Message

From: Noe, Paul [Paul_Noe@afandpa.org]
Sent: 2/4/2025 5:29:52 PM
To: Voyles, Travis [voyles.travis@epa.gov]; McIntosh, Chad [mcintosh.chad@epa.gov]
CC: matt.hall@smurfitwestrock.com; timothywegner@packagingcorp.com; Widman, Katherine [Katherine_Widman@afandpa.org]
Subject: Meeting Request by Paper Mill Workers (Feb 4-Feb 6)
Attachments: PPRC Position Paper on Sustainable Manufacturing Jan. 2025.docx

Importance: High

Dear Travis and Chad:

I understand that the EPA team is still taking shape, but I wanted to let you know that there are over 90 pulp and paper mill workers who have flown into DC who are eager to meet with President Trump's team at EPA (as well as OMB and the White House). They could be available this week **starting today, Tuesday February 4 through Thursday February 6** to meet with you and other officials at EPA you think would be appropriate.

This group, the Pulp and Paperworkers' Resource Council (PPRC), is a grassroots organization of line workers in U.S. pulp and paper mills who often are members of major unions. The PPRC has an annual fly-in to meet with key policymakers about the importance of reasonable regulation to ensure a viable, competitive U.S. paper and wood products manufacturing industry and the high-paying jobs it provides. Over 90 mill workers is an all-time record for PPRC fly-in attendees. They are very enthusiastic about the administration's commitment to support U.S. manufacturing and its workers. My understanding is that the administration currently may not be meeting with industry trade associations, and AF&PA would not expect to be included in these meetings. My role is to help our mill workers to schedule meetings with the executive branch. They already have many meetings scheduled on Capitol Hill. During the first Trump Administration, the PPRC was pleased to meet with EPA, OMB, other White House offices, and other agencies.

Here is some additional background on the PPRC:

The PPRC website is here: https://thepprc.org/#about

Background information on the PPRC:

The Pulp and Paperworkers' Resource Council is a grassroots organization led by hourly employees advocating for the U.S. forest products industry. We are people dedicated to conserving the environment while taking into account the economic stability of the workforce and our surrounding communities. We support policies that encourage economic growth, abundant and sustainable fiber supply, and sensible science-based environmental policies.

The U.S. forest products industry is vitally important to our nation's economy, employing approximately 925,000 people. We rank among the top 10 manufacturers in 43 states and represent four percent of the total U.S. manufacturing gross domestic product (GDP).

Finally, attached is a PPRC position paper. This will give you a good feel for the issues that most concern them. As you can see, most are recent EPA major rules that are unachievable and unsustainable for the U.S. pulp, paper and wood products industry.

If a meeting is possible, please feel free to send a reply email including two PPRC representatives (copied here), Matt Hall (matt.hall@smurfitwestrock.com) and Tim Wenger (timothywegner@packagingcorp.com), and please copy me (Paul_Noe@afandpa.org).

If you have any questions, please feel free to call me at (703) 909-2895.

Thanks so much for your consideration.

Best regards,

Paul

Paul Noe
Vice President, Public Policy
Paul_Noe@afandpa.org
Office: (202) 463 - 2777
Cell: (703) 909 - 2895

AMERICAN FOREST & PAPER ASSOCIATION
601 Thirteenth Street NW, Suite 1000 N
Washington, D.C. 20005

Paul Noe
Vice President, Public Policy
Paul_Noe@afandpa.org
Office: (202) 463 - 2777
Cell: (703) 909 - 2895

AMERICAN FOREST & PAPER ASSOCIATION
601 Thirteenth Street NW, Suite 1000 N
Washington, D.C. 20005

PULP & PAPERWORKERS' RESOURCE COUNCIL

PULP AND PAPERWORKERS' RESOURCE COUNCIL est. 1991

Representing members of:
USW, IAM, IBEW, IBT, and
Forest Products Industry Workers
www.thepprc.org

The PPRC is a grassroots organization representing the interests of the nation's pulp, paper, solid wood products, and other natural resource-based workers. We are people dedicated to conserving the environment while taking into account the economic stability of the workforce and surrounding community.

PPRC Position Paper on Sustainable Manufacturing

PPRC believes effective partnership and continued collaboration with EPA, other agencies and Congress is crucial for positioning the U.S. as a global sustainability leader.

Cumulative Regulatory Challenge

- As the EPA and other agencies reconsider many final regulations of the Biden Administration – including for air quality, water effluent, solid waste and beneficial use of mill residuals, and our bioenergy – we urge the Trump Administration to apply the "best reading" of the statute and to consider the costs and unintended harms of these regulations, using the U.S. Supreme Court's recent decision in *Loper Bright v. Raimondo* as a guidepost. **These regulations, alone and especially in combination, would significantly increase the costs of the paper products we make and jeopardize the competitiveness of the U.S. paper industry and American manufacturing and the high-paying jobs it provides**.

- This could potentially cause leakage of U.S. manufacturing jobs to foreign competitors in countries that lack the environmental protections of the U.S., undermining American manufacturing competitiveness and jobs, harming rural communities, and increasing net emissions on the global scale.

Air Regulation and Permitting

- We recommend that, in developing Clean Air Act rules, EPA should consider environmental, social, and economic effects to set sustainable standards and policies to keep our mills competitive and promote job growth in our facilities. Air quality in America has improved dramatically in the last several decades due in part to more efficient, cleaner operating manufacturing plants, including paper mills.

PM NAAQS Rule:

- **Our industry is deeply concerned about EPA's recent sharp lowering of the National Ambient Air Quality Standard (NAAQS) for Particulate Matter (PM) close to background levels, which threatens modernization projects in manufacturing sectors across our country.** We already have some of the cleanest air in the world, and much tougher standards than our competitor nations. **Modernization projects at our mills and other manufacturing plants not only create jobs and ensure U.S. competitiveness in the global market, but also typically lower emissions per ton of production.**

- Accounting for approximately 5% of the total U.S. manufacturing GDP, the forest products industry employs 925,000 people that produce about $350 billion in products per year. Our facilities have an outsized impact on local communities – over 75% of all U.S. pulp and paper mills are located in counties that are more than 80% rural.

- Our mills often are located in rural areas – where the air typically is cleaner and theoretically in attainment with the NAAQS standards. But, ironically, the dramatically lower PM standard will have an **outsized adverse impact on our industry**, causing **immediate permit gridlock**. The "Catch-22" for mills and other manufacturing plants in cleaner attainment areas is that EPA makes its NAAQS standards **immediately effective** for cleaner attainment areas while providing more time and flexibility for non-attainment areas. The recent sharp lowering of the NAAQS leaves insufficient margins ("permit headroom") for permits to be approved, even in most attainment areas -- resulting in permit gridlock at manufacturing plants across our nation for modernization projects that typically are a win-win for U.S. manufacturing jobs and the economy as well as the environment.

- As part of the President's promise to reduce unreasonable regulatory burdens, **EPA should revisit the recent PM NAAQS given it was rushed, not adequately justified, and was not accompanied by an achievable implementation plan. In addition, EPA should address permitting gridlock by developing a credible and achievable implementation program based on sound technical and scientific principles.**

Good Neighbor Plan Rule:

- In addition, we recommend **EPA withdraw the 2023 "Good Neighbor Plan"** which inappropriately places enormous costs on many mills without appreciable air quality improvements. Even the U.S. Supreme Court recognized the rule failed to reasonably respond to public comments and issued a rare stay of the rule.

Pulp and Paper MACTs :

- Finally, as EPA contemplates further MACT regulations for pulp and paper mills, EPA should use both the Supreme Court's recent *Loper Bright* decision and the inherent flexibility in the Clean Air Act as its guideposts and **only regulate additional pollutants and equipment where "necessary" considering all relevant factors, including costs and actual risks**. Moreover, EPA should **avoid mandating burdensome and unreliable pollutant testing in its ongoing information collection this spring**. It is critical that EPA **consider the significant emission reductions already achieved through billions of dollars in capital improvements that led EPA to conclude that public health risks from current emissions are acceptable**.

Water Regulation and Permitting

- **We support attainable water quality standards that will allow mills to count on getting a permit to continue their operations.**

- Pulp and paper mills have invested billions of dollars to improve the quality of their water discharges (effluent) and collaborated with EPA, for example in the mid-1990s on its innovative pulp and paper cluster rule, which greatly reduced both air and water emissions in one comprehensive rulemaking.

- Those investments have yielded large water quality improvements. From 2000 to 2020, Total Suspended Solids (TSS) was reduced by 33 percent, Biochemical Oxygen Demand (BOD) by 28 percent, and Adsorbable Organic Halogens (AOx) by 60 percent.

- For EPA water regulatory policy, we recommend EPA considers:
    - For some pollutants, new standards can be approaching or even below background levels, making the standards unattainable, even with cost-prohibitive control technology. This can threaten a facility's ability to operate. Options such as a variance are extremely rare and subject to legal challenges by other parties, and thus do not provide the necessary regulatory certainty.
    - Achieving ultra-low standards frequently requires tertiary treatment, which can be extremely expensive, and also create negative environmental tradeoffs, such as increased energy use, greenhouse gas emissions, and solid waste.
    - Imposing expensive compliance obligations can threaten the viability and competitiveness of mills and the jobs and economic value they provide.

Water Permit Gridlock: EPA's Washington Human Health Water Quality Criteria Rule (WA HHWQC) and Tribal Reserved Rights Rule:

- Under the Clean Water Act, states have the primary responsibility for issuing water quality standards and establishing acceptable risk levels in those standards. Based on a novel and far-reaching tribal rights legal theory, EPA established extraordinarily stringent water policy in two rules, the HHWQC Rule for Washington State and the Tribal Reserved Rights Rule. Both rules will lead to unattainable water quality standards and unattainable limits in Clean Water Act NPDES permits essential to operate U.S. manufacturing plants and municipal facilities.

