designate as low-priority substances for which risk evaluation under the Toxic Substances Control Act (TSCA) is not warranted at this time**. EPA's August 15 proposed rule provides a summary of the approach used by EPA to support the proposed designations, the proposed designations for each of the chemical substances, and instructions on how to access the chemical-specific information, analysis, and basis used by EPA to make the proposed designation for each chemical substance. 84 Fed. Reg. 41712. On August 9, EPA published its Approach Document for Screening Hazard Information for Low-Priority Substances Under TSCA (see https://www.epa.gov/sites/production/files/2019-08/documents/approach_document_for_screening_hazard_information_of_low-priority_substances_under_tsc.pdf), which describes the literature review process for the information used in the screening review for each proposed low-priority chemical substance. Comments on the proposed designations and on EPA's Approach Document are due November 13.

On August 20, EPA published **final rules for the largest batch of new chemicals it regulates since the Toxic Substances Control Act amendments became law three years ago**. The "significant new use rules," or SNURs, apply to 145 chemicals that help make paper, plastic, batteries, aviation fuel, and other products. The SNURs are the sixth new use rule the Environmental Protection Agency has proposed, modified, revoked, or issued as final since July 1.

On August 21, Senator Cory Booker (D-NJ) sent letters to EPA **asserting that EPA's forthcoming evaluation of the health and environmental risks of trichloroethylene, or TCE, is incomplete, ignoring ways people can be exposed through the air, water, and soil**. TCE is among 10 chemicals EPA is evaluating for safety. The Agency's preliminary conclusions about TCE's potential to injure people or the environment are to be released for public comment and review by a science advisory committee later this year.

On August 23, EPA published a Federal Register notice **proposing to designate 20 chemical substances as High-Priority Substances for upcoming risk evaluations**. The proposed designation is a required step in a new process of reviewing chemical substances currently in commerce under the amended TSCA. The comment deadline is November 21.

Definition of Solid Waste (DSW) Litigation. On August 19, counsel to a coalition of the Metals Industries Recycling Coalition (MIRC) MIRC and ACCCI which has been defending certain aspects of EPA's 2008 DSW rule for over a decade, reported to the coalition "... the petitioners have moved for a panel rehearing of the favorable DSW decision we obtained earlier this summer. Petitioners' arguments essentially represent an attempt to re-litigate the decision – again. Specifically, the petitioners claim that the Court erred in interpreting its own precedent regarding when a material is "discarded" under RCRA and that the Court further erred in finding that EPA articulated an

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interpretation of "discard" as it applied to situations where generators pay third-party reclamation facilities."

EPA's Proposed Rule Targeting the "Coal Products Manufacturing" Industry. EPA's Office of Resource Conservation and Recovery (EPA-ORCR) is the EPA office responsible for evaluating the specific industry sectors the Agency has identified for possible financial responsibility requirements under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), including the "coal products manufacturing" sector. On July 28, 2009, EPA-ORCR published a Federal Register notice in which it identified classes of facilities within the hardrock mining industry as those for which the Agency would first develop financial responsibility requirements under CERCLA Section 108(b). On January 6, 2010, EPA-ORCR released an Advance Notice of Proposed Rulemaking (ANPRM) identifying additional classes of facilities, including coal products manufacturing, for development of financial responsibility requirements under CERCLA Section 108(b). EPA's decision on the additional classes of facilities for possible financial responsibility requirements was based on an analysis of Toxic Release Inventory data and knowledge of chemicals found at Superfund sites. On April 5, 2010, ACCCI was a party to a multi-association comment letter to EPA on the ANPRM.

The 2010 multi-association comments told EPA that **15 byproduct coke production facilities, which we all of those then operating, fell under the NAICS Code identified by EPA in the 2010 ANPRM (Code 324 (<http://www.census.gov>)) as applying to the coal products manufacturing sector.** The comments argued that the four then-operating "heat recovery" plants should not be subject to any rule because "...all by-products are combusted during the coking process."

On January 11, 2017, EPA-ORCR published a **proposed rule covering financial responsibilities for the first sector targeted, the hardrock mining industry.** Under the proposal, operators of "hardrock" mines would be required to obtain superfund financial assurances (e.g., sureties and bonds) to cover hazardous discharges. EPA announced in this proposal that it had "... made a determination to proceed with rulemakings [for other industry sectors] that will either develop proposed financial responsibility requirements under CERCLA 108(b) or determine such requirements are not warranted."

On February 21, 2018, EPA-ORCR published a Federal Register notice announcing that the **Agency would not issue final regulations for financial responsibility requirements for hardrock mining facilities,** deeming that "Additional financial assurance requirements are unnecessary and would impose an undue burden on this important sector of the American economy and rural America, where most of these mining jobs are based." On June 19, 2019, the U.S. Court of Appeals for the DC Circuit rejected the arguments of ENGOs that had challenged EPA's decision and issued a ruling upholding EPA's decision to forego promulgating financial responsibility requirements for the industry. Idaho Conservation League, et al., v. EPA, Case No. 18-1141.

On October 17, 2018, EPA announced in its Fall 2018 Regulatory Agenda (RIN:2050-AH03) that it was deciding whether or not a rule was needed for other industries, including chemical manufacturing, petroleum and coal products manufacturing and electric power. OMB-OIRA's Spring 2019 Regulatory Agenda (see <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=2050-AH06>) indicated "... **the petroleum and coal products manufacturing industry as the anticipated second of the three industries for which the Agency will make such determinations,**" with a proposed rule by **December 2019.** Additionally, OIRA indicated (see <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=2050-AH05>) that the Administration anticipated issuing a proposal for the "chemical manufacturing" sector (NAICS Code 325) in the same time frame. OIRA indicated that a final rule for both sectors was planned by December 2020.

On July 29, 2019, EPA-ORCR published in the Federal Register a **proposal not to issue financial assurance requirements for the electric power sector.** And, much like it did for the hardrock mining

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sector, EPA determined that the risk from facilities in this sector did not warrant financial responsibility requirements to cover the costs of possible hazardous substance releases. EPA is under a judicial deadline to issue a final determination for this sector by December 2020.

On August 2, EPA General Counsel Matthew Z. Leopold told attendees of the Texas Environmental Superconference in Austin that **EPA was rapidly zeroing in on a decision about whether to impose CERCLA financial responsibility requirements on chemical manufacturers.** He told them "It's coming soon, I can tell you that." He said that EPA was heartened by the above mentioned "great [court] victory" it notched in June relative to the Agency's hardrock mining decision.

EPA's Proposed Revisions to RCRA Standards for Coal Combustion Residues. On August 14, EPA published in the Federal Register several "**targeted changes**" to its **RCRA Coal Combustion Residuals (CCR) rule** (84 Fed. Reg. 40353). EPA proposed revisions to the annual groundwater monitoring and corrective action report requirements, establishing an alternate risk-based groundwater protection standard for boron, and revisions to the publicly accessible CCR website requirements. EPA also proposed to address two provisions of the final rule that were remanded back to EPA on August 21, 2018, by the U.S. Court of Appeals for the D.C. Circuit. First, EPA proposed to revise the CCR beneficial use definition by replacing the mass-based numerical threshold with specific location-based criteria as the trigger for an environmental demonstration. Second, EPA proposed to introduce a single approach to address consistently the potential environmental and human health issues associated with piles of CCR, regardless of the location of the pile and whether the CCR is destined for disposal or beneficial use. The comment deadline ends October 15. EPA will hold a public hearing on the proposal on October 2.

