

Washington, DC  
26<sup>th</sup> July 2022

**A Coalition Letter Opposing the Confirmation of Joseph Goffman  
as EPA's Assistant Administrator for Air and Radiation**

Dear Chairman Carper, Ranking Member Capito, and Members of the Senate Committee on Environment and Public Works:

The undersigned organizations and individuals write to express and explain our opposition to the confirmation of Joseph Goffman as Assistant Administrator for Air and Radiation in the Environmental Protection Agency.

Mr. Goffman served in the EPA's Air and Radiation Office during the Obama administration as Senior Counsel 2009-17 and in addition as Associate Assistant Administrator for Climate 2013-17. During that time he was a participant in, and often the key architect of, a number of highly controversial, legally suspect, and economically damaging Clean Air Act rules and decisions, including the 2009 Endangerment Finding, the 2010 and 2012 greenhouse gas emissions rule for cars and light trucks and associated 2009 California waiver, the 2011 Mercury and Air Toxins Standards Rule (MATS Rule), the 2011 Cross-State Air Pollution Rule, the 2015 "Clean Power" Plan (CPP), and the replacement of an unprecedented number of State Implementation Plans under the Regional Haze Rule with more expensive Federal Implementation Plans. As Principal Deputy Assistant Administrator in the Biden administration, Mr. Goffman has revived and advanced many of the problematic decisions he helped make in the Obama administration.

The MATS Rule, for example, forced electric utilities to close hundreds of coal-fired power plants and indirectly devastated the coal mining industry and destroyed thousands of mining jobs. The EPA's own estimates at the time found that the costs would outweigh the direct benefits by between 1600 to 1 and 2400 to 1. The alleged collateral benefits of billions of dollars used to justify the rule are highly dubious at best. Mr. Goffman was a key player in developing this economically disastrous rule.

Mr. Goffman was also a key player in writing the "Clean Power" Plan. In 2016, the Supreme Court imposed an unprecedented stay in implementing the rule because of its dubious legality; and on 30<sup>th</sup> June 2022, the Supreme Court in a 6 to 3 decision ruled emphatically that the CPP exceeded the EPA's authority under the Clean Air Act.

Between the Obama and Biden administrations, Mr. Goffman served as executive director of the Environmental Law Program at the Harvard University Law School. A profile published in Harvard Law Today on 2<sup>nd</sup> October 2017 approvingly repeated a description of Mr. Goffman as a “law whisperer” because “his specialty is teaching an old law to do new tricks.”

E-mails and other documents produced by federal and state freedom of information requests have revealed that Mr. Goffman continued as a law whisperer at Harvard Law, where he worked with a number of State Attorneys General to file suit to require the EPA to set a secondary National Ambient Air Quality Standard for ozone that would target the causes of climate change—that is, greenhouse gas emissions—on the grounds that climate change will raise ozone levels. Incredibly, despite Mr. Goffman’s leadership in concocting this scheme, he has been in charge of the EPA’s response to the suit (State of NY et al. v EPA), which could result in a “sue-and-settle” agreement.

It is not surprising that President Biden nominated Mr. Goffman to head the EPA’s Office of Air and Radiation. The Biden administration is trying to achieve its climate and anti-energy agenda primarily through gross administrative over-reach, and Mr. Goffman has proven to be a master of administrative over-reach. We oppose his confirmation for this very reason. His regulatory decisions in the Obama EPA have done tens, and arguably hundreds, of billions of dollars of economic damage. The EPA’s Office of Air and Radiation should not be headed by an expert in stretching and twisting the Clean Air Act in ways that expand regulatory authority at the expense of American taxpayers, workers, and consumers.

Sincerely,

Myron Ebell  
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Competitive Enterprise Institute

Garrett Bess  
Vice President  
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James L. Martin, Founder/Chairman  
and Saulius “Saul” Anuzis, President  
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