- **We recommend that EPA withdraw its recent approval of the Washington Department of Ecology HHWQC rule and reconsider its WA HHWQC Rule (RIN: 2040-AG21). We also recommend that EPA reconsider its Tribal Reserved Rights Rule (RIN: 2040-AG17).**

Beneficial Use of Mill Residuals and EPA CERCLA Rule Listing PFOA and PFOS as Hazardous Substances

- **We ask EPA and Congress to reconsider EPA's CERCLA rule listing PFOA and PFOA as hazardous substances and recognize the safe and beneficial use of paper mill residuals as a fertilizer or soil amendment and avoid other unintended harms of EPA's recent rule listing PFOA/PFOS as CERCLA hazardous substances.**

- In the papermaking process, a large quantity of mill residuals are generated that are largely composed of tree fiber (cellulose). These mill residuals often are used beneficially as fertilizers and soil amendments for agricultural or forest lands in lieu of chemical fertilizers, and provide many benefits that improve plant growth, including reduced soil erosion, less need for irrigation, increased soil nutrient-holding capacity, and reduced soil compaction.

- If P&P mill residuals can no longer be used as a fertilizer or soil amendment, then wasting and landfilling these beneficial materials, and the significant increase in greenhouse gases and conventional air emissions from transporting residuals by truck to specialized landfills, and the subsequent release of methane from those landfills, would result in a net negative environmental impact.

- Because PFAS such as PFOA and PFOS are widespread in the environment and have extremely low detection limits, they sometimes can be detected in a range of materials, including residuals, though at levels comparable or lower than the background levels found in house dust. These low levels in residuals are consistent with PFAS concentrations in water effluent data EPA reviewed for the Effluent Limitations Guidelines (ELG) Plan and residuals data published by the states.

- EPA's regulation issued under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) should have included a provision stating the land application of paper mill residuals falls within the scope of the "normal application of fertilizer" exclusion from CERCLA whenever the concentrations of PFOA and PFOS in residuals are comparable to levels found in conventional fertilizers and soil conditioners. Our request that the rule do so was modeled on EPA's position, since 1993, regarding land application of municipal biosolids as fertilizer or soil conditioner.

- **As Congress works on legislation to address PFAS, it should include language to avoid the unintended outcome of impeding the safe and beneficial use of paper mill residuals as fertilizer or soil amendments. EPA should reconsider the CERCLA rule to avoid a host of unintended outcomes that would result from the rule, including impeding the safe beneficial use of mills residuals.**

Biomass – Carbon Neutrality of Our Bioenergy:

- **We call on Congress, EPA, the Treasury Department and other policymakers to provide regulatory certainty for the carbon neutrality of the bioenergy produced at U.S. paper and wood products mills.** Unfortunately, for the last 15 years, we have sought regulatory certainty on the carbon benefits of our bioenergy from EPA and other agencies, and have yet to obtain it.

- The U.S. pulp and paper industry is a leading producer of carbon-neutral bioenergy from residuals of the manufacturing process. We use as much of the tree as possible to make pulp, paper, packaging, and wood products. Biomass residuals from the paper and wood products manufacturing process -- such as bark, liquid biomass from the papermaking process (i.e., black liquor), and paper recycling residuals -- are used to make approximately two-thirds of the energy used to power our mills, as well as to provide carbon neutral bioelectricity for the grid. Using these manufacturing residuals as a fuel source supports U.S. energy independence and provides a huge greenhouse gas reduction benefit, **equivalent to avoiding the emissions of about 35 million gasoline-powered cars.**

- The carbon benefits of using forest products manufacturing residuals are recognized globally, benefitting our competitors. Unfortunately, the United States is an outlier for failing to recognize the carbon benefits of our renewable biomass energy.

- **We ask Congress to include provisions in the upcoming Farm Bill recognizing the carbon neutrality of the bioenergy produced in pulp, paper and wood products mills.**

- **We also ask all agencies, including the Department of Treasury, Department of Energy, and EPA, to fully recognize in policies and regulations, including the clean electricity tax credits, the carbon benefits of the bioenergy produced in pulp, paper and wood products mills**

Message

From: Noe, Paul [Paul_Noe@afandpa.org]
Sent: 2/18/2025 10:45:00 PM
To: Voyles, Travis [voyles.travis@epa.gov]; McIntosh, Chad [mcintosh.chad@epa.gov]
CC: Bradner, Kai [Kai_Bradner@afandpa.org]
Subject: EPA Meeting Request
Attachments: EPA Meeting Request Voyles AFPA021825.pdf; AFPA Trump Letter and Attachment.pdf; Noe-TRRID-v14i1-2025.pdf

Dear Travis and Chad:

Please find attached a request by the American Forest & Paper Association (AF&PA) to meet with you and others on your team at EPA. Members of AF&PA's Environment Policy Committee can be available to meet in person on Tuesday April 8 or Wednesday April 9 between mid-morning to late afternoon. Please let us know which day is preferrable so we can set our meeting date.

Our top priority rules (detailed in our attached letter to President Trump) cut across air and climate, water, solid waste, and chemicals policy, and we also would like to discuss the new framework for interpreting statutes and implementing regulatory programs under the Supreme Court's *Loper Bright Enterprises v Raimondo* decision (a recent short article I wrote on this also is attached).

I am copying my colleague, Kai Bradner, who can assist with scheduling times convenient for you.

If you have any questions, please also feel free to call me on my cell (703) 909-2895.

Thank you for your consideration.

Best regards,

Paul

Paul Noe
Vice President, Public Policy
Paul_Noe@afandpa.org
Office: (202) 463 - 2777
Cell: (703) 909 - 2895

AMERICAN FOREST & PAPER ASSOCIATION
601 Thirteenth Street NW, Suite 1000 N
Washington, D.C. 20005

American Forest & Paper Association

February 18, 2025

Mr. Travis Voyles
Assistant Deputy Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., Room 1448K
WJ Clinton Building
Washington, D.C. 20460

Dear Assistant Deputy Administrator Voyles:

On behalf of the American Forest & Paper Association (AF&PA), I am writing to request a meeting with you and other EPA officials in relevant program and general counsel offices to discuss key regulatory priorities of our industry. Members of our Environment Policy Committee can be in Washington, D.C. to meet with you, preferably between mid-morning to late afternoon on Tuesday, April 8 or Wednesday, April 9, 2025. Please find enclosed our December 5 letter to President Trump, which provides a summary of AF&PA's key regulatory concerns and recommended reforms, many of which relate to EPA. As you can see, this includes air and climate, water, and solid waste regulations and policies, as well as the new framework for interpreting statutes and implementing regulatory programs under the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo (2024)*.

AF&PA represents U.S. manufacturers of pulp, paper, packaging, tissue and wood products with fact-based public policy and marketplace advocacy. More than 75 percent of forest products industry facilities are located in predominantly rural counties across America and are often the economic driver for their communities, large and small. The approximately 925,000 family wage jobs represent a $65 billion annual payroll, making our industry among the top 10 manufacturing sector employers in 43 states. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative - *Better Practices, Better Planet 2030*.

We will be in touch with your office shortly, but in the meantime, feel free to have your staff please contact Kai Bradner at 202-463-2721 or Kai_Bradner@afandpa.org with your availability. Thank you for your consideration.

Best Regards,

Paul Noe
Vice President, Public Policy

Enclosure

American Forest & Paper Association

Office of the President

December 5, 2024

Dear President-elect Trump,

On behalf of the American Forest & Paper Association (AF&PA) and our member companies, we congratulate you on your election to the Presidency. We look forward to working with you and your Administration to accomplish your agenda of growing the American manufacturing economy, creating new, high-paying jobs throughout our country, particularly in rural America, and ensuring that regulations are sustainable and do more good than harm. The forest products industry accounts for approximately 5% of the total U.S. manufacturing GDP, manufactures about $350 billion in essential products annually and employs about 925,000 people. The industry meets a payroll of about $65 billion annually. We are U.S. Manufacturing!

AF&PA serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recyclable resources, generate renewable bioenergy and are committed to continuous improvement through the industry's sustainability initiative — Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future.

Manufacturing Excellence and Value to Rural Communities

The forest products industry is a top ten manufacturing employer in 43 states – such as Wisconsin, Georgia, Pennsylvania, North Carolina, Michigan, Virginia, South Carolina and Ohio. Over 75 percent of our member company facilities are in counties that are overwhelmingly rural. Our facilities and our member companies provide good, high-paying, family-wage jobs, and our employees are the backbone of these communities.

We are proud of the hard-working men and women in our industry who work every day to bring essential products to all Americans, and we maintain strong relationships with our labor partners. The facilities and workers generate a strong tax base for these communities and support multiple small businesses, landowners, and others throughout the forest products industry supply chain. We estimate that each forest products industry job supports 3.25 additional jobs in supplier industries and in local communities across rural America.

Cumulative Burden of Regulations Undermine U.S. Innovation and Job Growth

We believe the American free enterprise system has been a significant engine for prosperity and can deliver a promising future for the United States and the world. The U.S. manufacturing sector has been a fundamental driver of this success, but our nation faces growing challenges in a highly competitive global economy. The cost, complexity and volume of regulations is greater than ever. As a result of our cumbersome air and water permitting processes, manufacturers that want to expand and create jobs with cleaner, more efficient technology are often stymied.

