

THE MISSION OF THE U.S. ENVIRONMENTAL  
PROTECTION AGENCY

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON ENVIRONMENT  
OF THE  
COMMITTEE ON ENERGY AND  
COMMERCE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FIFTEENTH CONGRESS  
FIRST SESSION

THURSDAY, DECEMBER 7, 2017

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<sup>1</sup> The information can be found at: <https://docs.house.gov/meetings/if/if18/20171207/106701/hhrg-115-if18-20171207-sd011.pdf>.

<sup>2</sup> The information can be found at: <https://docs.house.gov/meetings/if/if18/20171207/106701/hhrg-115-if18-20171207-sd006.pdf>.

<sup>3</sup> The information can be found at: <https://docs.house.gov/meetings/if/if18/20171207/106701/hhrg-115-if18-20171207-sd005.pdf>.



## THE MISSION OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY

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THURSDAY, DECEMBER 7, 2017

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON ENVIRONMENT,  
COMMITTEE ON ENERGY AND COMMERCE  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:00 a.m., in room 2123 Rayburn House Office Building, Hon. John Shimkus (chairman of the subcommittee) presiding.

Members present: Representatives Shimkus, McKinley, Barton, Blackburn, Harper, Olson, Johnson, Flores, Hudson, Cramer, Walberg, Carter, Duncan, Walden (ex officio), Tonko, Ruiz, Peters, Green, DeGette, McNerney, Cárdenas, Dingell, Matsui, and Pallone (ex officio).

Staff present: Ray Baum, Staff Director; Mike Bloomquist, Deputy Staff Director; Samantha Bopp, Staff Assistant; Adam Buckalew, Professional Staff Member, Health; Allie Bury, Legislative Clerk, Energy/Environment; Karen Christian, General Counsel; Kelly Collins, Staff Assistant; Jerry Couri, Chief Environmental Advisor; Zachary Dareshori, Staff Assistant; Jordan Davis, Director of Policy and External Affairs; Wyatt Ellertson, Research Associate, Energy/Environment; Margaret Tucker Fogarty, Staff Assistant; Adam Fromm, Director of Outreach and Coalitions; Ali Fulling, Legislative Clerk, Oversight & Investigations, Digital Commerce and Consumer Protection; Jordan Haverly, Policy Coordinator, Environment; Zach Hunter, Director of Communications; A.T. Johnston, Senior Policy Advisor, Energy; Peter Kielty, Deputy General Counsel; Ben Lieberman, Senior Counsel, Energy; Mary Martin, Deputy Chief Counsel, Energy & Environment; Drew McDowell, Executive Assistant; Brandon Mooney, Deputy Chief Energy Advisor; Mark Ratner, Policy Coordinator; Annelise Rickert, Counsel, Energy; Christopher Santini, Counsel, Oversight & Investigations; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Energy; Madeline Vey, Policy Coordinator, Digital Commerce and Consumer Protection; Evan Viau, Legislative Clerk, Communications & Technology; Hamlin Wade, Special Advisor, External Affairs; Everett Winnick, Director of Information Technology; Priscilla Barbour, Minority Energy Fellow; Jeff Carroll, Minority Staff Director; Jacqueline Cohen, Minority Chief Environment Counsel; Jean Fruci, Minority Energy and Environment Policy Advisor; Evan Gilbert, Minority Press Assistant; Caitlin Haberman, Minority Professional Staff Member; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment;

John Marshall, Minority Policy Coordinator; Jon Monger, Minority Counsel; Alexander Ratner, Minority Policy Analyst; Andrew Souvall, Minority Director of Communications, Outreach and Member Services; Tuley Wright, Minority Energy and Environment Policy Advisor; C.J. Young, Minority Press Secretary; and Catherine Zander, Minority Environment Fellow.

**OPENING STATEMENT OF HON. JOHN SHIMKUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

Mr. SHIMKUS. The subcommittee will now come to order. Before I begin my opening statement, I want to make a general announcement to members about the process today. After months of trying to find a mutually acceptable date for a hearing, the committee was able to finally get agreement with the administrator to join us and we announced it. At the end of last week, however, the committee learned Mr. Pruitt was being summoned to meet with his boss, the President, for 90 minutes around lunch.

Rather than agreeing to start the whole process over and/or the hearing earlier and to have a defined end time, or push the entire hearing to a late afternoon start time, or try to find another mutually acceptable date, we have come to an agreement which we understand is not ideal, but gives members maximum flexibility to personally question the administrator about the Agency's missions.

Therefore, we will proceed with opening statements, the administrator's testimony, and members' questions until 11:00 a.m. We will recess at that time and reconvene at 2:00 p.m. in 2322 which is upstairs. We expect the administrator will stay with us until committee members who are present or want to ask questions have been given their turn to ask questions.

I will also note that there is going to be a voting period in this last block and we are going to try with the help of my colleagues to keep the hearing going through that vote series. I have done it before years ago. It is a juggling, but we are going to try to get that done.

Administrator Pruitt, I want to thank you for joining us today and discussing issues the Environment Subcommittee has jurisdiction over. Notably, the Clean Air Act, CERCLA, which is a Superfund act, the Solid Waste Disposal Act, the Safe Drinking Water Act, and Toxic Substances Control Act, one that this committee is very proud of passing in the last Congress.

A few years ago, we began an effort to tackle updating and authorizing a number of these laws and have been waiting for the opportunity for you and someone from your agency to be here so that we can discuss the Administration's position on these important changes to the laws and how EPA implements them. We are also tasked with the oversight of these EPA programs and we look forward to being able to start conducting oversight hearings soon.

Today, we would like to start dialogue with you about your vision and priorities for the EPA. You noted at the outset of your tenure at the EPA that your goal was to refocus EPA on its intended mission, return power to the states and create an environment where jobs can grow. And your agenda focused on the three Es: environment and protecting the environment; economy, sensible regulations that allow economic growth; and engagement, engaging with

state and local partners. You also stated that EPA would “operate with the statutes that Congress passes and not reimagining authority to pick winners and losers.” That sounds like you are headed in the right direction.

We support analyzing regulatory barriers to determine whether they create unnecessary burdens or impede job creation and we want to work with you to make sure that the EPA develops and implements regulations that protect the environment while promoting growth and creating jobs. You said it best in a statement you made when you kicked off your back to the basics agenda earlier this year. We can and will achieve a clean air and a clean water and we will also have strong economic growth and job creation at the same time.

