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here for the Air Conference, Gina McCarthy talked about some of the new strategies they have in terms of addressing air toxics issues and they do have a real relationship to the rulemaking process and I think without further ado I will just turn it over to Gina and Rob.

New Strategies for Reducing Air Pollution and Improving Health in EJ Communities:

Upcoming Air Rules

by Gina McCarthy, EPA Office of Air and Radiation

MS. MCCARTHY: Thanks Charles. Good morning everyone. I know you just had a very substantive discussion and I do not want to tax your brain more but I hate not to be substantive so I am going to tax it some more anyway.

MR. : Tax us, I dare you.

MS. MCCARTHY: I know that I have met many of you and it is great to be here and talking about some of the things we are doing in the Air Program; some of the accomplishments over the past few months and things that are coming up on our agenda.

But let me just tell you that I apologize that I do not have a PowerPoint presentation and there is a reason for that. It is because I never follow my talking points so it would be embarrassing to stay on the first slide and never move off of it. And that is because I have this incredible habit of beginning with my brain and then shifting to my heart and eventually returning to my brain at some point in time but

I have given up trying to control that so we will just have to go with the flow.

It is exciting to me to be here today and I know that many of you were here on Monday when the Administrator was here and I just wanted to once again reiterate how wonderful it is to have somebody with the leadership qualities, the strength, and the commitment of a Lisa Jackson. If it were not for her, I do not think you would see all of us at this end of the table.

And I think I might be where Omega was questioning which is how much do I really want to put into the energy that you need to put into this job but frankly I was very happy doing other things and always complaining about how awful EPA was. It was so much fun and so much fodder, I mean, you could easily do it but I think it was because I saw this as an overwhelming opportunity for change. Not just because I have a President that I am incredibly proud of but I have a Lisa Jackson who I would follow anywhere.

So I really hope that we take this as an opportunity for recommitment with an understanding that we have a long road to hoe. We have been working on these issues, many of you much longer than -- well I do not know if it has been longer but probably more focused than I have because I am probably older than most of you; so I have been at it a while. But we have every understanding that this is going to take a

long time for us to figure out these issues and so we will work on them together.

But I do want to hit on some of the things that are happening in the Air Program. Because as many of you know, our Air Regulations drive change, it depends on whether it is good or bad and it is extremely important because air quality is something that where our air is different qualities depending upon where you live. And for all of us who like to breathe clean air, my job is to deliver it and it is not to deliver it over an average across the US that is really neat, it is to delivery it where everybody lives. Every individual and every child deserves to breathe clean air and that is the challenge that we face. And our laws do not always make that an easy thing to do. So we have to think about it together and work on it.

So having said that, I will also apologize for any reference I make to EPA in the need for change in telling you that I like to complain about the EPA. Even working here I like to complain about it. I forget that I work here every once in a while so I am complaining about myself as well now. But I did want to recognize that there are people working in the Air Program, in fact most of the people working in the Air Program are some of the most dedicated professionals that I have ever had the honor to work with. And so nothing I say implies that they have done anything other than work as hard

as humanly possible.

And I have to recognize Rob Brenner sitting next to me who was the father of the CARE Program which many of you have indicated as a wonderful program to provide capacity to local communities to do what they want to do and to come to their own conclusions and it is more of that that the agency needs to sponsor. So I wanted to thank him and everybody.

Now I have run out of time and we can move on to the question and answer period.

(Laughter)

MS. McCARTHY: As you can tell, I just moved from my brain to my heart and now I am trying to get back to my brain.

All right let me talk about some of the rules and some of things that are at play and then in the end I would really like to get into more detail on an issue to show you how we might actually be able to work together to make the laws work more effectively; the ones that we have on the books and the ones that we need to change. Because I do think we have a really strong foundation.

I don't think that anybody can argue that the Clean Air Act is one of the most challenging federal rules but it is also one of the most enormously successful rules. The amount of public health improvements that have been achieved through the Clean Air Act have been enormous but that is not to say that we do not need to go a lot further.

And I wanted to begin in my remarks as I began when I spoke on Monday by touching on the issue of climate change which is an issue that is taking a great deal of attention certainly on the Hill in Congress and in my agency and in my office because I spearhead some of those activities.

But I will tell you that the Clean Air Program in my office is not just about climate change. All right, because when I came in there I began to worry, as many of you have, that much of the attention of the non-profits and much of the money from foundations has been shifted to climate issues dramatically and it has worried me for years that that shift would result in less emphasis on traditional air pollutants in the need to make the next jump in terms of us assessing those venues.

And so I will tell you that while we are pushing very hard on the issues of climate, and they should be of concern to all of us, there are tremendous opportunities to address climate in ways that also move traditional air pollution goals forward. And I think that is our challenge. How do we engage people by looking at the issues of greenhouse gases in coordination with improvements that we need to make now on the ground to improve public health? And we know that traditional air pollutants continue to causes illnesses and premature deaths in the thousands in this country every year. And while we are looking at the longer-term goals and

challenges of climate, we cannot lose sight of the need to push the traditional air pollutant reductions forward with the impetus that we are putting on climate.

So I will mention climate briefly. You know we did an endangerment finding. That was basically a science-based decision that said "yes greenhouse gases are a public health and welfare problem" and "yes mobile sources contribute to that." Now if either of those two decisions was an enormous surprise to anyone here, that would be a surprise to me. I think we knew that, we have proved it, and we are hoping to move beyond the science to talk about what we actually do about achieving those reductions.

And probably the two most notable things we did last year was the proposal for our light-duty vehicle rule which will push forward new fleets of cleaner vehicles. We will talk more about goods movement and transportation challenges in the next section. But it should not be lost on everybody that moving toward cleaner vehicles is an enormous improvement not only in terms of reducing greenhouse gases but also in terms of addressing some of the pollution that is plaguing some of our communities. Because as we know, transportation pollution is something that causes considerable difficulties in many of our communities and it is an enormous challenge. And it is one that at the local and state level you have very little ability to impact. So the buck stops at the federal

level when you talk about transportation except for coordination with some of the planning efforts at the state level.