EPA's Superfund Program. On July 29, EPA issued **updated guidance on the "Common Elements" of the innocent landowner defenses under the Superfund statute: the Comprehensive Environmental Response, Compensation, and Liability Act.** EPA explained that "These defenses are essential to innocent parties that plan to acquire and develop brownfields properties and may be helpful for those who purchased a property they later discovered to be contaminated." The three defenses—which share many "common elements," are (1) innocent landowner (*i.e.*, purchaser) defense, under which an innocent purchaser *did not know* and had no reason to know of contamination when purchasing the site and has complied with other common elements; (2) bona fide prospective purchaser (BFPP) defense, under which an innocent purchaser *knew* of contamination, but acquired site after January 11, 2002, and meets all eight BFPP requirements; and, (3) contiguous property owner defense, under which an innocent party owns property contiguous with a contaminated site and has complied with other common elements. The guidance is the first update in the 16 years since the initial March 2003 Interim Guidance. While it does not break new ground on any particular issues, it provides a more complete discussion of the key requirements, gives examples to highlight the ways in which the common elements can be satisfied, and explains how EPA currently intends to exercise its enforcement discretion. It also serves as a significant reference document by combining the old guidance with new case law, rulemakings, and EPA guidance that have issued over the last 16 years.

PHMSA's Proposed Revisions to Hazardous Materials Regulations. On August 14, the Pipeline and Hazardous Materials Safety Administration (PHMSA) **proposed several revisions to the Hazardous Materials Regulations (HMRs)** (84 Fed. Reg. 41556). PHMSA was responding to numerous petitions for rulemaking submitted by the regulated community that request PHMSA address a variety of provisions, including but not limited to those addressing packaging, hazardous communication, and incorporation by reference documents. The proposed amendments included adopting a phase-out schedule for certain railroad tank cars used to transport materials poisonous by inhalation; allowing the continued use of certain portable and mobile refrigerator systems commonly used in the produce industry; incorporating an industry standard that can help to enhance the production of oil and gas wells; and, incorporating an updated consensus standard that applies to the existing market for fireworks; as well as additional proposed amendments derived from PHMSA's petition for rulemaking process. The comment period ends on October 15.

SEC's Proposal to Update Disclosures Required by Regulation S-K. On August 23, the U.S. Securities and Exchange Commission (SEC) published a **proposal to update Regulation S-K to modernize its rules requiring disclosure about a company's business description, legal proceedings and risk factors.** The proposed amendments are intended to enhance the readability of disclosures, discourage repetitive and immaterial disclosures and reduce the compliance burden on companies. **Two of the proposed amendments would directly affect environmental disclosure.** The comment period ends on October 22.

Environmental Justice Developments. During August, EPA released its **Environmental Justice FY2018 Progress Report required by EO 12898.** The report shows how EPA is "... providing greater certainty to our federal, states, tribal and local partners; certainty in EPA programs; and certainty in how we communicate risk. This certainty will help to strengthen environmental and public health protections for low-income, minority, indigenous, and disadvantaged communities that are disproportionately likely to live near contaminated lands or be impacted by environmental hazards. The report describes EPA efforts to remediate Superfund sites and return these sites to productive use to communities, to improve air quality, and to finance critical investments to improve the nation's water infrastructure. It also describes actions to protect children from lead exposure, to provide funding and technical support for community-driven projects, and to integrate environmental justice into enforcement and science." To read EPA's FY2018 Environmental Justice Progress Report: <https://www.epa.gov/environmentaljustice/annual-environmental-justice-progress-reports>. For more information on the EPA's Environmental Justice Program: <https://www.epa.gov/environmentaljustice>.

Pavement Coatings Developments. During August, PCTC announced that **PCTC's Fall Meeting is would be held October 22 and 23 at the Edge Hotel in Clearwater Beach, FL.** ACCCI staff plans to attend.

Trump Administration Deregulatory Actions/Activities. On August 12, the Interior Department released a **statement** announcing that the U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS) and the National Oceanic and Atmospheric Administration (NOAA) were issuing **three rules revising how the Federal government will address critical habitat designations, protections for threatened species and interagency coordination under the Endangered Species Act (ESA).** U.S. Commerce Secretary Wilbur Ross said that the revisions "fit squarely" within President Trump's goal "of easing the regulatory burden on the American public." Changes also pertain to designations of critical habitat. The final regulations can be found [here](https://www.govinfo.gov/content/pkg/FR-2019-08-27/pdf/2019-17519.pdf). The regulations, which were published in the Federal Register on August 27 (see <https://www.govinfo.gov/content/pkg/FR-2019-08-27/pdf/2019-17519.pdf>, <https://www.govinfo.gov/content/pkg/FR-2019-08-27/pdf/2019-17517.pdf> and <https://www.govinfo.gov/content/pkg/FR-2019-08-27/pdf/2019-17518.pdf>), will become effective on September 26

On August 21, **eight environmental and animal rights groups sued the Administration to halt the rollbacks.** Earthjustice filed the lawsuit in U.S. District Court for the Northern District of California on behalf of the Center for Biological Diversity, Defenders of Wildlife, the Sierra Club, the Natural Resources Defense Council, the National Parks Conservation Association, WildEarth Guardians and the Humane Society of the United States. The groups argue that the Administration failed to analyze and disclose the impacts of the new rules. The groups said [the lawsuit](#) is the first set of claims in a larger legal challenge that will challenge other provisions in the rules, including one that allows for economic considerations in Federal decisions to add plants and animals to the endangered species list and another that removes automatic protections for threatened species.

On August 19, EPA's Office of the Inspector General released a **report indicating that EPA's research arm – EPA's Office of Research and Development - is not collecting enough feedback from outside groups** to know whether its reports, databases, and software tools are useful to them. States, tribes, communities, and individuals use products from that office to help them develop ways to manage air

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and water pollution and other environmental issues. The OIG was seeking to determine whether the Agency's external customers find EPA's data products useful, scientifically valid, rigorous, and timely.

On August 20, three Democrats on the House Energy and Commerce Committee **sent a letter to EPA over a forthcoming environmental rule that** could limit the rights of individuals and communities to challenge granted federal pollution permits. Energy and Commerce Chairman Frank Pallone, Jr. (D-NJ), Oversight and Investigations Subcommittee Chair Diana DeGette (D-CO) and Environment and Climate Change Subcommittee Chair Paul Tonko (D-NY) took issue with reported changes that they warned could "benefit wealthy industry groups at the expense of everyday Americans unable to afford lengthy litigation battles."