We have some specific areas of focus that we would like to discuss today and continue to work with you and your staff as we go forward. The first is Superfund cleanup. You have indicated that Superfund cleanup is a priority of the Agency and that several clean up efforts have been “restored to the rightful place at the center of the Agency’s core mission.”

You have also noted that you intend to figure out ways to cut through bureaucratic red tape that has slowed the cleanup of Superfund sites and that EPA is creating a list of the top ten sites that the Agency can aggressively address. We want to work with you on these efforts and work together to figure out what Congress can do to help make Superfund cleanups more efficient.

The next issues are the Toxic Substances Control Act and the Safe Drinking Water Act. Last year, this committee was responsible for overhauling TSCA and we are interested in the appropriate and the timely implementation of the rules that are the outgrowth of the new law. We also look forward to work with the Agency as we have reauthorized funding and make improvements in the law to improve compliance with the Safe Drinking Water Act.

Last but not least, the Clean Air Act. Our members are actively engaged on several air issues like the Clean Power Plan, the EPA’s recent ozone standard which has created obstacles to new infrastructure development and manufacturing. We also want to look into addressing the challenges relating to obtaining air permits required for new construction and expansions of the existing facilities under EPA’s New Source Review program.

Administrator Pruitt, the long and the short of it is that we have an agenda packed with legislative and oversight activities and we need the EPA to be engaged participants that work with us as we move forward. We need to be assured that the Agency will send us witnesses for legislative and oversight hearings and in turn we will work with you to figure out where Congress needs to act to help you accomplish your mission, the Agency’s goals of providing regulatory certainty, balancing environmental benefits and economic practicalities, and restoring confidence to regulated entities across the country.

Thank you for coming up here and we look forward to continuing this conversation in the new year. And with that I will yield back my time and turn to my friend from New York, Mr. Tonko, for 5 minutes.

[The prepared statement of Mr. Shimkus follows:]

# PREPARED STATEMENT OF HON. JOHN SHIMKUS

The Subcommittee will now come to order.

Before I begin my opening statement, I want to make a general announcement to members about process for today. After months of trying to find a mutually acceptable date for a hearing, the Committee was able to finally get agreement from Administrator Pruitt to join us and we announced it. At the end of last week, however, the Committee learned Mr. Pruitt was being summoned to meet with his boss, the President, for 90 minutes around lunch. Rather than agreeing to start the hearing earlier and have a defined end time, push the entire hearing to a late afternoon start time, or try to again find another mutually acceptable date, we have come to an agreement which we understand is not ideal, but gives members maximum ability to personally question the Administrator about the Agency's mission.

Therefore, we will proceed with opening statements, the Administrator's testimony, and Member questions until 11am. We will recess at that time and reconvene at 2pm in 2322. We expect the Administrator will stay with us until Committee Members who are present and want to ask questions have been given their turn to ask questions.

Administrator Pruitt I want to thank you for joining us today and discussing issues the Environment Subcommittee has jurisdiction over, notably, the Clean Air Act, CERCLA, the Solid Waste Disposal Act, the Safe Drinking Water Act, and the Toxic Substances Control Act. A few years ago, we began an effort to tackle updating and reauthorizing a number of these laws and we have been waiting for the opportunity for you or someone from your Agency to be here so that we can discuss the Administration's position on these important changes to the laws EPA implements. We are also tasked with oversight of these EPA programs and we look forward to being able to start conducting oversight hearings soon.

Today we would like to start a dialogue with you about your vision and priorities for EPA.

You noted at the outset of your tenure at EPA that your goal was to refocus EPA on its intended mission, return power to the states, and create an environment where jobs can grow, and your agenda focused on the three E's:

Environment: Protecting the environment;

Economy: Sensible regulations that allow economic growth;

Engagement: Engaging with state and local partners.

You also stated that EPA should "operate within the statutes that Congress passes and not reimagine authority to pick winners and losers."

That sounds like you are headed in the right direction. We support analyzing regulatory barriers to determine whether they create unnecessary burdens or impede job creation and we want to work with you to make sure that EPA develops and implements regulations that protect the environment while promoting growth and creating jobs. You said it best in a statement you made when you kicked off your "back to basics" agenda earlier this year, "we can, and we will achieve clean air and clean water and we will also have strong economic growth and job creation at the same time."

We have some specific areas of focus that we would like to discuss today and continue to work on with you and your staff going forward.

The first is Superfund cleanup. You have indicated that Superfund cleanup is a priority of the Agency and that several cleanup efforts have been "restored to their rightful place at the center of the agency's core mission." You have also noted that you intend to figure out ways to cut through the bureaucratic red tape that has slowed the cleanup of Superfund sites and that EPA is creating a list of the top ten sites that the agency can aggressively address. We want to work with you on these efforts and work together to figure out what Congress can do to help make Superfund cleanups more efficient.

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required for new construction and expansions of existing facilities under EPA's New Source Review program.

Administrator Pruitt, the long and short of it is that we have an agenda packed with legislative and oversight activities and we need EPA to be an engaged participant that works with us as we move forward. We need to be assured that the Agency will send us witnesses for legislative and oversight hearings and in turn, we will work with you to figure out where Congress needs to act to help accomplish the Agency's goals of providing regulatory certainty, balancing environmental benefits and economic practicalities, and restoring confidence to regulated entities across the country. Thank you for coming up here and we look forward to continuing this conversation in the new year.

With that, I yield back my time and now yield to my friend from New York, the Ranking Member of the Subcommittee, Mr. Tonko.

**OPENING STATEMENT OF HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK**

Mr. TONKO. Thank you, Mr. Chair. And thank you, Administrator Pruitt. Thank you for being here this morning. However, I fully expected that you, Mr. Administrator, as a proud Oklahoman, would have been here Sooner.

[Laughter.]

Mr. TONKO. All right. In all seriousness, Mr. Administrator, I hope this is the first of many appearances, regular appearances before our Energy and Commerce Committee. Your predecessors came before this committee frequently and I can tell you it wasn't because they liked being berated every other 5 minutes for a few hours, it was because they understood that they had a responsibility to be accountable to Congress.