We can talk more about that but the other issue I wanted to mention on endangerment, which I want everyone to just keep in the back of their minds, is the Mandatory Reporting Rule. Now this is a rule that we have put out that is requiring the large emitters of greenhouse gases to report on their greenhouse gases.

Now why do I think that is important, everybody? For five years I managed the Toxics Use Reduction Program in Massachusetts. And the really unique thing about that program was we required industries to report their chemical use every year. Not the waste they emitted but how much chemicals they used and then we matched it to the waste emission figures that were reported to the Toxic Release Inventory.

Now the interesting thing about that was that every facility hated to be reporting on chemical use. They hated to be at the top of the chemical use list. And they did everything humanly possible to get off that list and to get down because they did not like the fact that communities saw them and saw them as a threat to public health because of the chemicals they used not just the waste they were emitting and the emissions that they were emitting.

And I think we are going to see the same thing with

climate. Because what you are seeing on CO2 emissions is an admittance of inefficiency. If you are emitting CO2, it is because you have not figured out how to be more efficient. And that efficiency is likely to also be present in how they are handling other traditional pollutants.

We can drive reductions if we are smart by looking at who is reporting under the mandatory reporting rule and go up and knock on their door at the local community level and saying "hey, how come you are at the top of this list? How do we work together because you can find ways of becoming more energy efficient and you can make it cost effective for you but I can get reductions in pollution that matters to me in my home and in my community." So I think it is really important for us to look at that and use that as a driver for air pollution reduction in general.

So let me go over very quickly some of the things that we have also done over the past year on traditional air quality pollutants.

You all know about the National Ambient Air Quality Standards. Those are standards that the Clean Air Act lovingly told us we should look at every five years. Well I probably do not need to tell you since the Administrator announced on Monday the first NO2 NAAQ Standard in 35 years; that we are not quite keeping up with that five year timeline. If we were, that would not be a 35 year new NO2 NAAQS. But we

are driving, as the Administrator said, to look at where the science is leading us and what does the rule of law say. And we are trying to adjust the way in which we behave as an office to ensure that we are doing those reviews in a timely way and we are letting science drive those decisions.

Now in particular I want to mention two and they are two that are most notable from my perspective because they very much deal directly with public health impacts. So let me talk about the Ozone NAAQS and also the PM2.5 designations. Because there are no two pollutants that are more significant to local communities than ozone and PM, particulate matter, because they actually have huge public health consequences. They drive tremendous amounts of illnesses. That is not just in terms of asthma-related illnesses but also other respiratory illnesses as well as cardiovascular problems. And they cause pretty much your deaths.

And we have so much information on ozone that it would sort of knock your socks off. And what we have realized in the last science review is two things. One is when they set the standard in 08, they did not look closely enough at the science because they did not do what the scientists told them that the science was saying. They did not drive the reductions within the range that our scientists said they needed to be driven in order to set a new, more aggressive standard.

The second thing that the science told us was that there is no lower limit of safety on ozone. Every time we look it goes lower. And what that tells us is that we need to drive it as low as we can and we need to revisit it as often as the law requires and we need to continue to challenge us how to meet these standards as we move forward.

So we reconsidered that standard. We have recently put out a new standard that revisits that 2008 level; we think it is much more in line where the science is driving. We also think it is going to be enormously challenging to implement.

And as many of you heard when I spoke on Monday, that it is really good to set the standards, it is another whole ballgame to make sure they get implemented and actions follow. And while I will tout the standards, what you are going to judge me on is whether they got implemented. And I expect that to be what we get judged on. I want the improvements, not just the goals set.

And so we are going to be working with the states actually and we have negotiated a much tighter implementation schedule for that standard because we have lost ground. While we are reconsidering that standard, I want it to be right, but I want it to be implemented more quickly so the ground we have used in relooking at the science does not mean significant loss in our ability to reduce pollution on the ground.

On PM2.5 NAAQS, instead of going out with all

science, we have revisited that. I now have the best data available to make those judgments on and we are going to move that forward. Now the good news is that the data shows us we have made some significant progress. The bad news, as you know, is that it is not everywhere. And it also shows us that we have some places that are actually coming into non-attainment even under the old standards as we are looking at the new data. So we have work to be done.

Now let me take one moment -- I am rushing through this because I know we are late, is that okay?

MS. YEAMPIERRE: No, no, no you are speaking truth to power; I am really enjoying this, go on.

MS. McCARTHY: Fabulous! Then I am going to take the rest of your day Elizabeth.

MS. YEAMPIERRE: Now don't go crazy.

MS. McCARTHY: Okay, let me hit the NO2 NAAQS issue because it is fun and I wanted to talk about this one and let me tell you why it is fun.

NO2 NAAQS we just came out with on Monday. Now the interesting thing about this NO2 NAAQS is it took a leap of faith in two different ways.

One is it moved away from area standards and it said that we are not just going to keep the annual average standard; we are actually going to set a one-hour peak standard and we are not going to put those monitors in the

middle of nowhere. We are actually going to put them where we think we will get the highest readings. Now that may not sound shocking to the uninformed, but it is pretty shocking to all of us who know that that is now always how it is done.

And the Administrator fought enormously hard, not just to get a new way of monitoring and a new standard based on road-side emissions, but she also fought hard to take a portion of the monitors that will be tied into that network and to be able to use the authority of working with the regional administrators to put those monitors in communities where we honestly believe the challenges are the largest. Not just for NO2 but in a way that we can use them as a platform for multi-pollutant monitoring.