At the same time, we recognize that reasonable, evidence-based regulations can provide important benefits, such as the protection of the environment, health, and safety for our country, communities and employees. Unfortunately, poorly designed regulations that fail to balance costs and benefits and disregard the best available science unintentionally can cause more harm than good, waste limited resources, undermine sustainable development, and erode public confidence in government.

The U.S. Supreme Court recently made clear that regulators must follow the best reading of statutes; they must only act within the boundaries of their statutory authority, and consider all relevant factors, including balancing costs and benefits. Accordingly, it is essential that regulations be designed to provide net benefits to the public based on best available scientific and technical information through a transparent and accountable rulemaking process, with due consideration of the cumulative regulatory burden.

Your administration and Congress have an historic opportunity to dramatically improve the regulatory process to better serve the public interest, create jobs, and strengthen the competitiveness of American manufacturing. We welcome the opportunity to talk with your team about systemic reforms to our regulatory process. In addition, while not exhaustive, we have attached a list of over a dozen of our top priority regulations we request be considered for immediate attention. In addition, priority issue areas for our members include:

Carbon Neutrality of Biomass

One of the primary policy challenges for our industry is ensuring the federal government recognizes the carbon neutrality of our biomass energy. The pulp and paper industry is a leading producer of carbon-neutral bioenergy, and our efficient use of forest products manufacturing residuals provides two-thirds of the energy used at our pulp and paper mills and also provides bioelectricity for the grid. For many years, the Environmental Protection Agency (EPA) had treated biomass as carbon neutral, in line with the rest of the world, but in 2010, EPA issued its Tailoring Rule which for the first time failed to recognize the carbon benefits of our bioenergy and created regulatory uncertainty that impedes investment planning and growth. Since then, the EPA has done extensive work on bioenergy, and in 2017, came very close to formally recognizing the carbon neutrality of biomass. Unfortunately, the rule was never made final, and we have continued to work extensively with federal agencies and Congress to resolve this lingering regulatory uncertainty.

Tax Reform

Our industry is made up of both C-corporations and pass-through entities, which invest heavily in equipment and improvements, making our industry one of the most capital-intensive among all US manufacturing. The paper and wood products industry invests roughly $16 billion per year in plant and equipment items such as recovery boilers, turbine generators, paper machines, and environmental controls that are critical to maintaining technologically advanced manufacturing facilities that compete in an extremely competitive global marketplace.

As an industry that is a key economic driver, especially in rural communities, we support several key elements of the US tax code including the 21 percent corporate rate enacted as part of the 2017 Tax Cuts and Jobs Act (TCJA), restoring 100 percent full expensing for investments in new and used property, maintaining the TCJA's original interest deduction limitation provision, and restoring the full research and development tax credit as enacted. Finally, as a globally competitive industry, it is crucial that we ensure the United States is on a level playing field with other countries – TCJA had a number of provisions designed to encourage businesses back to the United States and make them competitive with other countries. We need to ensure those provisions are preserved.

Trade

U.S. forest products exports account for a significant piece of the industry's total sales and in 2023, the industry's global exports totaled over $9 billion. AF&PA strongly supports free but fair trade and in today's globalized market, it is critical for the U.S. forest products manufacturing sector to achieve unrestricted access to international markets and level the playing field among international competitors by eliminating both tariff and non-tariff barriers such as restrictive import regulations.

AF&PA member companies procure the vast majority of their fiber from healthy, American forests but our companies also procure some fiber from key trading partners and additional tariffs would negatively impact the U.S. forest products industry's ability to compete with other international forest products producers. Additionally, some paper manufacturing machinery and equipment that is used by our member companies to produce our essential products comes from other countries and cannot currently be made in the United States. While we support domestic manufacturing policies that will ultimately make that possible, we oppose tariffs on machinery and pieces of equipment our companies use that objectively cannot be made in the U.S.

In 2023, the European Union (EU) enacted the EU Deforestation-free Regulation (EUDR), a regulation that aims at eliminating products sold in the EU that are linked to deforestation, is unworkable and disadvantages the U.S. forest products industry, small U.S. family forest owners, and threatens to disrupt trade with the EU valued at more than $3.5 billion. The U.S. forest products industry is among the most responsible suppliers of forest fiber in the world, and a strong proponent of international efforts to suppress deforestation and forest degradation. The prescriptive requirements of the regulation, however, will unjustifiably increase compliance costs and weaken U.S. producers' market access to established EU trading partners.

The U.S. forest products industry does not contribute to global deforestation or forest degradation, and we will need your direct engagement with EU government authorities to ensure U.S. wood, pulp and paper producers and our supply chain, which includes nearly 11 million small, private landowners, can remain competitive and continue to ship our essential products into the EU without disruption.

Recycling Policy
Paper recycling is a success story, no matter how you measure it. Paper is one of the most widely recycled materials in America, and paper recycling rates in the U.S. have consistently increased in recent decades. In fact, the paper industry recycles nearly 60% more paper today than it did in 1990, when the industry set its first recycling rate goal. In 2023, the paper recycling rate was 65-69% and the rate for cardboard recycling was 71-76%. In the United States, paper is recycled into new products every day.

The success of paper recycling has been accomplished through our industry's voluntary leadership and investment in market-based solutions. The use of recycled paper in manufacturing is driven by availability, performance, and cost, allowing recovered paper to be directed toward its highest-value end use. While nearly half of our industry's fiber needs are satisfied from recycled fiber, fresh fiber from sustainably managed forests is also a crucial source of material to sustain the fiber supply. We do not support government mandates for postconsumer recycled content in specific products. We support the U.S. EPA waste hierarchy, which recognizes a clear distinction between recycling and energy recovery and prioritizes recycling.

Conclusion
Again, we want to congratulate you on your election victory. We look forward to working with you over the next four years to enact policies that will allow pulp, paper, packaging and wood products manufacturers to continue as an American success story. Please let us know how we can assist your team in this endeavor.

Sincerely,

Heidi Brock

Heidi Brock
President and CEO
American Forest & Paper Association

Cc: Vice-President elect J.D. Vance

Attachment

American Forest & Paper Association

Summary of Key Regulatory Concerns of AF&PA and Recommended Reforms (Dec. 2024)

The regulations and recommended reforms summarized below cut across many regulatory areas, such as the environment, energy and product-specific issues. While each regulation has its own technical aspects, a common thread across them all is the adverse impacts they have on the competitiveness of U.S. pulp, paper and wood products manufacturers, which must operate efficiently to successfully compete in our global marketplace. The U.S. forest products industry provides family wage jobs that support rural communities across America. Our industry employs 925,000 hard-working people who make essential paper and wood products that over 330 million Americans, as well as billions more around the world, depend on in their daily lives.

Environmental Protection Agency:

- **Carbon Neutrality of Biomass:**

Paper and wood products mills are the largest producers and users of carbon-neutral bioenergy of any other industrial sector. Unfortunately, EPA's policy shift in 2010 on biogenic CO_2 emissions has created counterproductive regulatory uncertainty for the industry that has lingered for almost 15 years.

  - **We recommend that bioenergy produced by pulp, paper and wood products mills be considered carbon neutral in rules and policies by EPA, as well as in the clean electricity tax credit rules and policies by the Department of Treasury, and by other relevant agencies.**

- **Air Permit Gridlock and PM NAAQS:**

Every five years, EPA must decide whether its National Ambient Air Quality Standards (NAAQS) are sufficiently protective of public health. Over time, as NAAQS (for particulate matter (PM), ozone, sulfur dioxide and nitrogen oxides) have been lowered close to background levels, it has become increasingly difficult to get permits approved for projects to modernize, expand, or build state-of-the-art American manufacturing plants. Given extremely stringent NAAQS recently issued by EPA, especially the PM NAAQS, a broad array of American industries, in addition to ours, across our country now face permitting gridlock. EPA should modernize its air permitting process based on credible approaches and adjust its modeling criteria to reflect actual impacts. The challenges with the ever-lower NAAQS are exacerbated by a lack of a credible

implementation plan, including inappropriate emission measurement methods, poor estimates of emissions, use of unrealistic air dispersion models, and several unduly rigid permitting policies.

- **We recommend that EPA withdraw and reconsider the recent PM NAAQS due to its flawed and legally questionable rushed review, the failure to provide a workable implementation plan, and the scientific uncertainties. (RIN 2060-AV52)**
- **We recommend that EPA address the air permitting gridlock given the lack of "headroom" by committing sufficient resources to develop a credible NAAQS implementation program based on the best technical practices, including using more realistic receptor locations and emissions, exposures, and modeling data within the next year.**

- **PFAS Regulations (CERCLA Listing of PFOA/PFOS as Hazardous Substances; SDWA Maximum Contaminant Level (MCL)):**

In paper products manufacturing, sustainable materials management includes the beneficial use of paper mill residuals, largely composed of tree fiber, as a fertilizer. These mill residuals can be beneficially used for agricultural or forest lands, providing reduced soil erosion, less need for irrigation, increased soil nutrient-holding capacity, and reduced soil compaction, all of which significantly improves plant growth. It is important to ensure that the listing of PFOA and PFOS as hazardous substances under CERCLA does not lead to unintended outcomes, including impeding or preventing the safe and beneficial use of paper mill residuals as fertilizer.

Paper mills also sometimes serve as small drinking water systems for workers and local communities, and any drinking water MCLs under the Safe Drinking Water Act (SDWA) should be consistent with the law's requirements, including requirements for quality of science and data, as well as consideration of cost to all categories of public water systems.