So I expect moving forward you will provide administration witnesses, responses to letters, and technical assistance quickly when we ask. I know many members have serious concerns about the direction of EPA in the past year which is why there is so much interest in today's hearing. Members will raise questions about how you have chosen to be a steward of taxpayer funds, who has had access to you, and the growing influence of industry at the Agency.

Members will also question the rollback of a number of safeguards that were put into place to protect human health. In July, the New York Times published an article, "Counseled by Industry, Not Staff, EPA Chief Is Off to a Blazing Start," which reported more than 30 environmental rules being delayed or undone. And often these public health safeguards are being undone with little or no legal or scientific justification.

I think it is worthy noting that, historically, the majority of EPA rules have withstood legal challenges, including challenges led by you in your capacity as Oklahoma's attorney general. EPA's decisions should be guided by sound science, not corporate interests and these concerns touch every office under your charge—clean water, air quality, contaminated lands, chemical safety, pesticides to name a few.

From my view, rules across the Agency are being undone capriciously with little regard to the human impacts or the science that went into developing them. In fact, many states and industries were partners during the process when these rules were developed. Frankly, I believe EPA has all the signs of an agency captured by industry. You shouldn't need to be traded on the New York Stock

Exchange or need an invite to a private steak dinner at a Trump hotel in order to get an audience with the EPA administrator.

I am particularly concerned about Agency actions on climate change. The Fourth National Climate Assessment Climate Science Special Report, a thorough, comprehensive report by the federal government, has reaffirmed what the scientific community has long known, climate change is real, primarily caused by human activity, and a serious threat to our people and our economy.

Despite this scientific consensus, EPA has begun to roll back rules at the behest of special interests to address greenhouse gas emissions which have been developed over many years, backed by science, and include economic impact studies. This is just one example in a trend of dismissing the role of science at EPA.

Scientific integrity of the Agency must be protected. Instead, we have witnessed the proposed elimination of research funding and eroding of technical and scientific capacity. The dismissal of qualified members of the Scientific Advisory Board the removal of information from EPA's website and the censorship of Agency scientists from participating in public events are incredibly troubling.

Finally, I want to take a minute to recognize the work done by EPA's career employees. I know these dedicated public servants joined the Agency to protect human health and the environment and are to be commended for their hard work in this difficult environment.

But as the workforce is reduced, as the advice of the experts is ignored, and as morale at the Agency decreases, I know there will be an inclination to pursue other career opportunities. Our country cannot afford to lose the institutional knowledge at an agency as important as EPA or fail to attract the next generation of qualified, dedicated public servants. I want to thank EPA's employees, know that your work is greatly appreciated by members here and beneficial to Americans across our great country.

Back to basics does not mean starving the Agency of its resources and personnel that it needs to do its job. It does not mean giving lip service to protecting clean air and water while rolling back dozens of essential rules. EPA's success has been about making steady progress over time and EPA has proven to be a resilient agency in the past, but this year we have witnessed a number of alarming decisions and I hope we will get answers to better understand some of those decisions today, Mr. Administrator.

And again we welcome you before this committee. Thank you so much and I yield back, Mr. Chair.

Mr. SHIMKUS. The gentleman yields back his time. The chair now recognizes the chairman of the full committee, Mr. Walden from Oregon, for 5 minutes.

**OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON**

Mr. WALDEN. Thank you, Mr. Chairman.

Good morning, Mr. Administrator. We are delighted to have you before the House Energy and Commerce Committee. I think this is your first oversight hearing on The Hill and we are delighted that we could have you here to tell us what is going on at the EPA, to take our questions and to hear what we have to say. I am obviously

disappointed the President called you out in between, but I appreciate the fact you will be here this morning and come back this afternoon and continue to participate in this process.

With this I am going to yield briefly to my friend from Oklahoma who would like to formally introduce you to the committee, and with that I will yield 30 seconds to Mr. Mullin from Oklahoma.

Mr. MULLIN. Thank you, Chairman Walden. Thank you, Chairman Shimkus, for allowing me to participate. I have the great privilege of introducing Oklahoma's own Scott Pruitt to our EPA administrator. Thank you, sir, for being here.

First, I want to thank Mr. Pruitt for making himself available for today's hearing. Administrator Pruitt and his team have worked tirelessly to bring the EPA back to its core mission, protecting our environment in common sense ways with input from our states, local government, and tribes to a collaborated approach which is a breath of fresh air. Nobody wants to take care of our backyards more than us in our states. That is why I want to thank Mr. Pruitt for doing what is right by having the input of those with interests there.

Mr. Pruitt, thank you for coming here today. Thank you for making the whole state proud. I appreciate you and I yield back to Chairman Walden.

Mr. WALDEN. I thank the gentleman for his introduction of our witness today. And as you know, Administrator Pruitt, the committee you are appearing before today is charged by the House of Representatives with legislative and oversight responsibilities for the bulk of the statutes that the EPA implements. We may not write the check to the EPA—the appropriators claim to do that—but we are your authorizing agency or committee.

It has been almost 10 months since you were sworn in as administrator of an agency that turned 47 this past Monday, so today I would like to begin with what will hopefully be a continuing conversation about the agency that you oversee, your vision for it, and what challenges you face. I am particularly intrigued by your back to basics concepts and your stated intent to return EPA from its freewheeling administrative pursuits to its mission of protecting air, soil, and water and doing so according to explicit dictates of Congress. I hope that this view of governing will guide your EPA, rather than efforts to end run Congress in the Federal Register or on the courthouse steps.

I also want to discuss the goals you are establishing for the programs at EPA and the metrics you intend to use to measure their progress. In particular, I want to know that you have a plan to address staffing issues identified by the Agency's Inspector General for over the last 2 decades. This is a 20-year-old problem you are inheriting, but it is one I think we both take seriously.

So we appreciate your commitment to budget transparency and as we want to make sure the public knows how each law is being implemented and how the money is being spent, I expect that back to basics is not an abdication of environmental protection, but rather a rededication of mastering the most fundamental aspects of EPA's mission.

Whether it is cleaning up Superfund sites, ensuring that safe drinking water is being piped into people's homes, or keeping air

clean and safe to breathe, this is the primary mission of the EPA. While these jobs may sound mundane, as any football fan will appreciate they are like the essential blocking and tackling techniques and so we appreciate what you are doing on all of that.