Because I want you, next time when you are questioning cumulative impacts, to be able to hand me a reading from your community that says "you not only have to figure this out but this is what my family is breathing. This is what my children are breathing. If your laws cannot figure out how to do multi-media, maybe we could figure out how to do multi-pollutant." We have to walk before we run and so it is time to walk.

But we do not have all of the information we need and it is going to take a while to build this network. I am not telling you it is going to be done tomorrow but this particular rule for the very first time set up a new way of

looking at monitoring, it set up a new peak standard that will allow us to get the issues, but more importantly it was the very first time a rule actually recognized the issues of disproportional impact. It is written in there for the very first time and it got approved so we will use this as a launching point. So while we are talking about the process of rulemaking, no one is waiting for that process to work itself out.

As rules are coming up, we are going to dive into these issues and get the basis that we need in law to make the kind of decisions that you expected us all along to make; decisions that make the improvements of air quality where you live. And so, as you can tell, I am not at all excited about this rule.

(Laughter)

MS. McCARTHY: I am not going to push it at all; but I am. It is going to be really new, it is really different. I have already had conversations with researchers on how we site those correctly, how we work with communities and do the outreach we need to make sure that they get placed appropriately, and how do we really talk about multi-pollutant strategies on monitoring so that we can get the information we need not just to do what we are suppose to do but to change the rules so we are allowed to do what common sense would dictate. That is the hardest part but that is the part that

we really need to focus our energies on.

So I am enormously excited about it and I am also enormously excited that the Administrator has recognized that all of this work takes money and she is fighting really hard to figure it out because the last thing we want is to challenge all these new monitoring systems to be up and running and to say "oh subject to appropriation." We want the appropriation to be subject to common sense and so she is working really hard at that. And I trust that she will make progress because she is incredibly annoying when she gets behind an issue and she is behind this one.

(Laughter)

MS. McCARTHY: Don't tell her I said that though; that would be bad to have that reflected in the minutes.

(Laughter)

MS. McCARTHY: I want to mention a couple of other rules beyond the NAAQS rules because we are actually, over the course of the next five years, we are going to be looking at all six criteria pollutants.

And actually the other interesting thing about the ozone standard is we have not only set a primary standard but a secondary standard, so that is kind of a first as well. So we are going out all over the place on these issues.

But the other issue I wanted to mention was the Clean Air Interstate Replacement Rule. We have had a lot of

what I lovingly call do-overs. Do-overs mean that prior administrations have passed laws that were not legal. That is a tricky thing to continue to implement. So we have had a lot of do-overs on issues that the court said were not appropriately handled, they did not go far enough, they had poor legal basis, and so we are working on those. And again it is not a reflection of the hard work of the individual staff. There are much larger issues at play in these but we are going to be moving again to do those replacements.

And the one reason why I wanted to bring up CARE was not just to let you know that a new proposal is coming out in April. And what CARE tries to do is look at the transport of air pollution from one state to another state and whether or not it is significant enough that it is causing a problem in that second state because if it does the law says you cannot do it. It says you have to make reductions in that upwind state so that you are not causing a problem for your downwind neighbor which is a very good thing.

The problem that we have is that the pollution that CARE tends to regulate is pollution that we often do trading for. Now I know and you know that trading is not something that everybody is in love with. Now I will go out and tell you that I think that trading in certain pollutants has been a very good thing. It has led to significant cost-effective reductions but I will also tell you that the court made it

very clear that there is trading and there is trading and some trading is not good.

And so what CARE is going to do is to drive reductions at individual facilities that have been trading for a long time and that actually have impacted downwind neighbors and we are going to get at those facilities and those facilities themselves are going to require investments to be made. That is good news.

Now the second thing that the court said about the old CARE rule was that when there is trading and then there is trading, and then there is trading -- was toxics. They said they threw out the CAMR Rule which is another do-over which is basically the Clean Air Mercury Rule. And they said that while trading in some pollutants is fine, but other pollutants like toxics that actually have localized impacts do not talk about trading; talk about reductions of those localized impacts. We heard that. Actually many heard that a long time ago. But what you are going to see is our rules where we flag(sic) that court ruling and we are going to run with that rule. Because we know that you cannot do trading of localized impacts and expect that trading to make a difference in people's lives who are breathing these toxics.

So we are moving forward on a variety of toxics rules and that is where we need to work really closely together to get your input into those rules so we are getting

them in a timely way. Many of them are on court deadlines which is good. It is going to drive the kind of change that we are looking for but we need to be as creative and working together to not slow those down but to make sure we are designing them effectively.

Let me just hit a couple. We are looking at -- I think the first thing I want to mention is Residual Risk Rules. That is a bunch of rules that we are doing because we have not done them in a timely way and we are negotiating moving forward with those rules. But basically we are looking at bundles of toxics rules that control specific sources and we are looking at moving those together quickly so that we can begin to drive toxic reductions down that we know continue to pose risks across our communities.

Let me mention a couple of actions we have already taken. Let me mention the Portland Cement Plant Rule. We proposed that in May of 09; that is going to a final in March 2010, that proposal in and of itself will reduce current mercury emissions from Portland cement facilities by approximately 80 percent by 2013.

Now if you know how our rules are done, that means that there are cost effective technologies already on the books that we can get them to put in place by 2013. This is not just driving the next bunch of technologies; these are recognizing that they already exist. We have to get our acts

together because if the technologies are there and the risk is there, we have to marry those rules and get them out there that make the connection between existing technologies and risk because we can make a difference now. I can be sitting here in 2013 and you can go "Hey, cool, you got something done." Omega can go back and say "I told you so. It was worth my sitting here." That is what we are up to.

Now the Utility MACT Rule is another one. That is a rule that we are not just going to look at redoing the Clean Air Mercury Rule, we are going to be looking at every hazardous air pollutant in the utility industry and taking it on as a whole.

It is a reflection of the work we are trying to do on sector-based, again to bring some more common sense to the issues that we deal with. And we are currently in the process of collecting the information we need to do for that rule and we are going to be moving that out as quickly as possible because it is a big one in it coordinates very closely with other efforts that we are looking at in terms of the clean energy vision.