On August 27, several former EPA officials told the Scientific Advisory Board that the **Agency's planned shift in the way it uses science for making rules, without fully consulting the Board, raises serious practical and ethical problems.** The SAB meeting addressed the Board's role in consulting the EPA on its Strengthening Transparency in Regulatory Science proposal (RIN:2080-AA14) from April 2018, also known as the "secret science" rule. The proposed rule would bar EPA from using scientific research that is not or cannot be made public.

Meanwhile, President Trump is **deregulating even when the regulated industries advise against it.** On August 29, EPA unveiled a proposal to eliminate mandates paring methane leaks from oil wells. But, major oil companies insist they don't want the relief. Similarly, automakers are begging the White House to alter course in its plans to weaken fuel efficiency standards and pick a fight with California. And, power-plant operators say an Administration effort to undermine requirements for mercury pollution controls may keep them from recouping the cost of that equipment. Automakers, oil companies and power utilities say the Administration's moves do not always give them the stability they need to guide capital investment decisions meant to pay off over decades.

Finally, the Administration is **effectively running out of time to propose major rollbacks in regulations beyond what's already in the pipeline, at least through the President's current term.** The closing window means President Trump will fall far short of his early pledge to business leaders to roll back 75 percent of all regulations. It reflects how long it takes to write rules to replace existing ones, a process involving multiple notices, public comment periods, cost-benefit analyses, agency reviews and, often, court challenges. Additionally, the Administration is also facing the reality that if Democrats defeat him for re-election in November 2020 and gain control of the Senate, they could overturn regulations written in his last year in office, using the same law that Trump and a Republican Congress used to kill numerous rules from Barack Obama's Administration.

EPA Staffing. On August 2, Steven Cook, Deputy Assistant Administrator of EPA's Office of Land and Emergency Management, reported that **EPA is evaluating the reorganization of its regional offices to see if the reorganization plan kicked off in April is making the 14,000-person agency more effective and consistent.** The plan changes the structure of the Agency's 10 regional offices so that they each resemble the design of the Agency's headquarters.

On August 22, EPA appointed **former Dow Chemical Co. lobbyist Dennis Deziel as Administrator for its New England region.** Deziel has been Director of Federal Government Affairs at Dow Chemical since August 2014. Prior to that, he served as Deputy Assistant Secretary for Program Planning and Budget in the Obama Energy Department's Office of Environmental Management. From 2004 to 2010, Deziel managed chemical security at the Department of Homeland Security. He also served as a policy adviser to the Council for Environmental Quality under President George W. Bush. The previous head of the New England regional office, Alexandra Dapolito Dunn, was confirmed January 2 as head of the EPA's Office of Chemical Safety and Pollution Prevention. Region 1 encompasses Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and 10 tribal nations.

During August, EPA named Dr. Lynn Dekleva as Associate Deputy Assistant Administrator for New Chemicals. Dr. Dekleva joined EPA in October 2018 as a Science Advisor, working to streamline and improve EPA's processes and timeliness concerning the review of new chemicals under the Frank R. Lautenberg Chemical Safety for the 21st Century Act. Dr. Dekleva is an environmental engineer with degrees in environmental microbiology, medical technology, and biology. Her contributions are expected to help EPA meet the mandates of the amended TSCA.



OSHA's Rulemaking to Update Its Lockout/Tagout Standard. On May 17, OSHA published a request for information (RFI) to modernize the Lockout/Tagout (LO/TO) standard to better promote worker safety, while reducing employer burden. The RFI seeks information on technological advancements, including new control circuit devices and robotic technologies, to consider as they look to update the LO/TO

standard in order to reduce regulatory burdens and promote worker safety. Comments are due August 18. The National Association of Manufacturers (NAM) of which ACCCI is a member plans to comment on this RFI. To read the RFI, [click here](#).

In late June, NAM reported to ACCCI and other NAM members that NAM was "... looking to get all our manufacturing associations together so we are one united front with a comment letter that carries great weight to influence the LO/TO proposed rule via this RFI comment period." Soon thereafter, based on the consensus opinion of ACCCI's newly created "Coalitions Task Force" that ACCCI should join this coalition, ACCCI did so. During July, the coalition moved forward with development of draft comments.

On August 19, the comment deadline, NAM submitted comments to OSHA on behalf of the coalition. The comments urged OSHA to allow manufacturers to continue to rely on the current standard, but to also allow for the use of controlled circuit devices and the use of robotics.

While OSHA considers the rule's future, the **requirement (29 C.F.R. 1910.147) is the standard manufacturers most frequently violate.** OSHA enforcement records show. In fiscal year 2018, the Agency found 2,249 alleged violations at plants and factories, proposing \$11.4 million in fines.

OSHA's Silica in Construction Standard Final Rule. On August 15, OSHA published its long-awaited **proposal to revise its silica rule's list of acceptable practices for limiting workers' exposure to the dust,** called [Table 1](#). Table 1 details 18 methods contractors can use to limit how much airborne silica dust is produced while workers cut, drill, and polish bricks, concrete, and stone (29 C.F.R. 1926.1153). Typically, the methods involve vacuuming the silica dust or using water to keep the dust from becoming airborne. The comment period on the proposal closes on October 15.

OSHA's Beryllium Rule. On August 20, OSHA published a notice that its Advisory Committee for Construction Safety and Health (ACCSH) will hold a teleconference/WebEx meeting on September 9, from 10:00 a.m. until 12:00 Noon EDT, to **consider a proposed rule on occupational exposure to beryllium and beryllium compounds in the construction industry.** Information about the meeting, call in/web access, and instructions on how to request the opportunity to speak are available in the docket at <https://www.regulations.gov/document?D=OSHA-2018-0012-0105>.

And, on August 27, OSHA submitted for White House review **two proposals to revise beryllium rules - a proposed rule (RIN: 1218-AD29) and a final rule (RIN:1218-AD21).** The text of the potential regulations were not released. But, OSHA in previous statements said it intends to strike portions of the 2017 beryllium rules for construction and shipbuilding that employers believe duplicate requirements in other rules. OSHA has said it hopes to issue the final rules by December 31. Mike Wright, Director of Health, Safety, and Environment for the United Steelworkers, said that "If the final rule looks like earlier proposals, we'll be in court very fast,"

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MSHA's Potential Silica Rule. On August 29, the Mine Safety and Health Administration (MSHA) published a **Request for Information towards possibly moving forward with a rulemaking to protect miners from silica in the workplace.** The RFI, which "solicit[s] information and data on the best and most feasible ways to protect miners' health from exposure to quartz in respirable dust, including an examination of an appropriately reduced permissible exposure limits." comes after mine safety advocates have repeatedly called for regulatory action. The comment period ends October 28. In June, MSHA Secretary David Zatezalo told the House Education and Labor Committee's Subcommittee on Workforce Protections that additional personal protective equipment could be a temporary solution to allow miners to work safely under dusty conditions while the Agency further explores the effects of silica.

DOL-OIG's Report on MSHA's Fine Structure. On August 20, the Labor Department's Office of Inspector General released a **report recommending that MSHA develop metrics to review how its fine structure changes operator behavior to prevent unsafe mine operations.** According to MSHA, MSHA's inspectors issue citations to mine operators when safety hazards are found during inspections, and monetary penalties are assessed based on several factors regarding the mine, the mine operator, and the severity of the safety hazards.