I also want to thank you and your team for your attention to the Superfund cleanup in the Portland Harbor. While this area is not in my district, it is in my state and what happens at the Port of Portland has an impact on all Oregonians. You brought a fresh and a welcome approach to this complicated and costly cleanup.

Unlike the prior administration, you have proven that this administration wants to actually clean up this environmental mess and do the work in a common sense manner in close working partnership with local stakeholders. To paraphrase an old song, if you can do it there you can do it anywhere.

And so I thank you for being here. I thank you for your collaborative work on the Portland Superfund cleanup. We know we have more effort to achieve there, but everybody—well, not everybody, but most people affected by it including the port and city and everybody else saying thank you, now we feel like we have hope and a chance to get this done right, so thanks for your work there.

With that Mr. Chairman, I would yield back the balance of my time to the committee.

[The prepared statement of Mr. Walden follows:]

#### PREPARED STATEMENT OF HON. GREG WALDEN

Good morning, Mr. Administrator, we are glad to have you here this morning and we hope you will return often during your tenure. I am disappointed that your appearance must be interrupted by your meeting with the President, but I appreciate your willingness to come back and continue the discussion with our committee.

Before I begin my remarks, I'd like to yield 60 seconds to Rep. Mullin so he can say a few words about a fellow Oklahoman.

As you know, the committee you are appearing before today is charged by the House of Representatives with legislative and oversight responsibility for the bulk of the statutes that the Environmental Protection Agency implements. We may not write the check to EPA, but we decide where the agency's money can best be spent.

It has been almost 10 months since you were sworn in as the Administrator of the Environmental Protection Agency—an agency that turned 47 years old this past Monday. Today, I would like to begin what will hopefully be a continuing conversation about the agency you run, your vision for it, and what challenges you face.

I am particularly intrigued by your "Back to Basics" concept and your stated intent to return EPA from its freewheeling administrative pursuits to its mission of protecting air, soil, and water—and doing so according to the explicit dictates of Congress. I hope that this view of governing will guide your EPA—rather than efforts to end run Congress in the Federal Register or on the courthouse steps.

I also want to discuss the goals you are establishing for the programs at EPA and the metrics you intend to use to measure their progress. Particularly, I want to know that you have a plan to address staffing issues identified by the agency's Inspector General over the last two decades and I would like to make sure that you are committed to budget transparency, so the public knows how much the agency is spending to implement each of the laws we passed.

I expect that "Back to Basics" is not an abdication of environmental protection, but rather a rededication to mastering the most fundamental aspects of EPA's mission—whether it's cleaning up Superfund sites, ensuring that safe drinking water is being piped into people's homes, or keeping air clean and safe to breathe.

While these jobs may sound mundane, as any football fan will appreciate, they are like the essential "blocking and tackling" techniques that any football team—whether in Norman, Stillwater, Tulsa, or Eugene—must master if they expect to be successful. No matter how brilliant the offensive or defensive strategies may be, if the team cannot nail down the basics, success will be elusive.

The public deserves to be protected and common-sense regulations are important and necessary. However, government solutions should be proportional to the prob-

lems they are tasked by congress to solve. I believe the EPA should focus on innovative problem solving and partnerships with the states and the private sector that leverage their resources and expertise.

I want to thank you and your team for your attention to the superfund cleanup in the Portland Harbor. While this area is not in my district, it is in my state and what happens at the Port of Portland has an impact on all Oregonians. You have brought a fresh and welcome approach to this complicated and costly cleanup. Unlike the prior administration, you've proven that this administration wants to actually clean up environmental messes, and do the work in a commonsense manner in in close working partnership with local stakeholders. To paraphrase an old song, if you can do it there, you can do it anywhere.

Thank you again for being here to discuss the agency's mission and your vision for it.

I look forward to working with you and seeing you back here in the future concerning our mutual efforts to protect the public and the environment.

Mr. SHIMKUS. The gentleman yields back his time. The chair now recognizes the ranking member of the full committee, Mr. Pallone from New Jersey, for 5 minutes.

**OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. PALLONE. Thank you, Mr. Chairman. I have served in Congress alongside both Democratic and Republican administrations and in my experience the lack of transparency and cooperation from this Administration is completely unprecedented. The Environmental Protection Agency under Administrator Pruitt has consistently failed to respond to congressional oversight requests. In a few instances when we have actually received responses they are perfunctory at best.

EPA has also refused to testify at legislative and oversight hearings and has refused to respond to some basic requests for technical assistance on legislation that has moved or is moving its way through this committee. Even today, after finally agreeing to appear before this authorizing committee some 10 months into his term, Administrator Pruitt is planning to leave after only 1 hour. And this is not the way any agency is supposed to interact with its authorizing committee.

I would hope that this frustration is not only felt by committee Democrats and I would hope to see a change from both the EPA and the overall Trump administration. This lack of transparency applies not just to Congress but also to the press, the public, and even EPA's career staff. The stories coming from the Agency paint a pretty bleak picture. While we know the Administration has wasted more than \$58,000 of taxpayer money on private jets and noncommercial flights, Mr. Pruitt's schedule has been largely kept secret and this week a major newspaper had to sue the Agency for access to this important public record.

Meanwhile, EPA career staff have been excluded from meetings. When they do participate they are apparently blocked from bringing phones and even pen and paper with them. Moreover, Administrator Pruitt has reportedly used \$25,000 of public funds to build a secret phone booth in his office to further isolate himself from the staff and any and all scrutiny. And why all the secrecy, one has to wonder.

Mr. Pruitt has also launched an unprecedented assault on independent science, purging academic scientists with no conflicts from Science Advisory Board and replacing them with industry employees. At the same time, he has ignored the advice and conclusions of his own scientific staff on numerous occasions.

Today's hearing is supposedly about the mission of the EPA. According to the EPA itself, the Agency mission is to protect human health and the environment and no one cares more about that mission than EPA's career staff. Ignoring the staff, undermining the staff, and cutting the staff out of decisions, amounts to ignoring and undermining that mission, in my opinion.

Administrator Pruitt has been on a press tour lately proclaiming his vision of what the EPA's mission means and what it means to be an environmentalist and his words ring hollow because his actions have consistently and systematically undermined protections for human health and the environment.