How do we work with utilities to look at what they are doing on criteria pollutants, on toxics, and create a pathway forward to what we all would agree is a cleaner and lower carbon future in the energy world.

We are actually looking at gold mines. We have a

plan to propose a new rule in April 2010. Believe it or not, gold mines are the 6th highest source of mercury emissions; 6th in the US. And we are developing a national standard to try to drive those emissions down.

And as you all know, we are looking at industrial, commercial and institutional boilers; one of my favorite categories. This is a rule where all Hell will likely break loose so you have to be on my side. I would prefer that you be in front of me rather than in back of me but in back of me is good too. This is a rule where we are going to actually -- we are going to put a proposal out in April 2010. We are going to look at real opportunities for technologies that are in use. This will drive not just traditional pollutants down in toxics but it is also going to be driving down greenhouse gases significantly. There are huge benefits that we are going to see from these rules.

We have a whole other bunch of things going on but rather than continuing to talk, because I want to give time for questions, I want to hit on a couple of other big issues that are going on and actually thank the woman next to me, thank Vernice Miller-Travis, for helping to Co-Chair. And Katie I am sorry we didn't get to meet; I talked to you on the phone.

With Katie the School Air Toxics Workgroup; this is a program that has been going on for a while where we are

doing air toxics monitoring at schools. And it involves I think about 64 schools. We are going to have most of the analysis of the data done by the middle of this year and out. I think the workgroup has done a tremendous job in working with us on a website that explores that data, that helps us communicate much more effectively with the schools, with the principals, and with the parents. But it also is an effort that is challenging. It is really challenging us. And I know it is challenging dialogue between the workgroup and our staff on what do we say about the information that we are seeing.

Now let me tell you the challenges that it is raising because this is what we are going to have to get at in our next discussion moving forward. What it is challenging us to think about is not just communication but what can we say we know. You know, that is the argument, is you are communicating really well but we don't think you should say that, now what an interesting way for the workgroup to end up. The issue is how much can we say about the safety of the numbers that we are seeing. How confident are we in those numbers?

And the second thing that is challenging us in our work with the regions and the states is what do we do about it?

I think one of the most interesting and distressing issues is that we put out a couple of recent school reports on

the toxics results. One of them had very high manganese numbers. Now I am not saying very high because I want you all to run up and call and get your kids out of the school yard kind of high, but it was above what anyone would want to see without question.

And the interesting thing was I said "well are we going to get blasted when this comes out?" Everybody said "no, everybody knows there is a source in that area." I am like "oh my God." The good news is that we were not going to get blasted but the bad news was that everybody expected it. That is not great news.

It means that we know that there is a facility there and now we have to look at it and ask ourselves a couple of questions here. Is it operating within its permit? And then if it is, what do we do about it then? Because your question is going to be just because it is operating within its permit, it does not mean our children are breathing clean air.

So the interesting thing about this is it is asking all of the questions you have been asking us forever. Are we out there doing the enforcement we need and secondly are the permits stringent enough to deliver clean air where people are breathing? Especially the kids in these urban areas where they traditionally have the highest levels of asthma, where we know they are the most vulnerable populations. So for that reason it is really cool.

But for other reasons it is going to be really stressful for us because you are going to keep having these issues. And I know Vernice and Katie are not going to let us off the hook and say yah, yah, well you can say that and calm everybody now; we are going to have to say what is next.

And part of the issues that the Administrator is challenging us to look at after this year of school data, what do we do next? How do we make community-based decisions on the basis of that data? And what do we do with monitoring next? And how do we use those monitors that we have at NO2 to begin to get at these multi-pollutant issues and be more educated and work with the regions and work with the states on difficult issues that may challenge how we traditionally think about permit limits?

So it is going to be actually really fun. Strange as it seems, I love this stuff. I am going to skip all of the transportation stuff I was going to talk about because we are going to get at that discussion in the next -- after lunch when we do a session.

I did want to say that I thought that some of the comments that I have heard coming out of the transportation conference are right on. We will get at those issues.

I did want to mention to Elizabeth that geez I wish DOT as here too. I am not sure who at DOT I wish was here because some I would rather be here than others but DOT has as

much of a challenge as EPA does in terms of how do they look at their mission and rethink what they do.

I will tell you the good thing is that this President has actually what he calls a "green cabinet." He forces conversations between the agencies in ways that have never happened before and as a result I do think that Administrator Jackson has a really productive relationship with Secretary LaHood.

And one of the things that I really want you guys to be engaged in is not just our rulemaking but DOT's. We have opportunities in the reauthorization of the Transportation Act to finally get public transit up in line as a priority. That Secretary wants it desperately; our Administrator wants it and I think we need to deliver those relationships. And you are absolutely right, DOT should have been here. We invited them; they did not show. I am going to work harder next time. And I am actually going to get the people who I think will work with us really well because there are those that are there; just to mention that issue.

Now let me push back one more issue and talk to you about an overlap in issues between multi-pollutant strategies and monitoring. Am I going on too long? I know I am. Can I just mention one more thing? I know you are running late; I sorry.

MS. YEAMPIERRE: We are running late but I don't

know how everyone else feels; I guess like two or three more minutes? You can speak fast.

MS. BRIGGUM: Could I just make a suggestion? I see that we have like an hour and a half here for lunch, is there a chance that we might --

MS. McCARTHY: Oh my God, I can never get in between anybody and lunch.

MS. BRIGGUM: Well no, I don't want to have lunch, I want to work.

MS. YEAMPIERRE: If everyone is good with that we can have a shorter lunch because I just think this is a really --

MS. McCARTHY: I will swear I will wrap up in five minutes.