Recent FMSHRC Hearings/Decisions. On August 13, the Federal Mine Safety and Health Review Commission ruled that **if a worker dies in a mine, an employer must adhere to the reporting requirements of the Mine Act.** The Commission had to answer the question of whether a fatal heart attack unrelated to work activities was an "accident" for purposes of the Secretary of Labor's reporting requirements. In the decision, the Commission wrote that "Had the drafters wished, they could have excluded natural deaths or otherwise indicated an intent to limit the scope of the term 'accident' to deaths resulting from mining activities. They did not qualify or limit the unmistakably clear word 'death.' Instead, the only qualifier provided by the drafters is that the death must occur 'at the mine.' All on-site deaths are thus reportable accidents pursuant to the plain language" of the Federal Mine Safety and Health Act of 1977. Previously, an administrative law judge had determined that the company in question had failed to timely notify MSHA of an on-site death and assessed the minimum \$5,000 penalty.

And, on August 15, the Commission heard **oral arguments in a mine safety case that will test the strength of the strict liability provision of the Federal Mine Safety and Health Act in 1977.** The case stems from an incident in January 2015 at Doe Run's Fletcher Mine, when falling material from a mine roof fell through a mechanical scaler, killing the operator inside the machine. At the time of the accident, the worker was positioned underneath a section of the mine roof that was supported by stabilizing roof bolts. Both the Secretary of Labor and the company asserted that Doe Run made efforts to secure the mine roof. But in July 2018, Administrative Law Judge John Kent Lewis concluded that Doe Run violated the Mine Act based on strict liability. Attorneys who represent mine operators say the case could both redefine how strict liability is interpreted and create a litmus test for what exactly constitutes strict liability.

Recent Worker Safety-Related Court Filings/Hearings/Decisions. On August 23, the U.S. Court of Appeals for the D.C. Circuit **upheld an Obama-era mine inspection standard requiring companies to inspect mines before miners begin work and to keep records of hazardous conditions in the mine,** even if they are promptly corrected. The ruling affects all mine operators covered by the Federal Mine Safety & Health Act of 1977. The Trump Administration's Labor Department tried to relax the rules in 2018 when the Mine Safety and Health Administration amended the inspection requirements to allow examinations to occur before or as miners began work and to allow mine operators to exclude from their records adverse conditions that were promptly corrected. The D.C. Circuit, however, upheld the more stringent Obama-era standard June 11. In its August 23 decision, the D.C. Circuit denied an August 14 Labor Department petition to revisit the United Steel case that reinstated the Obama-era standard. An appeal is expected.

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DOL's Overtime Rule. On August 12, DOL sent a **high-priority overtime rule to the White House for final review.** The rule, which takes a more business-friendly approach than attempted in the Obama Administration, is expected to make about 1 million workers newly eligible for time-and-a-half overtime pay when working more than 40 hours in a week. It would replace a 2016 rule that never took effect but would have given four times more workers new access to overtime wages. The new rule would lift the salary threshold below which workers automatically receive overtime wages to about \$35,000, compared with the current level of \$23,600 per year. The Obama regulation would have doubled the threshold to \$47,500.

DOL's Proposed Changes to FMLA. On August 5, DOL **proposed changes to the optional-use forms that employers commonly use to administer the Family and Medical Leave Act (FMLA).** DOL expects these revised forms to increase compliance with the FMLA, not to mention make life easier, both for the health care providers who fill out the forms and for the employers who make decisions based on the information. Among other things, the revised forms include fewer questions that require a written response. Instead, such questions are replaced with statements that require the health care provider simply to check a box if the statement supposedly applies. Under the current forms, health care providers provide narrative responses that sometimes fail to answer clearly the underlying question of whether the health care provider thinks the employee has a serious medical condition. These narrative responses often require the employer to speculate as to the doctor's true intent with the response. DOL is currently soliciting comments about these proposed forms, which are [available here](#). The comment deadline is October 4.

Recent DOL Opinion Letters. On August 8, DOL released an **opinion letter saying that the Family and Medical Leave Act allows family leave for a mother to attend special education committee meetings.** The employee can take intermittent, unpaid leave under the law because she's attending the meetings to make care arrangements for a child with a serious health condition.

In a second [letter](#) released August 8, DOL said that **public employees who split time working for fire and police departments are not entitled to overtime pay.**

And, in a third [letter](#) released August 8, DOL wrote that a **county sheriff's office can maintain the volunteer status of reserve deputies who also perform paid security work for third parties.**

DOL's Regulatory Agenda. On August 29, Acting Labor Secretary Patrick Pizzella said during an interview that his **Department's labor rulemaking output will expand significantly in the coming month.** Pizzella commented that "I won't say which, but I'm anticipating we'll have four rules go final and we'll probably issue a dozen or so" proposed rules before the current fiscal year ends on September 30. DOL currently has five final regulations awaiting White House approval before public release, including rules to set a new salary threshold for overtime pay eligibility; determine drug testing for state jobless benefits; revise requirements for protecting workers from beryllium dust; and, update the employer certification process for agricultural visas.

Recent NLRB Rulings/Proposals. On August 12, the National Labor Relations Board published a **proposed rule with three parts, two of which affect manufacturers.** The first part is related to the Board's election blocking charge policy, which is typically used by unions to indefinitely block decertification elections. The Board's proposal would create an "impound procedure" allowing the decertification election to be held but impounding the ballots until a determination on the unfair labor practice charge is made. The second part of the proposal is related to voluntary recognition of unions. The proposal would allow employees 45 days to petition for a secret ballot election after the employer has voluntarily recognized the union. For a summary of the proposed rule, [click here](#). The goal is to allow for a fair process to decertify unions that no longer represent employees to their

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satisfaction and to remove an additional barrier to secret ballot elections. The National Association of Manufacturers of which ACCCI is a member will engage in this rulemaking process.

On August 14, NLRB ruled that **employers cannot fire or otherwise punish workers for filing class or collective actions to improve workplace conditions**. The decision clears up uncertainty about the board's views on protections for group lawsuits following the U.S. Supreme Court's ruling last year in *Epic Systems v. Lewis*. The high court's decision, which permitted class-action waivers in arbitration agreements, said it seemed "pretty unlikely" that federal labor law protects filing class or collective actions. But, NLRB's ruling gives employers more leeway with how they handle their employment contracts that force lawsuits into individual arbitration.

On August 19, two Republican members of the three-member National Labor Relations Board said **they were "open to reconsidering" NLRB's 1982 ruling in Midland National Life Insurance**. In the 1982 ruling, NLRB decided that misleading statements could wipe out election results only if a party used "forged documents which render the voters unable to recognize propaganda for what it is." NLRB Chairman John Ring and Member Marvin Kaplan indicated on August 19 that NLRB might create a new, potentially lower threshold for policing the truthfulness of statements that unions and employers make while campaigning before elections.