I have only 5 minutes, Mr. Chairman, so I can't list all the actions the administrator has taken to undermine protections for public health and specifically for vulnerable populations including workers, children, and Native American tribes, but I want to give a few examples.

First, pulling out of the Paris agreement; second, pulling back the Clean Power Plan; third, rolling back protections from toxic air pollutants including mercury, methane, and smog then handing implementation of the toxic chemicals reform law just signed into law last year over to industry lobbyists; reversing the decision to ban the toxic pesticide chlorpyrifos; delaying and undermining the risk management planning program that should protect workers and communities; and, finally, reversing course on Superfund financial assurance requirements putting more of the burden on taxpayers and less on polluters.

With accomplishments like this, it is no wonder that the administrator is working so hard to hide his actions. But the American people need transparency and they deserve honesty from both the EPA and the White House and perhaps today's hearing will be the beginning of a new, more transparent era.

To his credit, Administrator Pruitt reached out to me in advance of this hearing and requested a meeting which we did have, but if the administrator wants to improve his relationship with the members of the committee, the steps he needs to take are clear. He needs to provide the documents we have requested and will request in the future. He needs to provide substantive answers to our oversight questions, and he needs to make himself and other EPA staff available as witnesses routinely.

And if the administrator wants to earn the trust of the American people he needs to stop the secrecy and his war on science and reverse the systematic rollback of public protections. It is the mission of the EPA to protect the public health and the environment and not attack it. And I yield back, Mr. Chairman.

Mr. SHIMKUS. The gentleman yields back his time.

Now we turn to our guest. We would like to welcome and thank you, our distinguished witness, U.S. EPA Administrator Scott Pruitt, for being here today. You will have an opportunity to give an opening statement followed by a round of questions from members.

We appreciate you being here and you are recognized for 5 minutes.

**STATEMENT OF SCOTT PRUITT, U.S. EPA ADMINISTRATOR**

Mr. PRUITT. Well, Chairman Shimkus, Ranking Member Tonko, Chairman Walden, Ranking Member Pallone, it is good to see you this morning, and other members that I have not had the chance to meet. I look forward to the discussion today.

It was a year ago today that the President announced my nomination to the Environmental Protection Agency; thus began the process, the confirmation process which culminated in mid-February and began serving in that timeframe as well.

It has been a very, very consequential and I think exciting 10 months as I have been at the EPA. We have focused our efforts on three core principles as we are seeking to make decisions. As I said during the Senate confirmation process, rule of law would again take center as we make decisions around the responsibilities that I have as administrator.

Fundamentally, my job as the administrator of the EPA is to administer statutes that you have passed as Congress to advance the objectives in those statutes from the Clean Air Act to the Clean Water Act across TSCA and CERCLA and a host of federal statutes. And rule of law matters, because as we act and adopt regulation, if we act untethered to a statute it creates uncertainty in the marketplace and those that have expectations placed upon them don't know how to conduct themselves. And so rule of law is not something that is academic. It is not something that is just legal. It truly impacts how we do our job at the Agency.

And secondly, I have tried to emphasize process. Process matters as well. It is this body that has required federal agencies, executive agencies to go through the EPA to adopt rules that are consistent with comment and informed discussions that take place over a period of time.

Where a proposed rule takes place comment occurs, we respond to that comment on the record, and then finalize our decisions based upon the comments provided. Just one example, during the Waters of the United States rule of 2015 over a million comments were submitted to the Agency as that definition was adopted, and the Agency took the very, very important step of responding to each of those to make a decision. The same needs to take place today. And so we have incorporated changes at the Agency to respect process to make sure that citizens' concerns across the country are heard and that we respond on the record to those concerns.

And then, thirdly, and some of you have mentioned this in your opening comments as well, is a commitment to federalism. Federalism is something, again is not just a legal or academic concept, it is something that you have put into statutes, many statutes. You have prescribed authority to states across this country, because when we work together with states to achieve better outcomes with air and water quality it serves the citizens of your respective states.

And I will say to you, 2 days after being sworn in as EPA Administrator, I had 18 to 20 governors in my office on a Sunday—Democrats and Republicans—Governor Dayton of Minnesota to Governor

Herbert to Utah. And we talked about a host of issues on air quality and water quality and Superfund and we began a journey that started in February.

And I have visited almost 30 states since that time, visiting with governors and respected DEQs to advance the issues of the respective states. And the reason that is important is because the issues in Utah, the second most driest state in the country, are different than the water issues in Minnesota. And so we must work with our partners at the state level to achieve better outcomes and that has been a focus along with these issues of process and rule of law.

I want you to know this dialogue that begins today is important to me. I have met with some of you individually. I have met with many of your colleagues across the rotunda in the Senate, both Democrats and Republicans, on issues that impact their states. I know that these are very difficult issues that we handle at the Agency. I seek to engage in a civil discourse with you. I seek to have a thoughtful discussion about how we can advance the objectives of what you have passed in these statutes and I appreciate the opportunity. And I do hope, Ranking Member Pallone, that we can begin a good discussion going forward into 2018 on these issues and look forward to the questions today. Thank you, Mr. Chairman.

[The prepared statement of Mr. Pruitt follows:]



**Testimony of  
Administrator Scott Pruitt  
before  
House Energy & Commerce Committee  
Subcommittee on Environment  
December 7, 2017**

Good morning Chairman Shimkus, Ranking Member Tonko and members of the subcommittee. I appreciate the invitation to join you today to discuss the U.S. Environmental Protection Agency's (EPA) "Back to Basics" agenda.

The Back to Basics agenda has three goals:

- Refocus the Agency back to its core mission.
- Restore power to the states through cooperative federalism.
- Lead the Agency through improved processes and adhere to the rule of law.

Core Missions

Pollution comes in many forms with myriad impacts on human health and the environment. With the goal of clean and safe air, water, and land for all Americans, Congress enacted a range of environmental statutes that spell out EPA's core responsibilities. Our nation has come a long way since the EPA was established in 1970. We have made great progress in making rivers and lakes safer for swimming and boating, reducing the smog that clouded city skies, cleaning up lands that were once used as hidden chemical dumps, and providing Americans greater access to information on the safety of chemicals used throughout our nation. Today we can see this enormous progress—yet we still have important work to do.

