

## **A Summary of EPN's All-Hands Meeting: EPA's Midnight Rules Friday, January 15**

EPN member Betsy Southerland led a conversation on [13 midnight rules](#) that are being or have been pushed through EPA by the Trump administration. This was preceded by an update of EPN's activities by Executive Director, Michelle Roos.

Of the 13 rules touched upon, three of distinct importance were highlighted in Betsy's presentation: The Greenhouse Gas (GHG) Emission Significant Contribution Rule, the Army Corps of Engineers 2021 Nationwide Permits Rule, and the Perfluorobutane Sulfonic Acid (PFBS) Toxicity Assessment.

Released on January 13, the GHG Significant Contribution Rule—which is final and did not allow for public comment—would preclude EPA from regulating sectors whose GHG emissions account for less than 3 percent of total U.S. greenhouse gas emissions. This effectively removes manufacturing and industrial facilities, other than electricity generation, from new source GHG regulations. When the rule goes into effect on March 14, only new sources in the U.S. power sector will be subject to EPA GHG regulations and enforcement.

Another potential break for fossil fuel polluters is the Army Corps of Engineers 2021 Nationwide Permits Rule, which would simplify the process for how pipelines and other dredge and fill activities receive permits. The rule allows much more extensive dredge and fill activities to be covered under a nationwide general permit instead of an individual permit, which gets more scrutiny by the Corps. Before, any activity affecting 300 feet of a waterway was subject to permitting. Now the number exceeds 3,000 feet. This rule exacerbates the impact of the Trump administration's Navigable Waters Protection Rule, which removed all federal permitting requirements from many streams and wetlands.

EPA also plans on publishing a weakened toxicity assessment for PFBS, a forever chemical part of the Per- and Polyfluoroalkyl Substances (PFAS) family. The final toxicity assessment will replace the single reference dose recommended by EPA's Office of Research and Development with a range of reference dose values in response to a new Office of Management and Budget memo, which states that from now on, OMB will decide any interagency disagreements on toxicity values. According to Betsy, EPA has never before implemented a range when assessing a chemical's threshold of toxicity. It should be noted the PFBS assessment completed OMB's review and was published on Tuesday, January 19.

Other rules of note included the final Lead and Copper Rule, which delays the replacement of lead water service lines and lacks sufficient assistance to states, and EPA's interim guidance for the destruction and disposal of PFAS materials.

Although the Biden administration will have the opportunity to reverse, alter, or replace these rules, the time and consideration necessary will mire the administration's pursuit of bigger ticket items; or items perceived as insignificant or harmless may fall through the cracks as the mounting list of rollbacks grows. Careful planning and expertise from both within and outside the administration will be needed to accomplish this towering task while reinserting science (not politics) at the center of EPA rulemakings.

**Betsy Southerland** previously worked on Superfund and water issues at EPA from 1984-2017, most recently serving as Director of the Office of Science and Technology in EPA's Office of Water. In 2015, she received the Distinguished Presidential Rank Award from President Obama. In 2019, the Century Foundation and the selection committee of the Peter A. A. Berle Environmental Integrity Award gave a Special Recognition award to Betsy for speaking out against the EPA's assault on environmental science and scientists.