Also during August, the NLRB general counsel's office **added to the growing body of guidance employers can use to craft legally sound social media policies with a recent advice memo on a national pharmacy chain's policy**. The general counsel's office and administrative law judges have weighed in on individual companies' rules for workers' social media use, providing direction before NLRB hands down a decision creating a precedential road map. In a September 2018 advice memo made public this month, the general counsel's office said that a CVS Health rule restricting workers from disclosing "employee information" on their social media accounts violates federal labor law. But, the company could legally forbid workers from posting more specifically defined "personal information."

Recent Labor-Related Court Filings/Hearings/Decisions. On July 31, Charlotte Lanvers, a trial attorney in the U.S. Justice Department's Civil Rights Division, said that **workers suffering from addiction are protected under the Federal Americans with Disabilities Act**, unless they are currently using drugs illegally. She made the statement to compliance officers and Federal enforcement staff at an Equal Employment Opportunity Commission conference in Atlanta. Lanyers' job includes pursuing disability discrimination cases.

On August 1, the U.S. Court of Appeals for the Sixth Circuit **overturned a National Labor Relations Board decision regarding an employee's actions to influence the outcome of a union election**. The court, in a 2-1 decision, ruled that a manufacturing plant did not violate employees' rights by warning of lower wages and benefits if they were to form a union, as both sides have the right to "free debate" to influence the outcome of an election.

On August 6, the U.S. Court of Appeals for the Fourth Circuit ruled that a **former coal miner with a serious lung ailment who smoked roughly two packs of cigarettes a day for over 50 years was not entitled to Black Lung benefits**. The ruling reinstated an administrative law judge's decision to deny compensation to the former miner under the West Virginia Coal Workers' Pneumoconiosis Fund.

On August 16, U.S. Solicitor General Noel Francisco and other Justice Department attorneys told the Supreme Court that **Congress did not intend to include transgender status when it passed Title VII of the 1964 Civil Rights Act**, and the law's ban on discrimination because of "sex" referred to unequal treatment of men and women in the workplace. The brief also argued that Congress has not passed attempts to add gender identity to the statute. This October, the court is scheduled to consider this and two other cases that deal with whether Title VII includes protections for gay, lesbian, bisexual, and transgender workers.

Also on August 16, the 6th Circuit issued a **decision in an important case involving the question of whether a company has a duty to bargain with a union over outside contractors**. The court sided with Marathon Petroleum, denying enforcement of an earlier NLRB order to produce documents, and remanded the case to the lower court to take a closer look at whether Marathon had a duty to bargain with the union over outside contractors. The National Association of Manufacturers (NAM) of which ACCCI is a member filed a brief in this case arguing that the NLRB abused its discretion when it found that the company incurred a bargaining obligation when it agreed to meet and discuss with the union. To read the 6th Circuit's decision, [click here](#).

On August 19, in a brief to the U.S. Court of Appeals for the D.C. Circuit, the **Justice Department argued that a judge who revived a controversial pay reporting requirement for more than 60,000 employers exceeded her authority by dictating how and when the government should collect those data**. Additionally, workers' rights groups were not harmed by a Trump Administration decision to halt the Obama-era pay data collection and, thus, could not bring a lawsuit to reinstate it. The Department, acting on behalf of EEOC, was appealing a federal judge's rulings from March and April: one which resurrected pay reporting by race, sex, and ethnicity; and, another that set deadlines for agency collection. OMB had blocked the pay reporting requirement in August 2017.

On August 23, the Justice Department asked the U.S. Supreme Court for **time to argue its position that sexual orientation bias at work should not be prohibited under a federal civil rights law**. The Supreme Court is slated to hear arguments on October 8 in a trio of cases that collectively address whether both sexual orientation and gender identity fall under the sex discrimination protections of Title VII of the 1964 Civil Rights Act. The Justice Department argued to the justices that Congress did not intend to include sexual orientation as a protected class when it drafted the law, as it did with race, religion, sex, color, and national origin.

Labor-Related Legislation Being Considered on Capitol Hill. The U.S. is the only developed country without a national paid parental leave policy. Lawmakers from both parties have made **proposals to provide paid family leave at the Federal level**, although they differ on what it should cover and how it should be funded. Eligible workers can take as many as 12 weeks of unpaid leave to care for a new child or for medical reasons under the 1993 Family and Medical Leave Act.

Recent Democratic proposals have called for **financing the program through an increase in the payroll tax shared by employers and employees (similar to the payroll taxes for Social Security and Medicare)**. Republican proposals, on the other hand, would **allow parents to obtain paid family leave now by agreeing to delay the start of their Social Security payments**. Until now, no proposal has generated enthusiasm from a majority in Congress.

That may be changing. In May, **the Senate established a bipartisan working group** to study the issue of paid family leave and to explore proposals that could generate broad support. And, during August, Senators Bill Cassidy (R-LA) and Kyrsten Sinema (D-AZ) floated the first bipartisan proposal to create a federal paid family leave benefit

The plans follow increasing activity on the issue at the state level, although paid leave programs are still only provided in a few states. Also, in its FY 2020 budget request, the Trump Administration has proposed a state-based parental leave program that would cost \$10.5 billion over 10 years.

Insofar as workers' rights to organize, strike and bargain, Senator Bernie Sanders (I-VT) introduced a **plan during August that would create a European-style sectoral collective bargaining system** in which labor and management would negotiate minimum standards for entire industries, rather than only company by company. It would also halt, via executive order, pension benefit cuts that were made possible by a 2014 compromise signed into law by President Obama. Sanders's proposal includes the sweeping labor law reform bill he proposed in 2018, which would require companies to recognize

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unions once the majority of workers sign cards; abolish state "right-to-work" laws that prohibit mandatory union fees; ban mandatory workplace anti-union meetings; make it harder for companies to claim their workers are independent contractors rather than employees; and protect workers' jobs during work stoppages.

And, during August, Democratic Presidential candidate **Senator Kamala Harris (CA) vowed to increase grants and strengthen rules aimed at bolstering opportunity for people with disabilities** if she's elected President in 2020. Her campaign said that a proposal the Senator released on August 29 would enhance Department of Education programs aimed at helping disabled people get jobs. It would also use the powers of the departments of Transportation and Housing and Urban Development to strengthen accessibility rules for new projects to qualify for funding. Her nine-point plan includes legislative proposals to increase wages of disabled workers and resources for teachers of students with disabilities. It also calls for the U.S. to ratify the United Nations' Convention on the Rights of Persons with Disabilities.

DOL Nominees/Staffing. On August 1, the **Senate approved two nominees for the U.S. Equal Employment Opportunity Commission via unanimous consent.** Charlotte Burrows (D) was approved for a second term as a member of the Commission and Sharon Gustafson as the Agency's new General Counsel. Burrows' approval allows the EEOC to maintain a three-member quorum necessary to make certain policy and spending decisions. Gustafson approval gives the EEOC its first Senate-confirmed General Counsel during President Trump's Administration. When the Senate returns in September, members will consider EEOC Republican nominee Keith Sonderling, who is currently in the Labor Department's Wage and Hour Division.