- **We recommend that EPA reconsider the CERCLA Rule, which is legally flawed and could produce a host of unintended outcomes (RIN: 2050-AH09).**
- **We recommend that EPA reconsider the PFAS MCL Rule, to ensure it is consistent with the law's requirements for quality of science and data and the consideration of cost (RIN: 2040-AG18).**

- **Water Permit Gridlock and Human Health Water Quality Criteria (HHWQC):**

Under the Clean Water Act, states have the primary responsibility for issuing water quality standards and establishing acceptable risk levels in those standards. Based on a novel and far-reaching legal theory, EPA has established extraordinarily stringent water policy in two rules, the HHWQC Rule for Washington State and the Tribal Reserved Rights Rule. Both rules will lead to unattainable water quality standards and unattainable

limits in Clean Water Act NPDES permits needed to operate U.S. manufacturing facilities.

- **We recommend that EPA reconsider the HHWQC Rule for Washington State (RIN: 2040-AG21) and the Tribal Reserved Rights Rule (RIN: 2040-AG17).**

- **Pulp and Paper MACT Risk and Technology Reviews:**

The pulp and paper industry has invested billions of dollars to significantly reduce hazardous air pollutants (HAPs) from its operations due to stringent Maximum Achievable Control Technology (MACT) requirements set under section 112 of the Clean Air Act. EPA determined that the remaining public health risk at both pulp and paper mills is acceptable based on a thorough analysis of post-MACT emissions. In 2020, a federal circuit court remanded back to EPA the "Pulp MACT" (Subpart MM National Emissions Standard for Hazardous Air Pollutants (NESHAP)), ruling EPA failed to revise the MACT as required under section 112(d)(6). *See Louisiana Environmental Action Network v EPA*, 955 F.3d 1088 (2020) ("*LEAN*").

EPA recently has misinterpreted their obligation under *LEAN* (and section 112(d)(6)) to set standards for more HAPs and more equipment at facilities. Section 112(d)(6) obligates EPA to "review and revise as ***necessary***," which is broad language that courts have interpreted in similar situations as requiring the consideration of all relevant factors, including costs, and balancing costs and benefits before imposing any new obligations. The recent Supreme Court *Loper Bright Enterprises* decision provides further support that EPA should change its approach to reviewing NESHAPs such as the Pulp and Paper MACTs.

In November 2024, EPA initiated its review of the Pulp MACT by sending a comprehensive survey of pulp mill operations and equipment to seven major companies. Once responses are evaluated, EPA plans to require about 200 HAP tests at 45 mills costing several million dollars. (EPA is simultaneously reviewing the "Paper MACT," so called the Subpart S NESHAP, and plans to send out a similar survey in 2025 and mandate additional HAP testing in 2026.) Unfortunately, much of the HAP testing data will be hard to assess due to poor quality and variability.

- **We recommend that EPA reconsider its plans to require pulp mills to undertake extensive HAP testing next spring by first determining whether new standards are "necessary" for each HAP-equipment combination -- considering all relevant factors, including public health risks, likely control costs, technical feasibility to accomplish testing, adequacy of current requirements, value of additional data and other relevant factors.**
- **Based on an assessment of public health benefits and costs (including any new test data) under section 112(d)(6), we recommend that EPA promptly complete its review of the pulp and paper MACT and only set new standards**

(either work practices or limits) that are "necessary" and reasonable and achievable.

- **Formaldehyde Risk Evaluation**

Under TSCA as amended, EPA's evaluation of priority chemicals has focused mainly on hazards and making unduly conservative assumptions about exposures, which leads to unnecessarily stringent and unworkable regulation. EPA routinely relies on conservative hazard determinations rather than the weight of the scientific evidence, as TSCA requires. EPA also is creating occupational exposure levels for existing chemicals in commerce even if the chemical has been adequately regulated by OSHA, which has led to confusing regulatory duplication.

An example of the problems in the chemical risk evaluation process under TSCA is its current draft Risk Evaluation for Formaldehyde. EPA calculated an extremely stringent occupational exposure level that is below background concentrations of formaldehyde in the air. Even facilities that do not use formaldehyde directly in manufacturing will have difficulty meeting the EPA level, which is far lower than the existing and protective OSHA permissible exposure level and much lower than occupational levels developed in Europe and other countries. EPA must incorporate the best available science in rulemaking to comply with TSCA and to ensure the U.S. is on a level playing field with its competitors around the world.

- **We recommend that EPA revise its formaldehyde risk evaluation under TSCA.**
- **We recommend that EPA use the best available science when evaluating chemicals such as formaldehyde and rely on the work of authoritative scientific bodies instead of operating independently and ignoring the weight of the scientific evidence.**

- **Good Neighbor Plan:**

In 2023, EPA promulgated the so-called Good Neighbor Plan regulation under the Clean Air Act to impose control requirements for nitrogen oxide (NO_x) emissions in 23 states from fossil fuel boilers in power plants -- and for the first time -- seven manufacturing industries, including paper mills. EPA ignored AF&PA's comments showing that the paper industry should have been excluded from the rule, both because the paper industry's emissions were below EPA's emissions threshold and because its very high control costs exceeded EPA's cost threshold.

States, AF&PA, and other industries challenged the rule. In June 2024, the U.S. Supreme Court issued a rare stay of the rule pending review on the merits by the D.C. Circuit Court of Appeals. *See Ohio v EPA*, 144 S. Ct. 2040 (2024), which found that industry petitioners likely would succeed on the merits.

- **We recommend that EPA withdraw and reconsider the Good Neighbor Plan (RIN: 2060-AV51)**

Department of Labor, Occupational Safety and Health Administration (OSHA):

- **OSHA Heat Injury and Illness Prevention Proposed Rule:**

AF&PA recognizes the importance of protecting workers from heat-related injury and illness and wants to accomplish this objective in a practical, reliable, and scientifically sound manner. We understand OSHA's desire to establish a baseline for workplaces to address this hazard, but the scope of the rulemaking covers a very broad range of industries (including both outdoor and indoor work), regional climates, and worker populations. The rule needs to provide significant flexibility across workplaces to effectively manage the hazard of heat. AF&PA members already employ many controls outlined in the proposed rule and effectively protect workers from heat on a site-specific basis. Like other industries, we are concerned that certain aspects of the proposed rule are unreasonably prescriptive, burdensome, and unnecessary – and could be counterproductive.

- **We recommend that OSHA carefully review the proposed heat rule (RIN:1218-AD39) to add flexibility and recognize the effective efforts currently underway.**

Securities and Exchange Commission (SEC) and Federal Acquisition Regulatory (FAR) Council

- **Greenhouse Gas Reporting and Goals Rules (SEC Climate Disclosure Rule; FAR Council Proposed Rule on Greenhouse Gas (GHG) Emissions Reporting and Goals for Federal Contractors):**

As part of the Biden Administration's "whole of government" approach to climate regulation, the SEC finalized a rule requiring publicly listed companies to extensively report on their GHG emissions. In addition, the FAR Council (the General Service Administration, the Department of Defense, NASA, and OMB's Office of Federal Procurement Policy) proposed an extraordinarily far-reaching rule to require both GHG emissions reporting as well as GHG reduction goals by major federal contractors. Both rules raised a host of legal and practical concerns, and the SEC final rule currently is under legal challenge.

- **We recommend that the SEC reconsider and revise its climate disclosure rule (RIN: 3235-AM87) to ensure it is within the bounds of its statutory authority and is not arbitrary and capricious or counterproductive.**

- **We recommend that the FAR Council withdraw its GHG emissions reporting and goals proposed rule (RIN: 9000-AO32) given its host of legal flaws and potential unintended outcomes.**

Department of Treasury

- **Clean Electricity Tax Credits:**

Under the Inflation Reduction Act, the Department of Treasury was required to issue regulations to implement the production tax credit and investment tax credit under sections 45Y and 48E of the Internal Revenue Code. Under the IRA, qualified facilities have a greenhouse gas emissions rate of not greater than zero. AF&PA filed with Treasury extensive comments and many scientific studies showing that the energy systems at pulp and paper mills should be included as qualified facilities in Treasury's final rule and annual table.

- **If pulp and paper mills' energy systems are not included as qualified facilities in the final rule (RIN: 1545-BR17) and annual table, we recommend that the final rule and annual table be withdrawn and reconsidered.**

Federal Trade Commission (FTC)

- **Green Guides Update:**

The Green Guides provide guidance to help marketers avoid making environmental claims that mislead consumers. The FTC is in the process of finalizing an update to the Green Guides. AF&PA supports the update of the Green Guides and looks forward to the opportunity to comment on the proposed updates.

- **Updating the Green Guides to reflect current trends and concerns in the marketplace is important to ensure consistency across states and avoiding a potential patchwork of state regulation of marketing claims.**

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LOPER BRIGHT AND THE ASCENDANCY OF THE COST-BENEFIT STATE

Paul R. Noe[†]

The Supreme Court's overturning of *Chevron* deference in *Loper Bright Enterprises v. Raimondo*[1] launched an earnest debate about the decision's implications. Understandably, the debate focused on the expected impact of *Loper Bright's* standard for judicial review of agency statutory interpretations on agency win rates, with some legal scholars predicting that applying the "due respect" standard articulated in *Skidmore v. Swift & Co.*,[2] as *Loper Bright* provides for, will not change the outcome in most cases.[3] One issue that has not received the attention it deserves, however, is that *Loper Bright* also significantly advanced what President Barack Obama's former regulatory czar and leading academic Cass Sunstein has called the "cost-benefit state"—the principle that "government regulation is increasingly assessed by asking whether the benefits of regulation justify the costs of regulation."[4]

[†] Former Counselor to the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, where the author worked on the cost-benefit approach in an EPA regulation affirmed by the Supreme Court in *Entergy v. Riverkeeper, Inc.*, 556 U.S. 208 (2009). The views expressed in this essay are the author's own. The author thanks thoughtful reviewers for their comments, including Jonathan S. Masur, Caroline Cecot, Adam White, Brian Chilton, Tom Walton, and Richard Belzer.