MS. YEAMPIERRE: No, no, no, we really don't want to miss out on any of the salient points because frankly a lot of the things that you are saying really are things that we are thinking about and have been discussing now for years in our communities and so we really need to have -- it is what government calls "robust" -- not my language.

MS. McCARTHY: Don't you hate that word; I use it all the time.

MS. YEAMPIERRE: I am not feeling it but -- discussion. So please go on.

MR. KELLEY: How about meaty, very meaty.

MS. McCARTHY: That is a better one. My kids will not like it, they are vegetarians though. We will have to think of it as cellulosic or something, I don't know.

But anyway, I wanted to just try to bring home all of these issues into one issue that I think is a really important one and I will tell you I categorize this in the category of "Gina, you have to get out of the office more initiative." And it came up when I started going to Texas.

I have been going to Texas; Texas is a wonderful state but I am not going there because I am visiting the state I am going there because we are working on some of the air permitting challenges that we have in Texas. And I met Hilton and some of his group and many of the environmental justice advocates a while ago in Texas. And one of the things that I was told to do which I did was to take a helicopter ride along the port in the Houston area. That was to me, for a person who really has not gotten out of New England much, I did not know refineries. When someone said refinery, I am like yea, yea. Man alive. Those are refineries. It was an eye opener for me.

And when I began to think about all the things I want to do, all these multi-pollutant strategies, all these let's make some common sense moves forward, let's get actions done, it just whacked me upside of my head and I said okay if we can make a difference in people's lives quickly, maybe

these are the areas and these are the things that we can focus on most effectively moving forward.

Looking at it rather than as one of those little tiny emissions out of 100 million and we just look at that one unit and we do a standard for that one unit and we walk away and we say okay we have done our job; there are only 9,999 other emission units in that facility that we have to get to over the course of the next 30 years.

And one of the issues that I thought we really needed to tackle quickly together, that there was a legal framework to address, was the issue of start-up, shut-down, and malfunctions. Because when I was driving in that helicopter, you could see some of those flares from 10 miles away. They were not little. When I think of flares, I think of you know you light a little candle when you go to a concert; that is not a flare. These things are gigantic.

And I really -- what we have done is a look at emissions data. And I just wanted to share a little bit of that emission data with you. Because collectively these malfunction events can produce emissions in quantities that really dwarf the amounts we are getting from routine operations, which are the amounts we permit, potentially exposing the surrounding communities to very significant short-term high-level exposures. And so the magnitude of annual refinery excess emissions is often two to three times

the annual routine emissions that are reported.

OECA, Cynthia's group who is haunting me about these issues; thank you Cynthia, she is an equally obsessed human being, found that a carbon black plant had an annual upset emissions of VOCs, volatile organic compounds, that was 85 times the emissions that were reported annually in the emissions inventory.

Now Houston, we have a problem.

(Laughter)

MS. McCARTHY: And the Environmental Integrity Project recently reviewed 800 notifications to the Texas Commission on Environmental Quality and found that 20 plants emitted 19,200 tons of total air pollutants annually just during shut-down, start-up and malfunctions but they only reported 3,430 tons annually. Now that is just -- these are amazing numbers.

And so all of a sudden the courts have caught up with these issues and they have told us that this does not make a whole heck of a lot of sense.

So what I wanted to do was rather than talk about these things, is I want to make some commitments. I want to tell you that we are going to do a consolidated rulemaking. And that consolidated rulemaking will address the malfunction exemption as a whole rather than work rule by rule by rule. It is time to do what the court told us and we are going to

put out a rule and I am going to need your support to make that rule happen.

I am also going to evaluate the start-up and shut-down conditions independently as we are looking at our standards for all of these facilities. So we are not just going to look at it as a whole but as we put out our source specific emission targets, we are going to look at these issues and we are going to integrate them into our rulemaking process.

And we are going to look also at our industry-sector specific rules. We are looking at refineries. And in our refinery NSPS, New Source Performance Standards, we will be proposing to require continuous emission monitoring of those flares. We are going to be looking at flare minimization plans needing to be required. And we are going to promote flare gas recovery. We are going to explain that these systems are cheap, they are effective, and they can have paybacks of up to three years. When you look at the numbers, what is the problem? Let's start moving these issues forward together.

Now in the past we have looked at things too much individual pollutant by pollutant. Let's work together to look at refineries and at this start-up, shut-down and malfunction issues and let's start making progress today. I don't need you to tell me any more than you have told me

before. And I do not need to deny what I have seen with my own eyes. And I think we can make this progress and we can show you how a multi-pollutant strategy can play out in the different tools that the Air Program has available and we can start it right away. Thanks all.

(Applause)

Questions and Answers

MS. YEAMPIERRE: I just want to say that there is somebody in the audience, I do not know if he is still here, Nicky Sheats from the New Jersey Environmental Justice Alliance who must be really happy because we call him Nicky "co-pollutant" Sheats.

Thank you very much. This is really exciting, I am amped up and I don't need to be more. It is really exciting because these are exactly the conversations that we are having in our communities. Even the issue that you raised about climate change, where we are being pulled in a lot of different directions and it is so important for us to start to continue to address the NOx, the Sox, the PM2.5 and to do all that work.

And the whole conversation about climate is about reducing carbon and so even when we participate in plans -- I sit on the Mayor's Sustainability Advisory Board in New York City and the idea is to reduce carbon emissions by a certain amount and we really want to focus on hot spots and making

sure that it is not done at the expense of the co-pollutants that are killing our people. And this is something that is happening all of over the country where that is the focus. And so we have to -- so what we are doing is using environmental justice as a way of addressing greenhouses gases as well. So what you were talking about, is what we figured out how to do on the ground and so it is really great to hear that it is being supported at this level because that will also drive, I think, the allocation of resources so that we can do it in a real meaningful way.

I have just a few -- I try to keep my questions brief because there are so many of us but I did want to -- also the issue of trading, you mentioned the issue of trading, for us really it is just that trading does not address the issue of siting and the facilities will continue to be sited in our communities and the offsets are not meaningful.