The EPA has established priorities for advancing progress over the next four years in each of its core mission areas—land, air, water—as well as chemicals. The Agency will focus on speeding the cleanup of Superfund sites. We will work with states to more rapidly review submissions of state implementation plans for attaining air quality standards, reducing contaminants that can cause or exacerbate health issues. We will work to make water cleaner and safer by helping to update aging infrastructure, both for drinking water and wastewater systems. Of significant importance, EPA's top priority for ensuring the safety of chemicals in the marketplace is the implementation of the new Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act, which modernizes the Toxic Substances and Control Act (TSCA) by creating new standards and processes for evaluating the safety of chemicals in the marketplace within specific deadlines. These endeavors will be supported by strong compliance assurance and enforcement efforts in collaboration with our state and tribal partners, and use of the best available science and research to address current and future environmental hazards, develop new approaches, and improve the foundation for decision making.

To address existing pollution and mitigate future environmental problems, the Agency will collaborate more efficiently and effectively with other federal agencies, states, sovereign tribal nations, local governments, communities, and other partners and stakeholders. EPA will enhance its direct implementation of federal environmental laws on Native American lands where tribes have not taken on program responsibility. With our partners, we will pay particular attention to vulnerable populations. Children and the elderly, for example, may be at significantly greater risk from elevated exposure or increased susceptibility to the harmful effects of environmental contaminants. Much work remains, and together with our partners, we will continue making progress in protecting human health and the environment.

### Cooperative Federalism

The idea that environmental protection is a shared responsibility among the states, tribes, and federal government is embedded in the environmental laws Congress enacted. More than 45 years after the creation of the EPA and the enactment of a number of broad federal environmental protection laws, most states, and to a lesser extent territories and tribes, are authorized to implement delegated federal environmental programs within their jurisdictions. Recognizing the congressionally intended responsibilities of our state, local and tribal partners, we must adapt and modernize our practices to reduce duplication of effort with authorized states and tailor oversight of delegated programs.

We must create a sense of shared accountability to achieve positive environmental results. EPA understands that improvements to protecting human health and the environment cannot be achieved by any actor operating alone, but only when the states and EPA, in conjunction with affected communities, work together in a spirit of trust, collaboration, and partnership.

Additionally, EPA recognizes the advances states and tribes have made in implementing environmental laws and programs. This Administration will undertake a series of initiatives to rethink and assess where we are and where we want to be with respect to joint governance. These initiatives will clarify the Agency's statutory roles and responsibilities and tailor state oversight to maximize our return on investment and reduce burden on states, while assuring continued progress in meeting environmental program requirements, as established by Congress.

We also recognize that meeting the needs of states, local governments, and communities, and achieving environmental improvements cannot be done in isolation from economic growth. Opportunities for prosperous economic growth and clean air, water, and land are lost without effective infrastructure investments that align with community needs, especially infrastructure investments that repair existing systems, support revitalization of existing communities, take advantage of existing roads, and lead to the cleanup and redevelopment of previously-used sites and buildings. EPA will play a role in supporting infrastructure investment by optimizing and aligning its relevant programs to catalyze other resources.

EPA needs to be a better partner to the states, which all have unique challenges and needs when it comes to meeting environmental goals. An important aspect of becoming a better partner is recognizing that a one-size-fits-all strategy to achieve environmental outcomes has not, and will not, work. For example, as the Agency continues the process of defining "Waters of the United States", I have traveled to over 27 states in order to get different perspectives, to hear from people about how this rule affects different parts of the country. During this process, I am thankful to have had the blessing of learning about the unique challenges faced by each region, and the one-size-fits-all mentality of the previous administration. This type of top-down regulation does not foster a cooperative relationship with the states that Congress intended in the Clean Water Act.

The Agency can also work to be a better partner through compliance assistance and compliance assurance. We will use a full set of compliance tools, such as compliance monitoring, electronic reporting, traditional enforcement, grants to states and tribes, and tribal capacity building, to work jointly with our co-regulators to protect human health and the environment. EPA will also respect the important role that state governors play in cooperative federalism and will seek their views and perspectives on compliance assistance and other opportunities to improve the EPA-state partnership. In addition, the Agency will work to strengthen intergovernmental consultation methods to engage stakeholders and hear diverse views on the impacts of prospective regulations.

#### Improved Processes and the Rule of Law

EPA will seek to improve its processes and reinvigorate the rule of law as it administers environmental regulations as Congress intended, and to refocus the Agency on its core statutory obligations. I am a firm believer that Federal agencies exist to administer laws passed by Congress, as intended. Along with faithfully following the Rule of Law, improving the processes by which EPA has operated will be crucial as we refocus the Agency.

Over the years, outside the regulatory process, well-funded special interest groups have attempted to use lawsuits to force federal agencies – especially EPA – to issue regulations that advance their priorities. At some point, this exercise of “Sue-and-Settle” and the practice of acquiescence through consent decrees or settlement agreements, which were often crafted behind closed doors and without the transparency of the rulemaking process, became all too common. This will not continue at EPA, which is why on October 16<sup>th</sup> of this year, I signed a memorandum ending the practice.

Additionally, gone are the days of routinely paying tens of thousands of dollars in attorney’s fees to these groups with which we swiftly settle. Finally, my directive creates a more transparent process in which impacted parties and states have a voice and creates more awareness for the general public.

As I mentioned before, and have championed since my time as an attorney general, I am a firm believer that federal agencies exist to administer laws passed by Congress, in accordance with the will of this body. Compliance with the law is not just about enforcement—it is about ensuring consistency and certainty for the regulated community, so it has a complete understanding of the impact of proposed actions on human health, the environment, and the economy, and a clear path and timeline to achieve that compliance. Policies and rules will reflect common sense, consistent with EPA’s statutory authorities, and the public will benefit from greater regulatory and economic certainty. EPA will enforce the rule of law in a timely manner and take action against those that violate environmental laws to the detriment of human health or the environment.

An important aspect of how EPA must now look at the rule of law is with respect to its own authorities under the law. We are reversing an attitude and approach under the previous administration that one can simply reimagine authority under statutes. For far too long, the EPA pursued initiatives which exceeded the authority granted to it by Congress, or circumvented the will of Congress completely. As an Agency, we must ensure that we are acting within the parameters which Congress has laid out for us. For too long, EPA has failed to provide the regulatory consistency and certainty the regulated community needs.