Also, the Trump Administration is **moving full speed ahead to prepare Eugene Scalia for an eventual confirmation battle even though the White House has yet to formally nominate him for labor secretary.** During August, Scalia has spent the Senate recess weeks meeting with DOL agencies to get briefed on their ongoing work. On August 27, the White House announced President Trump's intent to nominate Scalia for the position. But, the President cannot officially nominate him until the Senate is back in session September 9. According to an ethics agreement Scalia posted on August 30 on the U.S. Office of Government Ethics website, he will recuse himself for one year after confirmation from all matters involving companies that are clients of his current law firm, unless he were to receive a waiver to participate.

On August 22, Cheryl Stanton, Administrator of DOL's Wage and Hour Division, informed staff in an internal memo that **WHD's chain of command was being overhauled to give political leadership in Washington more oversight of the Agency's investigatory work throughout the country.** WHD regulates and enforces laws that aim to protect workers' paychecks and family leave benefits and to prevent child labor violations.

On August 28, Senator Johnny Isakson (R-GA), a top Republican on the Senate's Health, Education, Labor and Pensions Committee, announced that **he was retiring from the Senate at the end of 2019.** He is retiring due to health problems. The HELP Committee is set to take up some important nominations for labor agency posts when lawmakers return from August recess. That includes labor secretary nominee Eugene Scalia, as well as at least one seat on the Equal Employment Opportunity Commission.

Congressional Oversight Activities. On August 12, House Democrats sent a **wide-ranging request to National Labor Relations Board General Counsel Peter Robb asking him to turn over information and documents on his handling of cases.** The request said that they are concerned he's deviated from federal labor law's stated purpose to promote collective bargaining. Materials sought include information on processing unfair labor practice charges, modifications to the office's legal positions, and evidence used to justify increased efforts to police unions. The request signals that House Democrats are ratcheting up their oversight of the NLRB and Robb.

Meanwhile, NLRB Chairman John Ring (R) is battling with Democratic lawmakers over an August 15 request to disclose lists of active cases from which he and other board members have to recuse themselves because of conflicts of interest. The fight over whether Congress is entitled to the information could intensify ethics questions stemming from Republican NLRB members' work for business-side law firms before joining the NLRB.

New Study on the Aging Workforce. During August, the Manufacturing Institute's Center for Manufacturing Research released "The Aging of The Manufacturing Workforce: Challenges and Best Practices," with support from the Alfred P. Sloan Foundation. The **study examines how manufacturers think about and adapt to their aging workforces**, detailing best practices to keep these workers involved, productive, and happy. Following a survey of manufacturers and a series of interviews with industry leaders, the report found 97 percent of survey respondents report being aware and concerned about the aging of the manufacturing workforce and about 90 percent of companies capitalize on the talents and experiences of their older workers.

Other Issues

Trump Administration's Tariffs and Trade Policies. July's employment numbers released on August 2 by the Labor Department highlighted **mounting risks to the economy as President Donald Trump boosts tariffs on Chinese goods**. Retail employment fell for a sixth straight month to a three-year low. In manufacturing, which is already in a technical recession, average weekly hours worked sank to the lowest since 2011. Payrolls rose 164,000, though the two prior months were revised lower. The jobless rate held at 3.7 percent, while average hourly earnings climbed 3.2 percent from a year earlier.

Payrolls in manufacturing totaled about 12.9 million workers in July, the most since November 2008. Since President Trump took office in 2017, factory employment has increased by about a half million workers after stagnating in the prior two years. But, **hiring momentum in manufacturing has started to fade**, adding just 38,000 jobs in the six months through July, the fewest for a similar period since January 2017, when Trump took office.

Meanwhile, **some offshore electrical component manufacturers are looking to dodge U.S. tariffs on Chinese products** by moving manufacturing out of China to Vietnam. At the same time, the Trump Administration is increasing pressure on Vietnam to curb its growing trade surplus with the U.S.

Two metal manufacturers told the Administration during a USTR hearing in early August that **they're worried about threatened tariffs on imports of EU copper alloy products**. ABC Metals, Inc. and Heyco Metals, Inc. predicted that the proposed tariffs would hurt U.S. industry.

In the week that ended August 4, **consumer sentiment fell the most in almost 10 months**. The drop was due to dimmer views of the economy as market turmoil returned with another flareup in the U.S.-China trade war. Meanwhile, the U.S. and China are blaming each other for the slowly emerging economic damage. Chinese state media blamed the U.S. for "reneging on promises" after President Trump said he would impose 10 percent additional tariffs on \$300 billion in Chinese exports starting in September.

Figures published on August 16 showed that the **EU's trade surplus with the U.S. stood at almost 75 billion euros (\$83 billion) in the first half of 2019**. This was up more than 11 percent from a year earlier. Speaking at an event in New Hampshire last night, President Trump said "The European Union is worse than China, just smaller. It treats us horribly."

Health of the U.S. Automobile Industry. During May, **electric-truck maker Workhorse Group was in talks with GM about forming a new affiliate that would buy - and re-open - the Chevrolet Cruze car plant in Lordstown, OH that GM recently closed**. The prospect of that happening suffered a serious setback during August. On August 6, Workhorse released its second-quarter earnings report.

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According to the report, **its sales in the quarter totaled \$6,000**, leading to a 35 percent drop in its stock price and a drop in the company's market value to \$200 million.

As of the end of August, the Big 3 automakers – Ford, General Motors, and Fiat Chrysler - and the United Auto Workers were **negotiating to renew a master agreement that expires September 14**. About 230 union contracts involving 100 or more workers are set to expire in mid-September, involving a total of more than 330,000 workers. Nearly 40 of those contracts (covering about 142,000 workers) are UAW contracts tied to the UAW's negotiations with the Big 3, which began July 15.

Meanwhile, it was reported during August that **GM has fallen to third among the Big 3**, employing fewer union-represented American workers than Ford and Fiat Chrysler for the first time since the United Auto Workers started organizing Detroit's carmakers 80 years ago. GM employs 46,000 UAW workers, trailing Ford by about 9,000 and Fiat Chrysler by about 1,200, according to headcounts. Ford jumped ahead of GM in 2014, and Fiat Chrysler did so this year.

President Trump **criticized GM for shrinking its workforce**. The President called for the company to "start moving back to America again."



Upcoming Meetings. Upcoming meetings of note include the **Fall 2019 Meeting of the newly reconstituted ACCCI MESH Committee** on September 25-26, 2019, at the Hyatt Regency Birmingham – The Wynfrey Hotel in Birmingham, AL; the **2019 Annual MetCoke World Summit** from November 5-7, 2019, at the DoubleTree by Hilton Hotel Nashville Downtown in Nashville, TN; the **2019 Business Meeting of the ACCCI Board of Directors** on November 8, 2019, at the Doubletree Nashville Downtown; and,

ACCCI's 2020 Annual Meeting on April 23-24, 2020, at The Westin Hilton Head Island Resort & Spa on Hilton Head Island, SC.