[1] 144 S. Ct. 2244 (2024).

[2] 323 U.S. 134, 140 (1944) (holding that an agency's interpretation of a statute does not bind a reviewing court, that a court may accord "respect" to an agency depending upon the "thoroughness evident in [the agency's] consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control").

[3] *See, e.g.*, Richard J. Pierce, Jr., Loper Bright Enterprises v. Raimondo, Chevron *is Dead; Long Live* Skidmore, GEO. WASH. L. REV. ON THE DOCKET (July 8, 2024), https://www.gwlr.org/loper-bright-enterprises-v-raimondo-chevron-is-dead-long-live-skidmore [https://perma.cc/E2FE-R3QQ] (predicting that *Loper Bright* "will have only a modest effect on the likelihood that any agency will win or lose in a particular case" and that "agencies now will lose about 10 percent of the cases that agencies would have won" under the previous *Chevron* deference doctrine).

[4] CASS R. SUNSTEIN, THE COST-BENEFIT STATE: THE FUTURE OF REGULATORY PROTECTION (2002); *see also*, *e.g.*, Jonathan S. Masur & Eric A. Posner, *Cost-Benefit*

The consensus on the cost-benefit state is reflected in a series of presidential orders over many decades.[5] These executive orders recognize that, despite its limitations, benefit-cost analysis (BCA) is the best decisional tool to ensure that regulation enhances, not undermines, societal well-being.[6] As the Office of Information and Regulatory Affairs (OIRA) during the Clinton Administration put it:

> [R]egulations (like other instruments of government policy) have enormous potential for both good and harm. Well-chosen and carefully crafted regulations can protect consumers from dangerous products and ensure they have information to make informed choices. Such regulations can limit pollution, increase worker safety, discourage unfair business practices, and contribute in many other ways to a safer, healthier, more productive, and more equitable society. Excessive or poorly designed regulations, by contrast, can cause confusion and delay, give rise to unreasonable compliance costs in the form of capital investments, labor and ongoing paperwork, retard innovation, reduce productivity, and accidentally distort private incentives.
>
> The only way we know to distinguish between the regulations that do good and those that cause harm is through careful assessment and evaluation of their benefits and costs. Such analysis can also often be used to redesign harmful regulations

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Analysis and the Judicial Role, 85 U. CHI. L. REV. 935 (2018); Cass R. Sunstein, *Cost-Benefit Analysis and Arbitrariness Review*, 41 HARV. ENVTL. L. REV. 1 (2017) [hereinafter Sunstein, *Arbitrariness Review*]; Paul R. Noe & John D. Graham, *The Ascendancy of the Cost-Benefit State*?, 5 ADMIN. L. REV. ACCORD 85 (2020).

[5] *Compare* Exec. Order No. 12,291, 3 C.F.R. § 127 (1981), *reprinted in* 5 U.S.C. § 601 (1982) (Reagan & George H.W. Bush), *with* Exec. Order No. 12,866, 3 C.F.R. § 638 (1993), *reprinted in* 5 U.S.C. § 601 (1994) (Clinton, George W. Bush, Obama, Trump & Biden), *and* Exec. Order No. 13,563, 3 C.F.R. § 215 (2011), *reprinted in* 5 U.S.C. § 601 (2012) (Obama, Trump & Biden).

[6] BCA is "[a] systematic quantitative method of assessing the desirability of government projects or policies when it is important to take a long view of future effects and a broad view of possible side-effects." OFF. OF MGMT. & BUDGET, EXEC. OFF. OF THE PRESIDENT, OMB CIRCULAR NO. A-94, GUIDELINES AND DISCOUNT RATES FOR BENEFIT-COST ANALYSIS OF FEDERAL PROGRAMS, Appendix A (1992). BCA includes calculating and comparing the benefits and costs of regulatory options, including accounting for foregone alternatives and the status quo, with the goal of identifying the option that will maximize societal welfare. The terms BCA and "cost-benefit analysis" are often used interchangeably. BCA is used in this article because it is the term preferred by most practitioners. *See* SOC'Y FOR COST-BENEFIT ANALYSIS, *About SBCA*, https://benefit costanalysis.org [https:// perma.cc/W8PL-QNTU] (last visited Nov. 15, 2024). BCA is a positive method, a technical activity to reveal "what is," while benefit–cost balancing is a normative decision-making rule about "what ought to be." Noe & Graham, *supra* note 4, at 89 n.8.

> so they produce more good than harm and redesign good regulations so they produce even more net benefits.[7]

Unfortunately, the benefit-cost executive orders "have been far less effective than they could have been."[8] *Loper Bright* should significantly change that.

THE "BEST READING" OF STATUTES SHOULD CURB ONE OF THE GREATEST IMPEDIMENTS TO THE COST-BENEFIT STATE

In *Loper Bright*, the Supreme Court overruled the *Chevron*[9] doctrine because it violated the Administrative Procedure Act (APA).[10] The Court instructed the lower courts that going forward under the APA—and under "the traditional understanding of the judicial function" that the APA incorporates[11]—they "must exercise independent judgment" in determining the "best reading" of statutory provisions,[12] applying the traditional tools of statutory construction.[13] This has major ramifications for the cost-benefit state.

To be sure, public policy problems often have many causes, and so too do the impediments to the cost-benefit state.[14] "But one of the greatest, yet most readily addressable, impediments to the cost-benefit state is that regulatory agencies have interpreted their statutes to limit their obligation to fully engage in benefit-cost balancing and thus to comply with the presidential directives."[15]

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[7] OFF. OF INFO. AND REGUL. AFFS., OFF. OF MGMT & BUDGET, EXEC. OFF. OF THE PRESIDENT, REPORT TO CONGRESS ON THE COSTS & BENEFITS OF FEDERAL REGULATION 10 (1997); *see also* John D. Graham, *Saving Lives Through Administrative Law and Economics*, 157 U. PA. L. REV. 395, 487 (2008).

[8] *See* Noe & Graham, *supra* note 4, at 93.

[9] Chevron U.S.A., Inc. v. Nat. Res. Def. Council, 467 U.S. 837 (1984).

[10] *See* Loper Bright Enters. v. Raimondo, 144 S. Ct. 2244, 2265 (2024) ("*Chevron* defies the command of the APA [5 U.S.C. § 706] that 'the reviewing court'—not the agency whose action it reviews— is to 'decide *all* relevant questions of law' and 'interpret ... statutory provisions.'") (quoting *Chevron*, 467 U.S. at 843 n.11).

[11] *See id.* at 2262.

[12] *Id.* at 2262–63.

[13] *See id.* at 2264.

[14] *See* Noe & Graham, *supra* note 4, at 93–94 & nn.21–26 (expressing concerns about the institutional limitations of agencies and OIRA, including bureaucratic turf battles, failure to use internal and external expertise, bias, OIRA's lack of resources, the volume of rules not submitted for OIRA review, interest group dynamics and presidential electoral politics, poor compliance with the benefit-cost executive orders and guidelines, and the lack of judicial enforcement).

[15] *Id.* at 94; *see also id.* at 94 n.25 ("We use the term 'benefit-cost balancing' consistent with the executive orders on regulatory planning and review. At a minimum, the benefits of the rule should justify its costs. In its more robust form, benefit-cost balancing should, all else being equal, lead to the selection of the regulatory alternative that maximizes net benefits."); John D. Graham & Paul R. Noe, *A Paradigm Shift in the Cost-Benefit State*, REGUL. REV. (Apr. 26, 2016), https://theregreview.org/2016/04/26/graham-noe-shift-in-the-cost-benefit-state/ [https://perma.cc/QSU3-3Q59] ("[A]gencies too often interpret

The *Chevron* deference doctrine enabled this fundamental dysfunction. Despite the longstanding benefit-cost presidential orders and interagency regulatory reviews led by OIRA, agencies regulating under a wide swath of statutory provisions often claimed that statutory provisions either prohibited BCA or constrained them to one of many less optimal forms of cost analysis, such as cost-effectiveness analysis or feasibility analysis[16]—if they engaged in any cost analysis at all.[17] That holds not only for the executive agencies subject to the presidential orders, but also for the independent regulatory agencies that the orders unfortunately do not cover.[18] In some cases, agencies used *Chevron* deference to promulgate regulations—including deregulatory actions—that evidently did not pass muster under BCA.[19]

Thus, *Chevron* deference enabled regulatory whiplash and undermined reliance interests.[20] One important way it did so was to enable agencies to operate outside the bounds of the long-accepted cost-benefit framework.

A close review of a host of statutory interpretations shows that such anti-BCA interpretations, if not implausible, are hard to justify as the "best reading" of the statute required by *Loper Bright*.[21] Although many statutes are silent or ambiguous on the role of BCA, in *Entergy Corp. v. Riverkeeper, Inc.*[22] and *Michigan v. EPA*,[23] the Supreme Court applied the classic *State*

[statutes that are silent or ambiguous on benefit-cost balancing] as only allowing limited consideration of costs and benefits.").

[16] *See* Jonathan S. Masur & Eric A. Posner, *Norming in Administrative Law*, 68 DUKE L. J. 1383, 1388–93 (2019); Noe & Graham, *supra* note 4, at 117–18.

[17] *See* Noe & Graham, *supra* note 4, at 112–129.