Any action by the EPA that exceeds the authority granted to us by Congress cannot be consistent with the Agency’s mission.

#### Conclusion

We are committed to performing the work that is necessary to meet our mission of protecting human health and the environment. With support from our state and local partners- and by working with each of you, and the rest of your colleagues in Congress, we can make a real difference to communities across America.

I look forward to answering your questions.

Mr. SHIMKUS. The gentleman yields back his time.

I also want to note that a full statement of the administrator has been placed into the record. I failed to say that earlier. And then I would like to recognize myself for 5 minutes to start the round of questioning. Again thank you for being here.

At a recent Oversight Subcommittee hearing, EPA's Office of Inspector General and the Government Accountability Office testified that EPA cannot ensure that it has the right people in the right places with the right skills and competencies to accomplish its mission. According to the Inspector General, EPA offices would probably achieve better results if they knew more precisely what the requirements were and what kind of people it needs to address them.

In addition, EPA has not conducted a workload analysis in over 20 years. It seems to me that a back to basics agenda for your agency must include this type of analysis to make sure the Agency is operating optimally. Can you assure me that you intend to perform this workforce analysis?

Mr. PRUITT. Yes. We are actually engaged in that process now. There is a gentleman by the name of Henry Darwin that is the CEO at the Agency. He worked for Governor Ducey in the state of Arizona. We are actually partnering with Toyota to begin a Lean process at the Agency to evaluate management practices. The Agency for many years, and this is something that I found surprising, has not measured outcomes consistently. We are actually creating a dashboard of monitoring in air quality and water quality, Superfund remediation across the full spectrum of our responsibilities to measure progress in each of those areas on a weekly and monthly basis.

And that has been incorporated into the program offices at the EPA, but it is also being incorporated in the regions across the country and that is one thing that I will share with you that I think has been very challenging as I have taken over this position. We have ten regions across the country, as you know, from San Francisco to Atlanta, Chicago, Boston, and there is a great deal of inconsistency with respect to permitting, compliance and assistance, enforcement in these issues with respect to how we administer the statutes.

And we need, I think, a more coordinated, collaborative process to ensure that we don't have different approaches in Region 8 in Denver versus Region 3 in Philadelphia, so that process is ongoing, Mr. Chairman. It is a very important process. And I think a performance based, metric based approach to these program offices that we are engaged in is so, so important because it enlivens, I think empowers employees.

You mentioned, Ranking Member Pallone, the career staff at the Agency. I will say to you that as we have engaged in our Superfund focus I have had career employees come up to me and say thank you for awakening areas that have been dormant for a little while and they are very thankful for the focus that we have placed on some of those core missions. And the measurement and metrics that we are incorporating going forward is a part of this that you referenced, Mr. Chairman.

Mr. SHIMKUS. Thank you very much. That is important to me. One of the reasons why I care so much about the workforce issue

is the implementation of the Toxic Substance Control Act. In particular, I want to comment to the new chemicals. Since the law's enactment, the Agency has needed to reassign staff from other offices to address a sizeable backlog in the new chemical application.

Your team helped clear out substantially the backlog, but I fear as soon as the borrowed EPA workers go back to their regular jobs backlogs will come back to be the norm of the operation. What assurances can you give me that the new chemical applications will stay on a schedule for the future?

Mr. PRUITT. Well, we had many, and I want to commend Congress on the good work that was done in updating TSCA. I mean that was a decade in the making and for you to do that was a very important thing for our office. There were deadlines that you put in that statute, as an example, rules that were supposed to come out by June of this year. I made a commitment during the confirmation process to meet those deadlines and we in fact did those rules under TSCA.

The other area that you cite, Mr. Chairman, was the backlog. As you know, the changes you made in the TSCA statute required that before chemicals entered the flow of commerce our agency had to affirm or approve those chemicals. And there was a backlog of roughly 700 of those chemicals that were at the office before we arrived and we did actually clear that backlog out by July by dedicating resources there. It is a commitment going forward that we do that timely. We are adopting rules now to ensure that the process is defined so that folks know what is expected to meet the deadlines going forward.

Mr. SHIMKUS. Let me cut down my last question to just a simple question on what is the—so we talk West Lake, this is parochial, West Lake in the St. Louis metropolitan area. Are you on track to issue the Record of Decision and can you give us a sense of timing?

Mr. PRUITT. Yes, we are, Mr. Chairman. We are going to—we should be able to announce a decision in the month of January. There is proposals that I am looking at this month to make a decision on West Lake. It has been a long time coming, specifically 27 years. It is a very important issue to the people of St. Louis.

For those of you who don't know on the committee, 8,000 tons of uranium comingled with 38,000 tons of solid waste dispersed over a very large geographical area, buried about 80 feet deep, and it has taken the Agency 27 years to make a decision on whether to excavate or cap the site. That is unacceptable and the decision is coming in the month of January.

Mr. SHIMKUS. Thank you very much.

Let me now turn to the ranking member, Mr. Tonko, for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair.

And again welcome, Administrator.

Mr. PRUITT. Thank you.

Mr. TONKO. During your confirmation hearing you said that you "have no firsthand knowledge" of the EPA's Scientific Integrity Policy. However, you did commit to reviewing the policy and following federal guidance regarding scientific integrity. Now that you have had some time at the Agency, have you reviewed the EPA's Scientific Integrity Policy?

Mr. PRUITT. Yes. We have reviewed that and implemented it at the Agency.

Mr. TONKO. So have you reaffirmed the Scientific Integrity Policy to scientists as well as political appointees at EPA?

Mr. PRUITT. It is a matter of priority to make sure that we have a scientific review of rules at the Agency that are objective, transparent, and peer-reviewed, and that is a commitment that we are enforcing at the Agency, Mr. Ranking Member.

Mr. TONKO. OK. Thank you, sir. And an essential component of scientific integrity is strong safeguards against conflicts of interest. Have you required recusals among your staff, including yourself, when serious conflicts of interest occur?

Mr. PRUITT. Absolutely. We have done that and we will continue to do that. And that is one of the areas that has been mischaracterized with respect to some of these advisory boards.