As in years past, ACCCI will be a sponsor of this year's MetCoke World Summit, which is the 23rd edition of the Summit. SMITHERS Apex, which runs the MetCoke World Summit each year, is providing ACCCI members a **discounted registration rate of \$1,049** to attend. This is the same rate Smithers made available to ACCCI members last year, and a \$250 discount over this year's Super Early Bird rate of \$1,299. To obtain the discounted rate, visit <https://www.metcokemarkets.com/register/events> and select the MetCoke World Summit event, in Nashville, TN, November 5-7. There, either log in if you have registered before or create a new login entirely. Fill in the requested information, then proceed through the registration process to the "summary" page where the order is listed. On that page, there is a place to "Apply coupon code" - click that and enter the discount code - **"METCOKE19ACCCI."** Afterwards, hit "apply" and it should change to a price of \$1,049.

The Doubletree by Hilton Nashville Downtown is holding a block of rooms for MetCoke meeting attendees at \$259.00/night (single/double). The room block at the Doubletree expires on **TUESDAY, OCTOBER 15, 2019**, so please make your hotel reservation by that date at <https://www.metcokemarkets.com/metcoke-summit/venue> to ensure that you will have a room during your stay.

For further information, please contact:

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Associations of Which ACCCI Is a Member/ Regulatory-Focused Coalitions in Which ACCCI Participates

ASSOCIATIONS

- **National Association of Manufacturers (NAM):*** NAM is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs nearly 12 million men and women, contributes more than \$2.17 trillion to the U.S. economy annually, has the largest economic impact of any major sector, and accounts for three-quarters of private-sector research and development. The NAM is the powerful voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.
- **Pavement Coatings Technology Council (PCTC):*** A number of states and localities have enacted or are considering bills to ban refined tar-based pavement sealants. PCTC, to which ACCCI and several member companies belong, tracks and interacts with those advocating ban bills by rebutting false claims and presenting technical and scientific studies to support the industry's opposition to such legislation.

COALITIONS

Employee Safety Coalitions

- **Coalition for Workplace Safety (CWS):** CWS, which is led by the U.S. Chamber of Commerce, is comprised of a group of associations and employers who believe in improving workplace safety through cooperation, assistance, transparency, clarity and accountability. It advocates for fair and balanced legislative and regulatory policies that impact employee safety.
- **Coalition Commenting on OSHA's Rulemaking to Update Its Lockout/Tagout Standard:***
On May 17, 2019, OSHA published a request for information (RFI) to modernize the Lockout/Tagout (LO/TO) standard to better promote worker safety, while reducing employer burden. The RFI seeks information on technological advancements, including new control circuit devices and robotic technologies, to consider as they look to update the LO/TO standard in order to reduce regulatory burdens and promote worker safety. To read the RFI, [click here](#).

In late June 2019, NAM reported to ACCCI and other NAM members that NAM was "... looking to get all our manufacturing associations together so we are one united front with a comment letter that carries great weight to influence the LO/TO proposed rule via this RFI comment period." Soon thereafter, based on the consensus opinion of ACCCI's newly created "Coalitions Task Force" that ACCCI should join this coalition, ACCCI did so. During July 2019, the coalition moved forward with development of draft comments.

On August 19, 2019, the comment deadline, NAM submitted comments to OSHA on behalf of the coalition. The comments urged OSHA to allow manufacturers to continue to rely on the current standard, but to also allow for the use of controlled circuit devices and the use of robotics.

Environmental Coalitions

- **American Alliance for Innovation (AAI)**: AAI, which is led by the American Chemistry Council (ACC), is advocating with EPA Capitol Hill for fair and balanced policies in the first reform of the Toxic Substances Control Act (TSCA) in a generation.
- **Boiler MACT Reconsideration Litigation Coalition**:* This coalition has intervened in NGO litigation over EPA's Boiler MACT Reconsideration Rule.
- **Business Network for Environmental Justice (BNEJ)**: The BNEJ, which is based at the National Association of Manufacturers, was formed in 1995. It is a voluntary organization of businesses, corporations, industry trade associations, industry service providers and business groups interested in environmental justice issues. The BNEJ believes that all people should be treated fairly under all laws, including environmental laws, without discrimination based on race, color or national origin. BNEJ supports open and informed dialogue with citizens about environmental decisions that affect local communities. It also supports continued systematic, objective scientific research into factors affecting human health and the environment, and the use of scientifically sound risk assessments in evaluating and prioritizing health and environmental risks.
- **Chemical Security Coalition (CSC)**: CSC, which is led by the American Petroleum Institute (API), tracks and addresses chemical security legislation being considered on Capitol Hill.
- **CAA Section 112(c)(6) Coalition**:* ACCCI joined this coalition to participate in an amicus brief in litigation filed by the Sierra Club in July 2015 relative to EPA's June 2015 Clean Air Act (CAA) Section 112(c)(6) completion determination.
- **Clean Power Plan (CPP) Litigation Coalition**:* The CPP Litigation Coalition, which is led by the National Association of Manufacturers (NAM) of which ACCCI is a member and the U.S. Chamber of Commerce, is challenging the Obama Administration's Clean Power Plan final rules.
- **Clean Power Plan (CPP) Repeal Rule Coalition**:* On October 16, 2017, EPA proposed to repeal the stayed Obama EPA's Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, commonly referred to as the Clean Power Plan (CPP), as promulgated on October 23, 2015 (82 Fed. Reg. 48035). During November 2017, ACCCI joined the CPP Repeal Rule Coalition, which is led by the National Association of Manufacturers (NAM) of which ACCCI is a member and the U.S. Chamber of Commerce, in commenting on the proposed CPP Repeal Rule. The deadline for commenting was April 26, 2018.
- **Clean Power Plan (CPP) Replacement Rule Coalition**:* On December 28, 2017, EPA issued an Advanced Notice of Proposed Rulemaking (ANPRM) seeking comment on the "next steps" to replace the CPP (82 Fed. Reg. 61507). The ANPRM is a separate, but related, action to the October 16, 2017, proposal to repeal the CPP. EPA has proposed to determine that the CPP exceeds EPA's statutory authority under the Clean Air Act (CAA). In the ANPRM, EPA specifically solicited information on systems of emission reduction that are applicable to or at an EGU facility, information on compliance measures, and information on state-planning requirements under CAA Section 111(d). Comments were due on February 26, 2018, and ACCCI joined a coalition led by the National Association of Manufacturers (NAM) of which ACCCI is a member and the U.S. Chamber of Commerce, in commenting on it.
- **Corrosivity Characteristic Coalition**:* The Coalition is focused on a petition filed by Public Employees for Environmental Responsibility (PEER) seeking to compel EPA to lower the upper limit of the RCRA Corrosivity Characteristic from pH 12.5 to pH 11.5, a 10-fold reduction. The Coalition is arguing that "a rule that met the petitioners' requests needlessly would subject an

enormous quantity of materials, many of which currently are safely used for productive purposes, to RCRA hazardous waste requirements with no corresponding benefit in the form of improved worker, public, or environmental safety. In fact, amending the corrosivity characteristic as requested would result in classifying as 'hazardous' millions of tons more material than could be accommodated in currently available Subtitle C landfills."