[18] *See, e.g.*, *id.* at 128–29 (analyzing Business Roundtable v. SEC, 647 F.2d 1144, 1148–49 (D.C. Cir. 2011)).

[19] *See, e.g.*, Jonathan S. Masur & Eric A. Posner, *Chevronizing Around Cost-Benefit Analysis*, 70 DUKE L.J. 1109, 1116, 1123–24 (2021) (providing examples of agencies using *Chevron* to promulgate regulations that failed BCA).

[20] *See, e.g.*, Richard J. Pierce, Jr., *Two Neglected Effects of* Loper Bright, REGUL. REV. (July 1, 2024), https://www.theregreview.org/2024/07/01/pierce-two-neglected-effects-of-loper-bright/ [https://perma.cc/FU6F-ST85].

[21] *See, e.g.*, Noe & Graham, *supra* note 4, at 112–129; Masur & Posner, *supra* note 4, at 981 (arguing that "agencies should use [BCA], and courts are capable of forcing them to do so"); *id.* at 982–86 (appendix listing many statutory provisions that could be revisited); Jonathan S. Masur & Eric A. Posner, *Against Feasibility Analysis*, 77 U. CHI. L. REV. 657, 713–16 (2010) (appendix listing statutes that could be revisited).

[22] 556 U.S. 208, 222 (2009) (holding that EPA reasonably interpreted a Clean Water Act provision that is silent on cost but requires the "best technology available for minimizing adverse environmental impact" to allow a BCA approach). Notably, even though Justice Scalia cited *Chevron*, he also applied the traditional tools of statutory construction to hold that the statutory standard could reasonably be read to require efficient control technology. *See id.* at 217–223 (analyzing the statutory text as well as the text and structure of parallel Clean Water Act provisions).

[23] 576 U.S. 743, 752 (2015) (holding that EPA misconstrued the "capacious" statutory language "appropriate and necessary" as prohibiting it from considering the cost of implementing a regulation). Despite the *Chevron* deference doctrine, Justice Scalia concluded that the meaning of the statutory provision, read in context, was clear and thus did not warrant *Chevron* deference. *See id.*

Farm precedent—which held that reasoned decision-making requires consideration of all relevant factors[24]—to establish the background principle that regulatory agencies must consider costs and benefits, unless Congress explicitly prohibits doing so.[25]

Statutes can broadly be grouped into three categories: (1) statutes that seem to *require*[26] *or authorize* BCA; (2) statutes that are *silent or ambiguous* on BCA, such as technology-forcing statutes (for example, statutes that require the "best" technology)[27] or statutes that contain a broad "omnibus factor"[28] requiring consideration of all relevant factors (for example, statutes that authorize an agency to regulate as "appropriate," "reasonable," "necessary," "relevant," "practical," or "in the public interest"); and (3) statutes that seem to *prohibit* BCA.[29] Careful reviews have shown that there are very few statutes that prohibit BCA, and the combination of the first two categories under the cost-benefit default rule, which is further discussed below, means that the vast majority of regulatory statutes *require* BCA.[30]

Going forward, agencies claiming that a statute prohibits them from considering costs will bear the burden of showing that this is the best reading of the statute, without a thumb on the scale.

THE COST-BENEFIT DEFAULT RULE INFORMS THE "BEST READING" OF STATUTES AND "REASONED DECISION MAKING"

Loper Bright makes clear that, in exercising the independent judgment required by the APA, courts must ensure that (1) there has been a lawful delegation of authority from Congress to the agency; (2) the agency acted within statutory limits, and (3) the agency engaged in "reasoned decision

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[24] Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983).

[25] *See, e.g.*, Graham & Noe, *supra* note 15; Sunstein, *Arbitrariness Review*, *supra* note 4, at 40; Masur & Posner, *supra* note 4, at 976–81; Noe & Graham, *supra* note 4, at 85–87, 108–111.

[26] Noe & Graham, *supra* note 4, at 126–29; *see, e.g.*, Business Roundtable v. SEC, 647 F.3d 1144 (D.C. Cir. 2011) (holding that in determining whether regulation is necessary or appropriate in the public interest, SEC must consider whether regulation will promote efficiency, competition, and capital formation).

[27] Noe & Graham, *supra* note 4, at 119–124; *see, e.g.*, *Entergy*, 556 U.S. at 213, 224–26 (holding that maximal regulation provision of Clean Water Act—"reflect the best technology available for minimizing adverse environmental impact"— allows benefit-cost balancing).

[28] Noe & Graham, *supra* note 4, at 124–125; *see, e.g.*, *Michigan*, 576 U.S. at 759–60 (holding that capacious Clean Air Act provision to regulate as "appropriate and necessary" required consideration of cost in determining whether to regulate).

[29] Masur & Posner, *supra* note 21, at 670; *see, e.g.*, Food Additives Amendment of 1958, Pub. L. No. 85-929, § 409(c)(3)(A) (codified at 21 U.S.C. § 348(c)(3)(A) and in scattered sections of 21 U.S.C.) ("Delaney Clause").

[30] *See* Noe & Graham, *supra* note 4, at 112–134 (analyzing many statutes that should be reexamined and implemented through quantitative benefit–cost balancing); *see also* Masur & Posner, *supra* note 4, at 977, 982–86 (appendix listing dozens of statutes that should be reexamined); Masur & Posner, *supra* note 21, at 713–16 (appendix listing statutes that should be reexamined).

making" within those boundaries.[31] In explaining "reasoned decision making," the Court referenced *State Farm* for the general principle that reasoned decision means that the agency cannot ignore an important aspect of the problem and must consider "all relevant factors."[32] The Court also directly quoted two pages of *Michigan*[33] that illuminate statutory interpretation and make clear that the relevant factors include cost.[34] As the *Michigan* Court explained, agencies have "long treated" cost "as a centrally relevant factor when deciding whether to regulate."[35] The exception would be if Congress instructed an agency to ignore cost in a statute authorizing a rule, which Congress did not do in using the "capacious" Clean Air Act language "appropriate and necessary" at issue in *Michigan*. Congress very rarely requires agencies to ignore costs, for obvious reasons.[36]

Specifically, the *Loper Bright* Court's citations of *Michigan* reflect its guidance to the lower courts and its understanding of "reasoned decision making." First, *Loper Bright* makes clear that the longstanding cost-benefit principle informs and constrains the best reading of the agency's statutory authority, including under broad and all-encompassing terms. While the *Loper Bright* framework provides for application of the non-delegation doctrine and "fixing the boundaries of the delegated authority,"[37] the Court also acknowledged that sometimes an agency may properly exercise a relatively broad delegation of authority. Even in such cases, however, *Loper Bright* counsels restraint. Citing *Michigan*, *Loper Bright* explains that statutes may empower an agency "to regulate *subject to the limits imposed* by a term or phrase that 'leaves agencies with flexibility,' such as 'appropriate' or 'reasonable.'"[38] In that passage in *Michigan*, the Court discussed not only the classic *State Farm* principle that an agency may not entirely fail to consider an important aspect of a problem, but also that important aspects of the problem include cost:

> In particular, "appropriate" is "the classic broad and all-encompassing term that naturally and traditionally includes

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[31] Loper Bright Enters. v. Raimondo, 144 S. Ct. 2244, 2263 (2024).

[32] *Id.* (citing Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)).

[33] 576 U.S. at 752, 750.

[34] *See Loper Bright,* 144 S. Ct. at 2263 & n.6 (recognizing that a statute may authorize an agency to exercise a degree of discretion, such as regulating subject to the limits imposed by a flexible statutory phrase or term such as "appropriate" or "reasonable," and noting as examples 42 U.S.C. § 7412(n)(1)(a), at issue in Michigan v. EPA, 576 U.S. 743, 752 (2015), as well as 33 U.S.C. § 1312(a), authorizing EPA to establish water-quality-related effluent limitations).

[35] 576 U.S. at 752–53; *see generally* Exec. Order No. 12,866, 3 C.F.R. § 638 (1993), *reprinted in* 5 U.S.C. § 601 (1994) (benefits of a regulation must justify the costs to the extent permitted by law); Exec. Order No. 13,563, 3 C.F.R. § 215 (2011), *reprinted in* 5 U.S.C. § 601 (2012) (same).

[36] *See, e.g.*, Noe & Graham, *supra* note 4, at 114–15.

[37] *Loper Bright*, 144 S. Ct. at 2262.

[38] *Id.* at 2263 & n.6 (citing *Michigan*, 576 U.S. at 752) (emphasis added).

> consideration of *all relevant factors*." Although this term *leaves agencies with flexibility*, an agency may not "entirely fai[l] to consider an important aspect of the problem" when deciding whether regulation is appropriate.
>
> Read naturally in the present context, the phrase "appropriate and necessary" *requires* at least some attention to *cost*. … EPA's interpretation precludes the Agency from considering *any* type of cost—including, for instance, harms that regulation might do to human health or the environment. … No regulation is "appropriate" if it does significantly *more harm than good*.[39]

Second, in explaining that the role of a reviewing court is to ensure that the agency engaged in "*reasoned decisionmaking*" within the boundaries of flexible statutory terms or phrases, the Court again cited *Michigan*.[40] There, the *Michigan* Court explained that EPA's refusal to consider costs in deciding to regulate power plants was arbitrary and capricious because if "agencies are required to engage in *'reasoned decisionmaking'* … it follows that agency action is lawful only if it rests 'on a *consideration of the relevant factors*.'" EPA's decision to regulate power plants cost $10 billion a year, however, and "*EPA refused to consider whether the costs of its decision outweighed the benefits*."[41] Accordingly, the "reasoned decisionmaking" required by *Loper Bright* incorporates the consideration of costs and benefits when regulating, absent a clear statutory instruction to the contrary.