And even when they bring in new industry that is cleaner, it is cleaner but it is not clean. So it is cleaner which means that it is an additional set of tons of NOx and Sox on top of what is already there and that infrastructure is not taken out when the new infrastructure is put in. So what we have been trying to do is put together MOUs when we could get these industries to agree to use newer technology and to show that there is a reduction, a net reduction, in emissions that is localized.

But the problem and the challenge is that they cannot demonstrate, and this is where you can help, they cannot demonstrate that the reduction in emissions is going to affect the local community. They can show that the reductions are going to happen and they probably are somewhere but we do not know that it is going to happen in our community. And so we do not want evergreens for pollution and that is really often what is offered; do you want some trees, do you want a park where kids will be breathing deeply while jumping rope and breathing in the emissions. So those are some things that I would like you to look at.

The other thing is power plants, you know, you talked about refineries but power plants in urban environments; you have peakers, you have old generation, and you know that work when there is the highest demand. And so I would be happy to hear what you have to say about that and how those businesses can be incentivized so that they can take them out; literally take out the old technology. Because unlike in some areas where people are not living right next to these facilities, in urban areas you have dense populations that are highly susceptible to these micro-toxins living right up against, like literally across the street from all of these facilities and numerous facilities.

I probably have some other stuff but that -- thank you so much because we are really concerned about the fact

that climate has become a silo in and of itself and that it can be particularly for EJ communities. So I don't know if you want to respond to that.

MS. McCARTHY: I would love to but I am going to be really brief. I understand the issues of trading. The good news is that the Administrator understands the issues related to trading. We have talked about that a lot specifically related to climate issues. Because the challenge with climate is it is going to create -- if we do climate well, it is going to create an investment opportunity. And we want to make sure that those investments go towards upgrading the facilities nearest and within the communities that are most vulnerable to the pollution impacts. And so it is extremely important that we keep our eye on the prize and I clearly understand that.

On the power plants, we should talk about this offline and we may actually want to have a longer conversation. There are -- I think that we have learned some really good lessons through the CARE Program on some of the ways in which we can leverage really good decisions out of this need to look at an energy strategy moving forward and I think it deserves a longer conversation. But I am totally prepared for it. I worked on these issues a lot over the last five years and there are tremendous opportunities to ensure that if you site even the cleanest peakers in communities that you can get out of the need to run some coal-fired units that

impact that exact same community. But if you do not have those kinds of obligated tradeoffs, you can actually end up with increased pollution. And it is a very difficult issue but one I would love to tackle.

MS. YEANPIERRE: Thank you and I would love to do that. And I really want to thank you for being candid. You know one of the things about our community that really frustrates us and really gets us angry is when we feel like we are getting played and so for us, you being candid and saying "I can do this," "this is where we are," "this is how much time it is going to take us," is really necessary in order for us to be better advocates and to make sure we can push the envelope.

MS. HENNEKE: I am Jody Henneke and I am with the Texas General Land Office and was with the Texas Commission on Environmental Quality for a long time and had the Houston region. So having done the Houston tour does give you a much keener appreciation for what I always refer to as the Houston Wow Factor.

Houston does have what I think is unique in this country in that it is the fourth largest city in the country with the largest industrial complex along side it. And even with the industrial controls, you still have that transportation issue that you have referred to that is difficult at best. There is also a huge commuter population.

One of the things that I also wanted to tell you is that I likewise have spent the major part of my career, as many of these guys will tell you, wining and fussing and complaining about EPA. I have a new federal agency to fuss about after the last year or so and that is FEMA. And that has, having gone through a major hurricane recently, one of the things that I would encourage you -- this is with the background of doing that combination of enforcement and being in that region, and that is when you have the -- let me say this with the backdrop of, I have had to regulate facilities that wanted to operate in continuous upset. All the luck and power to you on dealing with upsets.

Maintenance, you have to figure out how to allow and encourage facilities to do maintenance without being penalized. But the other thing is when you have a situation that is weather-event pushed, particularly in my region hurricane pushed; you are going to have the occasions when those facilities, those refineries, have to shut-down. Shut-down comes with an emission cost and start-up comes with an even bigger emission start. But in order not to get caught in that regulatory whipsaw and allow the agency and the country as a whole to move forward, figure out a way to make those events differentiated from the continuous state of upsets.

MS. McCARTHY: May I respond just for a moment. First of all I should mention that while I was out picking on

Houston in terms of the port area, I should mention one of the good things, one of the fun things I did in Houston, was to meet with the now ex-Mayor I guess and it is unbelievable how much progress Houston has been able to make in terms of their own air quality in the midst of the challenges that you are facing. So it has been a remarkable work.

And OAQPS has been part of that and as you know they have been doing a lot of work trying to use new technologies to sort of gauge some of these fugitive emission sources; the ones that we do not measure very well which are these leaks and things. It is pretty cool the work that we are doing together.

But I appreciate and thank you for your words of warning. And that is one of the reasons why I told you you need my back on this; this is going to be -- you know it is not just going to be difficult because the businesses have not been used to being regulated in this way but it is just really hard. We do not want to set a rule that basically says do not maintain your plants. Or let's make sure that we do not allow a flare and there is an accident and people die. This is really going to be difficult. So Jody I expect you will be hanging out with me for a while. I am not going down alone.

MR. BARLOW: Chuck Barlow from Entergy Corporation. We are a utility and we are headquartered in New Orleans; we have other places too.

But I wanted to just mention that one thing when you are dealing with the power plants that are owned and operated by a regulated utility and a regulated utility that has a lot of, quite frankly poor customers, customers who already pay a pretty good chunk of their income to basic utility bills and that is all regulated in sort of a cost plus thing. But we do have to keep in mind and I am not trying to play this out there as any sort of excuse for not making improvements, I am just saying that as we make the improvements we have to remember that sometimes those economic costs fall, under our current economic system, fall on people who already have difficulty paying those types of basic utility bills. So maybe that means that there is a new economic system, of course, those are state and public service commission type of issues but it is just something that we really have to keep in mind.