- **Federal Water Quality Coalition (FWQC):*** The FWQC is a coalition of industrial companies, municipal entities, property owners, and trade associations that are directly affected, or have members that are directly affected, by regulatory and policy decisions made pursuant to the Federal Water Pollution Control Act (the Clean Water Act). It advocates for its members on said regulatory and policy decisions.

In early February 2018, ACCCI joined an "ad hoc" coalition of the FWQC focused on litigation in Maine that pertains to EPA decisions regarding the issuance of human health water quality standards. FWQC counsel recommended that this coalition "... file an amicus brief, to ensure that the court understands the concerns of the regulated community about EPA's positions, and to point out the potential national implications of the issues being raised in the Maine case." On February 28, 2018, with the blessing of ACCCI's Coal Chemicals Environmental and MESH Environmental subcommittees, ACCCI joined the "ad hoc" coalition filing an amicus brief. Counsel filed the coalition's brief on March 2, 2018.

- **Coalition Commenting on EPA's "Once In, Always In" (OIAI) Proposal:*** On July 26, 2019, EPA published a proposed rule, "Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act" (84 FR 36304), to end the "Once In, Always In" policy that EPA established in 1995. Under that policy, any facility subject to major source standards would always remain subject to those standards even if production processed changed. EPA explained that the proposal would "... implement the clear language of the Clean Air Act that allows a 'major source' of hazardous air pollutants (HAP) to reclassify as an 'area source' after acting to limit emissions to below the levels that define major sources." *The proposed rule, a fact sheet, and an explanatory memorandum from Bill Wehrum, then the EPA Assistant Administrator for Air and Radiation, can be found [here](#).*

Soon after proposal, based on the consensus opinion of ACCCI's newly created "Coalitions Task Force," ACCCI accepted an invitation to "... collaborate with the Air Permitting Forum in preparing comments..." on the proposal. Counsel to the coalition submitted comments to EPA on the September 24 comment deadline.

- **Metals Industries Recycling Coalition:*** In the interest of preserving legal options/leverage, MIRC has filed a protective Motion to Intervene on EPA's "Definition of Solid Waste" (DSW) Final Rule because environmental groups filed Petitions challenging the rule as insufficiently restrictive.
- **NAAQS Implementation Coalition (NIC):*** NIC, which is comprised of trade associations, companies, and other entities who confront challenges in the permitting of new or expanded facilities under new and increasingly stringent NAAQS, advocates against outdated EPA policies and models that contribute to these challenges.
- **Ozone NAAQS Coalition:*** The Ozone NAAQS Coalition, which is managed by the same counsel who manages the NAAQS Implementation Coalition (NIC) of which ACCCI is also a member (Joe Stanko (Hunton & Williams)), has a different mission from NIC and is "separate and apart" from it. NIC, which is comprised of trade associations, companies, and other entities who confront challenges in the permitting of new or expanded facilities under new and increasingly stringent NAAQS, advocates for its members against outdated EPA policies and models that contribute to these challenges. The Ozone NAAQS Coalition, on the other hand, which is

comprised of most/all of the same trade associations, companies, and other entities as NIC, advocates for its members on the stringency of NAAQS.

The current focus of the Coalition, which is the only industry coalition in Washington, D.C. advocating on the stringency of NAAQS, is the Ozone NAAQS. However, its focus will shift to the PM NAAQS as EPA shifts its attention to the stringency of that NAAQS. In late 2017, ACCCI's Coal Chemicals Environmental and MESH Environmental subcommittees decided that ACCCI would join the Coalition on a "shared cost" basis, with ACCCI's annual dues (\$5,000/year) coming from ACCCI's annual budget.

- **Ozone NAAQS Litigation Coalition:*** ACCCI is partnering with eight other associations in a multi-industry Ozone Litigation Coalition that is challenging EPA's October 2015 Ozone NAAQS final rule. The final rule lowers the current 2008 standard of 75 parts per billion ("ppb") down to a level of 70 ppb for both the primary and secondary standards.
- **PM NAAQS Research Coalitions:*** In July 2018, ACCCI joined two separate but related coalitions that are conducting research on methodology for measuring condensable PM and health effects related to PM exposure, the results from which would be used to inform upcoming EPA decisionmaking related to the PM NAAQS. The PM health effects coalition is engaged in planning for a Causality Symposium scheduled for October 3-4 in Chapel Hill, NC. A dozen EPA representatives are registered to attend, and the coalition hopes to get a greater variety of stakeholders and academics. Details on the Symposium, including the agenda, can be viewed at <http://pmcausalitysymposium.org/>.
- **Residual Risk Coalition (R2C):*** The R2C is an ad-hoc group comprised of the American Chemistry Council, the American Coke and Coal Chemicals Institute, the American Forest & Paper Association, the American Fuel & Petrochemical Manufacturers, the American Iron and Steel Institute, the American Petroleum Institute, the National Oilseed Processors Association, and the Rubber Manufacturers Association. Each R2C organization has members that are subject to "MACT" standards that have been (or will be) subject to residual risk and technology review ("RTR") pursuant to § 112. The R2C is dedicated to working constructively with the Environmental Protection Agency ("EPA") to develop a practical and environmentally responsible approach to satisfying EPA's technology review requirements under § 112(d)(6) and its residual risk review obligations under § 112(f).
- **SSM Coalition:*** The SSM Coalition is commenting on various EPA rulemakings that are re-shaping the way emission standards under Clean Air Act (CAA) sections 112 and 129 will apply during startup, shutdown and malfunction (SSM) events.
- **SSM Litigation Coalition:*** The SSM Litigation Coalition has filed litigation for judicial review on EPA's June 12, 2015, SSM SIP Call rule. The Rule issues "State Implementation Plan" (SIP) calls to 36 states, declaring those states' SIPs "substantially inadequate to attain or maintain" ambient standards, mitigate interstate transport, or "otherwise comply with any requirement of" the CAA, under CAA § 110(k)(5)."
- **TSCA Inventory Update Intervention Group:*** This coalition, which is being led by the American Chemistry Council (ACC), is intervening in ENGO TSCA litigation in support of EPA and the Agency's TSCA Inventory Reset final rule. ACCCI joined this coalition in September 2017 when it was being formed.
- **TSCA Prioritization and Risk Evaluation Intervention Group:*** This coalition, which is being led by the American Chemistry Council (ACC), is intervening in ENGO TSCA litigation in support of EPA and the Agency's TSCA Prioritization and Risk Evaluation final rules. ACCCI joined this coalition in September 2017 when it was being formed.

- **United Drone Network**: UDN is a diverse coalition of trade associations representing a broad spectrum of industries who both manufacture Unmanned Aircraft Systems (UAS)/drones as well as depend on them in regular business operations. UDN supports the safe and responsible use of drones; however, drones can also pose challenging safety and security risks. There is no doubt that drone technology is advancing rapidly and drones have a bright future as long as they are used appropriately.

* Shared-Cost Coalition