Thus, *Loper Bright* provides a legal foundation for the background cost-benefit principle reflected in a series of lower court[42] and Supreme Court opinions from *State Farm* (1983)[43] to *Entergy* (2009)[44] to *Michigan* (2015).[45] Legal scholars had advanced different theories for the legal foundation of this cost-benefit background principle, particularly federal common law[46] versus

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[39] *Michigan*, 576 U.S. at 750 (2015) (first quoting White Stallion Energy Ctr., LLC v. EPA, 748 F.3d 1222, 1266 (D.C. Cir. 2014) (Kavanaugh, J., concurring in part), *rev'd sub nom.* Michigan v. EPA, 576 U.S. 743 (2015); then quoting Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)) (emphasis added).

[40] *Loper Bright*, 144 S. Ct. at 2248 (citing *Michigan*, 576 U.S. at 750 (emphasis added)).

[41] *Id.* (citations omitted; emphasis added).

[42] *See, e.g.*, Business Roundtable v. SEC, 647 F.2d 1144, 1148–49 (D.C. Cir. 2011) (holding that SEC's "failure to 'apprise itself—and hence the public and the Congress—of the economic consequences of a proposed regulation' makes promulgation of the rule arbitrary and capricious") (citations omitted).

[43] *See* 463 U.S. at 43 (explaining that an agency acts arbitrarily and capriciously if, among other things, it "entirely failed to consider an important aspect of the problem").

[44] *See* Entergy Corp. v. Riverkeeper, Inc., 556 U.S. 208, 222 (2009).

[45] *See* 752 U.S. at 760; *see generally, e.g.*, Noe & Graham, *supra* note 4.

[46] *See* Masur & Posner, *supra* note 4, at 976 (discussing an "emerging default rule" under federal common law—which was not yet law—that "agencies must weigh costs and benefits, at least in some fashion, absent an explicit statement to the contrary").

the APA.[47] The search[48] for the legal foundation for the cost-benefit principle is over. In *Loper Bright*, the Supreme Court grounded the consideration of all relevant factors (including cost) in the APA. The APA incorporates "the traditional understanding of the judicial function,"[49] and there is good reason to think that this cost-benefit default rule applies in non-APA cases as well.[50]

Fortunately, BCA is the optimal decision procedure to ensure agencies engage in "reasoned decision making" by considering "all relevant factors." Done properly, BCA considers all welfare effects of regulation. BCA also is the best decision procedure for promoting public welfare because it seeks the option that maximizes societal well-being. In theory, BCA could support the same outcome as a perfectly functioning, fully informed free market would produce.

Other forms of decision procedures that agencies often use instead of BCA fall short—often far short—of considering all welfare effects of regulation. Examples of sub-optimal decision procedures that agencies use instead of BCA include the following:

- *feasibility analysis*—regulating as strictly as the affected industries can sustain—for example, regulating to the degree technologically feasible, unless triggering widespread plant shutdowns or unacceptably high unemployment;

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[47] *See* Sunstein, *Arbitrariness Review*, *supra* note 4, at 40 ("Under the APA, agencies must avoid arbitrariness, and a regulation that imposes costs without conferring benefits is arbitrary. The same is true of a regulation that increases environmental risks on net, or that imposes very high costs for trivial gains."); *see also id.* at 15 ("The dissenters [in *Michigan*] clearly adopted a background principle that would require agencies to consider costs unless Congress prohibited them from doing so. There is every reason to think that the majority—which did, after all, invalidate EPA's regulation—would embrace that principle as well."); Noe & Graham, *supra* note 4, at 94 (agreeing that "the courts are in the process of developing a cost-benefit default rule").

[48] *See, e.g.*, John D. Graham & Paul R. Noe, *Beyond Process Excellence: Enhancing Societal Well-Being*, *in* ACHIEVING REGULATORY EXCELLENCE 27 (Cary Coglianese ed., 2016) (discussing concern about "a large void in the architecture of administrative law: there is no general legal framework to require regulators to balance tradeoffs and design regulations that do more good than harm"); Graham & Noe, *supra* note 15 (recommending a presidential directive for all agencies to reexamine their statutory interpretations and implement their statutes through benefit-cost balancing). One EPA study found that "the return to society from improved environmental regulation is more than one thousand times EPA's investment in cost-benefit analysis." U.S. ENVT. PROT. AGENCY, EPA-230-05-87-028, EPA'S USE OF BENEFIT-COST ANALYSIS: 1981–1986, 5-2 (1987).

[49] Loper Bright Enters. v. Raimondo, 144 S. Ct. 2244, 2261 (2024).

[50] *Id.* at 2263 (by independently interpreting the statute, recognizing constitutional delegations, fixing the boundaries of the delegated authority and ensuring the agency has engaged in "reasoned decisionmaking" within those boundaries, "a court upholds the traditional conception of the judicial function that the APA adopts"); Michigan v. EPA, 576 U.S. 743, 759–60 (2015) (applying the Clean Air Act's judicial review provision, 42 U.S.C. § 7607(d), in a non-APA case and holding that EPA interpreted the statute, 42 U.S.C. § 7412(n)(1)(A), unreasonably when it deemed cost irrelevant to the decision whether to regulate power plants); *cf.* United States Sugar Corp. v. EPA, 113 F.4th 984 (D.C. Cir. 2024) (applying *Loper Bright* in a non-APA Clean Air Act case).

- *narrow tradeoffs*—focusing on a few important effects of regulation while ignoring others;
- *quality adjusted life years/cost-effectiveness analysis*—determining how a particular budget can be best spent to advance well-being, but without BCA or other welfare analysis to determine the budget in advance;
- *break-even analysis*—a kind of incomplete and deficient BCA sometimes used when benefits (or rarely, costs) are highly uncertain, estimating a "break-even point" of the quantify of benefits that the regulation must produce for costs to equal benefits;
- *democratic procedures*—soliciting the views of interested parties to try to ensure that a regulation reflects their views, but at the risk of excluding some affected people, giving undue weight to others, and gaming;
- *norming*—surveying firms and choosing a standard somewhere in the distribution of existing practices; and
- *intuitive, ad hoc balancing*—assessing possible effects of regulation broadly and informally, without monetization of benefits (and sometimes costs). This approach is prone to error and bias, is likely not to consider or properly weight certain benefits and costs, presumes extraordinary intellectual and moral clarity of the decider, lacks transparency, and is easily manipulated.[51]

Finally, courts already have shown that they are quite capable of reviewing agency BCA.[52] Properly performed, quantitative BCA enhances review by generalists and courts.[53] And as advancements have been made in BCA practice, BCA has been gaining acceptance as an essential part of reasoned agency decision-making.[54] Greater use of BCA also could support greater regulatory stability.[55]

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[51] *See* Masur & Posner, *supra* note 16, at 1388–93; *see also* Noe & Graham, *supra* note 4, at 115–19; John D. Graham & Paul R. Noe, *A Reply to Professor Amy Sinden's Critique of the Cost-Benefit state*, REGUL. REV. (Sept. 17, 2016), https://www.theregreview.org/2016/09/27/graham-noe-reply-critique-cost-benefit-state/ [https://perma.cc/85BB-TEYB] (arguing that BCA is the optimal decision procedure to maximize societal well-being and other decision procedures are flawed).

[52] *See, e.g.*, Caroline Cecot & W. Kip Viscusi, *Judicial Review of Agency Benefit-Cost Analysis*, 22 GEO. MASON L. REV. 575 (2015); Masur & Posner, *supra* note 4, at 981 ("agencies should use [BCA], and courts are capable of forcing them to do so"); *id.,* at 982–86 (appendix listing many statutory provisions that could be revisited); Caroline Cecot, *Deregulatory Cost-Benefit Analysis and Regulatory Stability*, 68 DUKE L.J. 1593 (2019); *see also*, Reeve T. Bull & Jerry Ellig, *Judicial Review of Agency Regulatory Impact Analysis: Why Not the Best?*, 69 ADMIN. L. REV. 725 (2017) (arguing that courts could effectively review the quality of agencies' regulatory impact analyses if they were given more concrete guidance on what a regulatory impact analysis must include); Reeve T. Bull & Jerry Ellig, *Statutory Rulemaking Considerations and Judicial Review of Regulatory Impact Analysis*, 70 ADMIN. L. REV. 873 (2018) (arguing that judicial review is a key element that induces agencies to respond to analytic requirements).

[53] Masur & Posner, *supra* note 4, at 939–40.

[54] *See* Cecot, *supra* note 52.

[55] *See id.* at 1593–94 (arguing that BCA promotes regulatory stability around transparent and increasingly efficient policies, including because (1) a prior BCA provides a powerful reference point for courts to take a "hard look" if an agency contradicts its factfinding, and

Thus, BCA is the best decision procedure for ensuring reasoned decision making.[56] Proponents of rational regulation no longer need to tentatively navigate through silent or ambiguous authorizing statutes.[57] The default rule that agencies must consider the costs and benefits of regulations is now anchored in the APA's arbitrary and capricious standard.