And one of the things that we have tried to push as cap in trade for greenhouse gases has been an issue going through Congress, you know, the possibility that in Congress is that if you have a cap in trade system, then one thing we can do is make sure that we recycle or redirect some of those allowance funds to the customer. And I am not talking about to the company; I am talking about to the customers who pay those utility bills to try to offset the increased cost.

Now it is a little harder to find the money stream

when you are talking about commanding control rather than cap and trade but surely there are ways to do it. And I just wanted to urge that it is a little bit of different type of environmental justice that I think we have just got to really, really keep in mind.

And then I also wanted to say thank you because I know you and I have not met before but a lot of people who work with me have been in sessions and you just seem to be an incredibly upfront and open-minded person at the same time and Rob you too. You know you guys seem to have a pretty good 360 view. You are seeing things from a lot of different angles at the same time and I know that we really appreciate that.

MS. McCARTHY: Could I just comment. Chuck we have not met but I have certainly met many of the people that work at Entergy and I have spoken with the big boss there about what we do working with the utilities to address the issue that exactly you are raising.

To your boss's credit, he said "you better regulate." How cool is that to call a utility guy and he says "regulate." He said "get the CARE rule out, come on, tell people you are serious, and let's get a move on." And so it is great that the company is basically saying, you know, you need to set standards here because they want to be out in front. But you don't want to be out in front at a point where everybody else is selling their power so much cheaper because

you are the good guy on the block. And so I really appreciate the attitude that your company has taken to this and the communication that they have had with us.

But what we are doing exactly on the greenhouse gas side as it relates to utilities is what we are trying to say is, and what nobody seems to dispute although many of the utility owners and others will question the science behind climate, will say that you should not do a cap and trade program, it is going to take down the economy as we know it. You know you have heard all of the extreme rhetoric around this as well as some of the thoughtful challenges that we have as we move forward.

But what nobody seems to dispute is the fact that we have pollution problems, traditional air pollution problems. And we have laws on the books that need to be enforced. And so what we are trying to say to the utilities is we have a CARE rule that is going out in April and it is going to get done. We have a utility MACT rule that is going to be regulating toxics from your facilities. There is no question about this. We are moving forward on NSPS for utilities as well. And why don't we just look at where that is heading? Why don't we set a pathway that says if you invest this way in your fleet, you will actually achieve those reductions, address greenhouse gases, and low and behold create jobs in the process and not find the most expensive way for you to

achieve the next pollution reduction, then the next pollution reduction, then the next pollution reduction?

The frustration I have with utility regulators, and they have heard this loud and clear because I say it every time, is the only thing they look at is the next standard. So if we do things the same way, you are going to have DPUCs funding upgrades at facilities that will never be able to meet the next regulatory standard. How dumb is that to be spending public dollars to eek a facility out for the next two years knowing that in the third year they are going to be required to do something else and you are not going to invest in that?

That is what is killing consumers and how prices are done. It is the less than thoughtful way of creating a roadmap to the clean energy future that the President wants that is really the costly price ticket here.

MS. YEAMPIERRE: Sounds like a forum to me, an entire conversation on this.

MS. McCARTHY: I am going to owe everybody lunch here. I am not paying the tab; I just want you to know.

MS. YEAMPIERRE: I am a member of the Environmental Justice Leadership Forum on Climate Change and we oppose cap and trade and I would think that we present some thoughtful challenges. So I would urge you to learn a little bit more about that platform and we would be happy to share information with you on it.

MS. McCARTHY: Why don't we talk?

MS. YEAMPIERRE: Yes, let's talk about that. The one thing that I would like the assistant administrators to do in your responses to the questions raised by the NEJAC is to think and respond taking into account the number of jurisdictions that are inflicted by these problems. You know, think Detroit, think Brooklyn, think Bronx, you know, think L.A., think West Virginia, think Indian country, the global south because we really want to make sure that for those people that are not here, those communities that are not represented at this table, that we can come away with recommendations and ideas that are going -- my job as Chair is to make sure that everybody is lifted. So I have to put that out there and ask that when you respond, that you think about what your recommendations will do for a variety of communities.

MS. McCARTHY: Elizabeth can I just bounce back and tell you that I could not agree with you more. One of the things I did two weeks ago was I went down to -- where the Hell was I -- sorry, Tucson, Arizona. I should not say Hell; I am sorry. That should not go in the record either.

(Laughter)

MS. McCARTHY: I went to Tucson and I spoke in front of the group of CEOs who represent the Rural Electric Coops. I really don't know why I decided to do that other than to

address the issue that you are talking about and the issue Chuck that you are raising. I mean these are groups that have no flexibility money wise. They were set up to service communities that cannot pay and that need the power. And it is going to be extremely important for us to figure out how we move those communities forward and don't just create standards that on the whole do really good for most of us but then present unique challenges that we have yet to address.

I thought the meeting went well until I was looking out at the faces and I realized that everybody thought I was an idiot. And in fact I asked them that. I said "does anybody believe anything I am saying?" And God love them, they all yelled "no" and then they said "but we think you are sincere." I said "so you think I am dillusional that is what it is?" It is a real challenge.

And we were talking about the issues of climate and it is going to be a real challenge for me to do exactly what you are challenging me to do Elizabeth but you are right to challenge it.

MR. KELLEY: Yes, thank you. I commend you for this gallant effort to help to clean up some of the emissions coming from start-up and shut-down at some of our refineries. I think it is a great job and I think it is a big job but I think it is something that can be done.

