

Message

---

**From:** Campbell, Ann [Campbell.Ann@epa.gov]  
**Sent:** 9/20/2021 8:39:48 PM  
**To:** Goffman, Joseph [Goffman.Joseph@epa.gov]  
**Subject:** FW: Seeking Ethics Advice for J Goffman

See advice below. You are clear to participate.

Ann (Campbell) Ferrio  
Chief of Staff  
EPA/Office of Air and Radiation  
Office: 202 566 1370

---

**From:** Griffo, Shannon <Griffo.Shannon@epa.gov>  
**Sent:** Monday, September 20, 2021 4:35 PM  
**To:** Campbell, Ann <Campbell.Ann@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>  
**Cc:** Clarke, Victoria <clarke.victoria@epa.gov>  
**Subject:** RE: Seeking Ethics Advice for J Goffman

Hi Ann,

This is a very good question! The short answer is yes, Joe can participate in the petitions and the briefing on Wednesday, and here's why –

The petitions themselves are specific party matters, and as you pointed out, none of the companies listed on Joe's recusal are petitioners. Now some of the petitions were filed by trade associations, and presumably some of those companies on his list may be members. Also, one of those petitions was filed by Household & Commercial Products Association, specifically related to aerosol product manufacturers. And some of those aerosol products would likely fall within the sectors he's recused from – Household & Personal Products (Proctor & Gamble etc.); Commodity Chemicals (paint). But we are interested in whether any of the companies are a party to the petition (specific party matter).

Since none of the petitioners are on his recusal list, he may work on the petitions. I'd note that granting a petition initiates the rulemaking process. So Joe would NOT be able to work on any of the subsequent rulemakings that would be focused on the interests of Household & Commercial Products or Paint. We'd have to take a closer look at any proposed rule(s) further down the road to see whether numerous sectors are involved (e.g., rule applying to all aerosol manufacturers *and* importers/exporters etc). I took a look at the briefing slides for the Administrator's meeting on Wednesday and it doesn't get into any details about such rulemakings; it's focused on AIM Act background and the petitions. So I'd say he'd be able to participate in it as well.

Please let me know if you have any other questions.

Thanks!  
Shannon

Shannon Griffo  
Office of General Counsel, Ethics Office  
U.S. Environmental Protection Agency  
(202) 564-7061

---

**From:** Campbell, Ann <Campbell.Ann@epa.gov>  
**Sent:** Monday, September 20, 2021 7:55 AM

**To:** Griffo, Shannon <Griffo.Shannon@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>

**Cc:** Clarke, Victoria <clarke.victoria@epa.gov>

**Subject:** Seeking Ethics Advice for J Goffman

Good morning, in follow-up to the exchange below, I am seeking your advice wrt Joe's participation in decision-making on petitions the Agency has received under the AIM Act. EPA has received 13 petitions to restrict hydrofluorocarbons (HFCs) under subsection (i) of the AIM Act. The petitions cover more than 40 subsectors in the aerosols, foams, refrigeration and air conditioning sectors and are from environmental NGOs, industry trade associations, States, and private companies. Several petitions have multiple co-sponsors. In light of the complexity of this matter, the complexity of Joe's recusal itself, and your advice below, I am seeking your assistance to determine Joe's ability to participate in this matter.

In my initial review, I can find no overlap between the petitioners and any specific party listed in his recusal. Nor do I find any direct or obvious overlap between the substances which give rise to the petitions and the individual sectors listed in Joe's recusal. However, there are two areas of his recusal, commodity chemicals (paint) and household & personal products, which are close enough that I believe it warrants further scrutiny. Aerosols is one subsector the petitioners seek to have restricted, though paint is never directly raised. And the category of household and personal products is broad enough that I am not clear if it would apply to the asks made in the petitions.

There is a briefing of the Administrator on Wednesday and I hope to have your advice wrt his participation before then, if possible. I have attached the briefing materials, along with one of the petitions, this one was submitted by the Household & Commercial Products Association, and thus appears to be the most directly on point for this analysis. If you need more information or have additional questions please don't hesitate to contact me.

Thank you,

Ann (Campbell) Ferrio  
Chief of Staff  
EPA/Office of Air and Radiation  
Office: 202 566 1370

---

**From:** Griffo, Shannon <Griffo.Shannon@epa.gov>

**Sent:** Friday, September 17, 2021 11:21 AM

**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>

**Cc:** Fugh, Justina <Fugh.Justina@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>

**Subject:** Response to Justina's heads up -- possible semiconductor industry conflicts

Hi Joe and Jim,

Let me see if I can provide some additional background and clarity to the email below -

Justina is pointing out there is a *possible* semiconductor industry conflict related to any future industry specific rulemakings. Starting with the AIM Act itself – yes, that would be considered a broader “matter” given the multitude of sectors that could be affected. And then we also have to look at any individual proposed rules issued under the AIM Act for conflicts purposes. We ask whether the rule distinctly affects a particular industry or identifiable class of persons. For the multi-sector phasedown rule that has already been proposed, we've determined it is also a “matter” since so many sectors are involved and it's too broad of a group to qualify as a “distinct and identifiable class.”

I believe Justina's cautionary email below is for any future use-specific rulemakings that affect semiconductors. I'd also note that we still have some outstanding questions to that end. For example, if there is a future rule proposed under the AIM Act that impacts only semiconductor manufacturers, we'd have to answer whether any of those entities listed below (Apple, Amazon, IBM or Microsoft) actually manufacture semiconductors in the US. I'm not sure we have an answer to that yet. We will continue to look into this and keep you apprised.

Hopefully that helps! I'm around today if any additional follow-up is needed.

Thanks,  
Shannon

Shannon Griffo  
Office of General Counsel, Ethics Office  
U.S. Environmental Protection Agency  
(202) 564-7061

---

**From:** Fugh, Justina  
**Sent:** Thursday, September 16, 2021 11:51 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Subject:** heads up -- possible semiconductor industry conflicts

Hi Joe,

I wanted to send you this note to say that we are learning more about the AIM Act that directs EPA to address HFCs by phasing down the production and consumption of listed HFCs, managing the HFCs and their substitutes, and also facilitating the transition to next-generation technologies.

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

Please note that Amazon, Apple, IBM and Microsoft all apparently design and manufacture semiconductors, so employees who own over the regulatory exemption levels will not be able to participate in the rulemaking that addresses this industry. If indeed they are affected, then we will be worried about:

- Ownership over \$15,000 in any semiconductor manufacturer, which means an employee cannot work on a petition filed by that company;
- Ownership over \$25,000 in any semiconductor manufacturer, which means that an employee also cannot work on any rulemaking that will affect this industrial sector; and
- Ownership over \$50,000 in any sector fund that invests in the semiconductor industry, such as Direxion Daily Semiconductor Bull (SOXL), ProShares Ultra Semiconductors ETF (USD), Invesco Dynamic Semiconductors ETF (PSI), VanEck Vectors Semiconductor ETF (SMH), or iShares PHLX Semiconductor ETF (SOXX).

Although your 4/8/21 recusal statement included semiconductors, your updated recusal statement of 6/30/21 does not. Since we now believe that Amazon, Apple, IBM and Microsoft may be affected by the upcoming semiconductor rulemaking, we advise caution on your part.

Justina

Justina Fugh (she/her) | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772