"DUE RESPECT" SHOULD ADVANCE THE COST-BENEFIT STATE

Although *Loper Bright* makes quite clear that courts—not agencies—must say what the law is, the Court also recognized that the interpretations of agencies' administering statutes may deserve "due respect."[58] The Court instructed lower courts that they "*may* ... seek aid from" an agency's statutory interpretations,[59] when the agency is exercising its official duties and specialized experience.[60] This body of experience and informed judgment—especially if it rests on factual premises within the agency's expertise—may provide courts (and litigants) with *"guidance."*[61] The *weight* a court should accord an agency's interpretation depends on the (1) "*thoroughness* evident in its consideration," (2) "*validity* of its *reasoning*," (3) "*consistency* with earlier and later pronouncements" (especially if issued contemporaneously with the statute), and (4) "all those factors giving it power to *persuade*" (not control).[62] In cases implicating technical statutory interpretations, *Loper Bright* also recognizes that courts can benefit from the expertise of the agency—and challengers.[63]

Agencies that embrace benefit-cost balancing should thrive under these *Skidmore* factors. BCA provides the optimal framework to advance societal well-being in regulatory decision-making[64] while fostering thoroughness in consideration, the validity of reasoning, consistency, and other factors with the power to persuade.

CONCLUSION

Loper Bright is about more than who is the decider on statutory interpretations and whether agencies are more likely to win or lose cases compared with the *Chevron* regime (assuming nothing else changes). *Loper*

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(2) by focusing on incremental costs and benefits, BCA can reveal whether it is reasonable to change course).

[56] *See, e.g.*, Masur & Posner, *supra* note 16, at 1383, 1388–93, 1430–31; Noe & Graham, *supra* note 4, at 118; *see also* Graham, *supra* note 7; U.S. ENVT. PROT. AGENCY, *supra* note 48, at 2, S-3, S-4.

[57] *See, e.g.*, Noe & Graham, *supra* note 4, at 112–134.

[58] Loper Bright Enters. v. Raimondo, 144 S. Ct. 2244, 2267 (2024).

[59] *Id.* at 2262 (emphasis added).

[60] *See id.* at 2259 (citing Skidmore v. Swift & Co., 323 U.S. 134, 140 (1944)).

[61] *Id.* (citing *Skidmore*, 323 U.S. at 140) (emphasis added).

[62] *Skidmore*, 323 U.S. at 140 (emphasis added).

[63] *See Loper Bright*, 144 S. Ct. at 2259, 2262, 2267 ("The parties and *amici* in such cases are steeped in the subject matter, and reviewing courts have the benefit of their perspectives.").

[64] *See, e.g.*, Noe & Graham, *supra* note 4, at 92–93; Graham & Noe, *Beyond Process Excellence*, *supra* note 48, at 72–87.

Bright can change how regulations are developed. It can curb the deadweight loss from the regulatory whiplash that is far too common in our politically polarized times. It can lead to more evidence-based, efficient and sustainable regulations that stand the test of time. The cost-benefit state is here.

Message

From: Noe, Paul [Paul_Noe@afandpa.org]
Sent: 2/9/2025 5:26:25 PM
To: Voyles, Travis [voyles.travis@epa.gov]
CC: matt.hall@smurfitwestrock.com; timothywegner@packagingcorp.com
Subject: RE: Meeting Request by Paper Mill Workers (Feb 4-Feb 6)

Travis: Thanks so much to you and your team for being willing to meet with the PPRC during a very busy time and to hear their concerns.

We look forward to working with you all.

Best regards,

Paul

Paul Noe
Vice President, Public Policy
Paul_Noe@afandpa.org
Office: (202) 463 - 2777
Cell: (703) 909 - 2895

AMERICAN FOREST & PAPER ASSOCIATION
601 Thirteenth Street NW, Suite 1000 N
Washington, D.C. 20005

From: Voyles, Travis <voyles.travis@epa.gov>
Sent: Sunday, February 9, 2025 10:45 AM
To: Noe, Paul <Paul_Noe@afandpa.org>
Cc: matt.hall@smurfitwestrock.com; timothywegner@packagingcorp.com
Subject: RE: Meeting Request by Paper Mill Workers (Feb 4-Feb 6)

Good Morning Paul, Matt, and Tim —I know this is a slightly delayed response, but I just wanted to follow up to ensure you knew we passed this along to the Administrator to ensure it got in front of him.

Looking forward to working with you and the team at AFPA and PPRC. Please let me know if I can be helpful in any way.

Thanks,

Travis

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Travis Voyles
Assistant Deputy Admnistrator
Office of the Administrator
U.S. Environmental Protection Agency
C: (202) 787-0595

From: Noe, Paul <Paul_Noe@afandpa.org>
Sent: Tuesday, February 4, 2025 12:30 PM
To: Voyles, Travis <voyles.travis@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>
Cc: matt.hall@smurfitwestrock.com; timothywegner@packagingcorp.com; Widman, Katherine <Katherine_Widman@afandpa.org>
Subject: Meeting Request by Paper Mill Workers (Feb 4-Feb 6)
Importance: High

Dear Travis and Chad:

I understand that the EPA team is still taking shape, but I wanted to let you know that there are over 90 pulp and paper mill workers who have flown into DC who are eager to meet with President Trump's team at EPA (as well as OMB and the White House). They could be available this week **starting today, Tuesday February 4 through Thursday February 6** to meet with you and other officials at EPA you think would be appropriate.

This group, the Pulp and Paperworkers' Resource Council (PPRC), is a grassroots organization of line workers in U.S. pulp and paper mills who often are members of major unions. The PPRC has an annual fly-in to meet with key policymakers about the importance of reasonable regulation to ensure a viable, competitive U.S. paper and wood products manufacturing industry and the high-paying jobs it provides. Over 90 mill workers is an all-time record for PPRC fly-in attendees. They are very enthusiastic about the administration's commitment to support U.S. manufacturing and its workers. My understanding is that the administration currently may not be meeting with industry trade associations, and AF&PA would not expect to be included in these meetings. My role is to help our mill workers to schedule meetings with the executive branch. They already have many meetings scheduled on Capitol Hill. During the first Trump Administration, the PPRC was pleased to meet with EPA, OMB, other White House offices, and other agencies.

Here is some additional background on the PPRC:

The PPRC website is here: https://thepprc.org/#about

Background information on the PPRC:

The Pulp and Paperworkers' Resource Council is a grassroots organization led by hourly employees advocating for the U.S. forest products industry. We are people dedicated to conserving the environment while taking into account the economic stability of the workforce and our surrounding communities. We support policies that encourage economic growth, abundant and sustainable fiber supply, and sensible science-based environmental policies.

The U.S. forest products industry is vitally important to our nation's economy, employing approximately 925,000 people. We rank among the top 10 manufacturers in 43 states and represent four percent of the total U.S. manufacturing gross domestic product (GDP).

Finally, attached is a PPRC position paper. This will give you a good feel for the issues that most concern them. As you can see, most are recent EPA major rules that are unachievable and unsustainable for the U.S. pulp, paper and wood products industry.

If a meeting is possible, please feel free to send a reply email including two PPRC representatives (copied here), Matt Hall (matt.hall@smurfitwestrock.com) and Tim Wenger (timothywegner@packagingcorp.com), and please copy me (Paul_Noe@afandpa.org).

If you have any questions, please feel free to call me at (703) 909-2895.

Thanks so much for your consideration.

Best regards,

Paul

Paul Noe
Vice President, Public Policy
Paul_Noe@afandpa.org
Office: (202) 463 - 2777
Cell: (703) 909 - 2895

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601 Thirteenth Street NW, Suite 1000 N
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Paul Noe
Vice President, Public Policy
Paul_Noe@afandpa.org
Office: (202) 463 - 2777
Cell: (703) 909 - 2895

AMERICAN FOREST & PAPER ASSOCIATION
601 Thirteenth Street NW, Suite 1000 N
Washington, D.C. 20005

Message

From: Noe, Paul [Paul_Noe@afandpa.org]
Sent: 2/19/2025 10:11:07 PM
To: Voyles, Travis [voyles.travis@epa.gov]; McIntosh, Chad [mcintosh.chad@epa.gov]
CC: Bradner, Kai [Kai_Bradner@afandpa.org]
Subject: RE: EPA Meeting Request

Dear Travis and Chad:

Given scheduling challenges that have arisen for Tuesday, I hope that we could zero in on Wednesday April 9 between mid-morning to late afternoon to meet with you and your team.

Thanks very much for your consideration.

Best regards,

Paul

Paul Noe
Vice President, Public Policy
Paul_Noe@afandpa.org
Office: (202) 463 - 2777
Cell: (703) 909 - 2895

AMERICAN FOREST & PAPER ASSOCIATION
601 Thirteenth Street NW, Suite 1000 N
Washington, D.C. 20005

From: Noe, Paul <Paul_Noe@afandpa.org>
Sent: Tuesday, February 18, 2025 5:45 PM
To: voyles.travis@epa.gov; McIntosh.chad@epa.gov
Cc: Bradner, Kai <Kai_Bradner@afandpa.org>
Subject: EPA Meeting Request

Dear Travis and Chad:

Please find attached a request by the American Forest & Paper Association (AF&PA) to meet with you and others on your team at EPA. Members of AF&PA's Environment Policy Committee can be available to meet in person on Tuesday April 8 or Wednesday April 9 between mid-morning to late afternoon. Please let us know which day is preferrable so we can set our meeting date.

Our top priority rules (detailed in our attached letter to President Trump) cut across air and climate, water, solid waste, and chemicals policy, and we also would like to discuss the new framework for interpreting statutes and

implementing regulatory programs under the Supreme Court's *Loper Bright Enterprises v Raimondo* decision (a recent short article I wrote on this also is attached).

I am copying my colleague, Kai Bradner, who can assist with scheduling times convenient for you.

If you have any questions, please also feel free to call me on my cell (703) 909-2895.

Thank you for your consideration.

Best regards,

Paul

Paul Noe
Vice President, Public Policy
Paul_Noe@afandpa.org
Office: (202) 463 - 2777
Cell: (703) 909 - 2895

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