Because for years, not only in Port Arthur, Texas or

in Texas, but refineries have been using flaring and all of these start-up and shut-down excuses when they flare as a way of doing business; getting rid of various toxins that you know you just cannot dump -- let's just say it is very expensive to dump legally. And I watched this happen for over 20 years in my community so I think it is something that can be reduced if industry gets in there and they spend the necessary dollars to get rid of the antiquated equipment that a lot of these plants still have and they operate because it is cheaper to do so. We can achieve this goal and reduce the amount of flaring in our communities.

But the question I have is, will there be any fence-line monitoring of these facilities like the road-side monitors that are out there? What would be some of the benefits of that?

MS. McCARTHY: That is a really good question Hilton and we are actually moving forward and we have done a pilot looking at some new technologies that we have developed that are really cost-effective to do fence-line monitoring. OAQPS again has been working on this.

We did the pilot; it was very successful. What we have to figure out, and this was an issue that was raised on Monday, is how do we take advantage of that technology? How do we roll it out? How do we make it available? That is a challenge for us and it is one we have to look at.

But I could not agree with you more that the technology is available to address these issues and to do better fence-line monitoring and we have to make use of that. You thinking about that and helping me work through would be really helpful to me because I know we can do this.

MR. KELLEY: I would love to get with you on that.

MS. McCARTHY: We have refineries that are doing this. I have sat down with them and they have said "we do not flare anymore." They have figured out how to do it and they are making money almost in the second year.

MS. KELLEY: Well they are saving product; definitely

MS. McCARTHY: They are. So I don't doubt we can do that but I don't doubt that there is a mine field between us and accomplishing that.

MR. KELLEY: And I would just like to say for the record that when you talk about the issue of refineries and reducing emissions, this does not only include Texas but you have refineries all across this country that I believe this rule will apply to as well.

MR. RIDGWAY: Thank you. I am acting for a moment while Elizabeth is out. I have had my card up here so I am going to ask a couple of quick points here and then we are going to move right into the Conducting EJ Analysis: Definition of Solid Waste Rule just to let everybody know what

is going on.

So some quick points from John Ridgway, Department of Ecology. First, to the monitoring of the schools and the data collection, one of the concerns here is that, you even mentioned it yourself, after analysis some time mid-year we will hear more. I want to make a recommendation -- we have heard this also from the public last night to get that data out. If it can be live, all the better. Don't delay for the purpose of analysis to the extent possible to let others have access to it and analyze that right away.

Second, to the toxic release inventory and the emission standards, this is something I am very familiar with where the way annually air emissions are reported and they are the highest from a media sector emissions under the TRI, those calculations do not reflect reality. There is a huge disconnect. So whatever you can do to help TRI air release reporting be more reflective of reality rather than emissions and estimates, please do that; we will support you in that regard.

To chemical use, this is critical to all states, to the country, and whatever we can do to support that in terms of advice to EPA, please keep that in mind. That is fundamental to the big picture.

And then finally here is my question -- well one more point and we heard this last night too. Technology in

terms of monitoring equipment, there is much better technology out there to the extent that EPA can use newer technologies to get better numbers quicker, live; there is a lot of interest in that.

And my question is what about the international releases? And this gets to Alaska, the West Coast, where we have air pollution coming from other countries. Is there anything about the State Department or the fact that these are concentrating up in the Polar Regions where there are no facilities that are reporting; any comments on that?

MS. McCARTHY: Well I should tell you that Vernice saved me by telling me that as soon as the school data is QAQC'd it goes up live so thankfully your web has accomplished that.

I would also offer, I will take a look at the TRI data and we will see what we can do with that.

Chemical use is not necessarily anymore in my bailiwick although it still remains in my heart so I will work with Steve Owens and see if there is something that I can do to be helpful. But I do know that this is an area not only of tremendous interest to the Administrator but it is in her area of expertise. So she is all over the issues of TSCA reform and other issues that will hopefully fundamentally change the picture so that our agency is not just relegated to the clean-up part of the equation which would be really quite good I

think.

And on your last issued -- technology use we talked about a little bit.

Your last issue on the international issues, it is an area where actually my agency does do quite a bit of work. We tend not to advertise that. I think that there are other administrations where that was not quite as welcome but we will do a better job of talking about that and the challenges associated with it. But we do a tremendous amount of work working with other countries on pollutants that we know will have an impact to the United States and its citizens and residents. So we will take a look at how we communicate that more effectively.

MS. YEAMPIERRE: Thank you very much Gina. That was amazing; (Spanish). Right now we are going to break for lunch people; we are going to take --

(Simultaneous conversation)

MS. ROBINSON: There is the option of if we do yours now -- we know you guys have to be someplace at 1:45 so you can start for 2:00. And if we give them the half an hour that is on the calendar we have to make sure we keep to that so that we can have everybody get a break for lunch because people in the audience are starting and everybody at the table is starving. So we need to make sure that if we go through and give them their half an hour that we stick to that and

then break for lunch and get back here around whatever the agenda says because Gina has to catch a plane as well.

MS. BRIGGUM: So we are basically cutting that in half.

MS. ROBINSON: No, they originally only had half an hour for DSW and I would like to be able to give them that half an hour so that we can -- I mean the option was to break for lunch and come back and have them do that but that would be very tough. But I think they are prepared and we are prepared to recognize we only have 30 minutes; we need to give them their 30 minutes out of respect for that.

MS. YEAMPIERRE: What that would also mean is that you would have to limit your comments and not be repetitive and be very focused. And I am not sure that everyone has that discipline; I will be honest.

All right, so let's go.

Conducting EJ Analysis: Definition of Solid Waste Rule

Presentation

by Mathy Stanislaus, EPA Office of Solid Waste and Emergency Response

MR. STANISLAUS: Okay. Well thank you, thank you Gina for taking my time.

MS. MCCARTHY: See how well we work together.

MR. STANISLAUS: So I am very happy to be here to really talk about an issue and a significant environmental justice issue that I was met with literally in my first week