Mr. TONKO. OK. Thank you, sir. I only have 5 minutes, so if I could move along. I have been very concerned by changes to EPA's Science Advisory Board. These concerns are shared by the scientific community. Mr. Chair, I would like to enter this letter signed by over 1,000 scientists into the record as well as the letter from the American Geophysical Union which represents more than 60,000 scientists.

Mr. SHIMKUS. Yes, I am sure we will. Let me make sure my staff sees it and then we will.

Mr. TONKO. OK. Thank you, Mr. Chair.

Administrator Pruitt, do you believe scientists are a special interest group?

Mr. PRUITT. I am sure I don't understand the question, Ranking Member Tonko.

Mr. TONKO. Well, are they a fundamental contribution to the Agency or seen as a special interest?

Mr. PRUITT. Look, when we engage in rulemaking at the Agency we build a record. And scientists at the Agency, whether it is in the chemical shop, the air program office, it is important that we hear from our scientists internal to the Agency—

Mr. TONKO. Thank you.

Mr. PRUITT [continuing]. But also those advisory committees in building the record and that is a point of emphasis, absolutely.

Mr. TONKO. Thank you. Do you believe scientists that receive EPA grant money are less qualified to give technical advice to EPA than states or industry which may also have a financial relationship with the Agency?

Mr. PRUITT. Well, I believe that these advisory committees as you know them are independent advisory committees to the Agency to equip us in making informed decisions about the efficacy of rules that we adopt. And these advisory committees, Ranking Member Tonko—

Mr. TONKO. It is—

Mr. PRUITT. May I finish?

Mr. TONKO. Yes.

Mr. PRUITT. The advisory committees—

Mr. TONKO. If you could just answer the question though too.

Mr. PRUITT. I am.

Mr. TONKO. OK.

Mr. PRUITT. These advisory committees had scientists serving in an independent capacity. Twenty of them made up three of the committees that have received \$77 million from the Agency in grants. That causes a perception or an appearance of a lack of independence in advising the Agency on a host of issues. And we went to those scientists and advised them that they could continue serving on these advisory committees or receive the grants but they could not do both, to ensure the independence of the counsel they were providing to us in the rulemaking process.

Mr. TONKO. Administrator, can you provide specific examples of a time when an EPA grant recipient on an advisory committee provided conflicted advice?

Mr. PRUITT. I can say to you that as a grantee, we the grantor, Ranking Member, and we have an ongoing obligation to oversee those grants, that creates an appearance of a lack of independence and that was addressed with the policy that we instituted. And we can provide you examples, many examples of scientists who received grants over a period of time that were substantial and it called into question that independence and we addressed that to the policy that we implemented.

Mr. TONKO. At the same time, does it make sense to ignore the advice of the very scientists that EPA determines are worthiest of grant funding?

Mr. PRUITT. Well, we are not in fact. We simply said to those individuals that they could continue receiving the grants and advise the Agency in the counseling role or receive the grants and continue providing that authority we granted them to provide substance to the Agency going forward.

Mr. TONKO. I would just hope that they would be seen as a very reliable source. EPA's actions over the past year have led many people, myself included, to conclude that EPA's current political leadership has been dismissing the role of science in its decision making. It appears that independent and Agency scientists' recommendations are being ignored for the benefit of industry. It happens with chlorpyrifos, it happened with the Clean Power Plan, and it appears to be happening with TSCA. In many cases, scientific data are even being removed from EPA's website. This is incredibly concerning.

Will you commit to making scientific information, including information about climate change, prominently available on EPA's website?

Mr. PRUITT. Science is essential to our NO<sub>x</sub> program in review of those pollutants. It is essential as we make decisions on Superfund sites. It is essential as we review pesticides under statutory authority. It will remain central and core to what we do and is in fact central and core to what we are doing presently.

Mr. SHIMKUS. The gentleman's time has expired. The chair now recognizes the Chairman of the full committee, Mr. Walden, for 5 minutes.

Mr. WALDEN. I thank the gentleman.

And again, Administrator Pruitt, thank you for being here and thank you for coming back later this afternoon when the President concludes his meeting with you.

To the Portland Superfund site as you know that was declared in 2000, 17 years later they finally have a Record of Decision. One of the concerns I have heard from folks that are involved in that is that there isn't the personnel in the Portland area——

Mr. PRUITT. I am sorry. I didn't hear, Chairman.

Mr. WALDEN. There isn't the personnel in the Portland area to fully implement the program, you have a lot of people up in Seattle. And I just draw that to your attention they are concerned about that and urge that you dedicate adequate resources to the Portland site so they can get going on that. And I know you are very committed to that whole cleanup operation.

One of the other issues that has come up is the Clean Air Act has the exceptional events exception process. We have had all these wildfires. My gosh, they have these horrible wildfires again in California. We had them in the Northwest. It has been subject of some of our hearings here about how that process works today, the amount of time, money it takes to go through it to get an exception.

What can you do to ensure a more timely, cost effective EPA process on exceptional event determinations?

Mr. PRUITT. There is actually quite a bit of work, Mr. Chairman, with respect to ozone and exceptional events going on. Bill Wehrum is our only confirmed AA at this point for air. Bill is leading a task force review of both NSR but also these issues around background ozone, but in addition to exceptional events. We need to provide clarity in that area so that we know how these rules will be enforced and applied going forward. That clarity is not there presently and that is a focus of the Agency presently as we go into 2018.

Mr. WALDEN. We would like to work with you on that. It is important to a number of members on the committee. By the way, you said he is confirmed. How many confirmations are you still waiting for, for staff? How many do you have, confirmed people in place, and how many are you waiting for do you know?

Mr. PRUITT. We have one.

Mr. WALDEN. One what?

Mr. PRUITT. One confirmed.

Mr. WALDEN. Besides you?

Mr. PRUITT. That is correct.

Mr. WALDEN. And how many would be pending?

Mr. PRUITT. Well, we have deputy, general counsel, all the program offices. We have CFO, we have several that need to be confirmed and hopefully that will occur soon.

Mr. WALDEN. Wow. EPA air emissions data show how air pollutants have been steadily decreasing in the United States over time. Since 1990, carbon monoxide concentrations are down 77 percent, lead down 99 percent, nitrogen dioxide 54 percent, ozone down 22 percent, coarse particulate matter down 39 percent, fine particulate matter down 37, sulfur dioxide down 81 percent.

What role have advanced technologies such as hydraulic fracturing played at decreasing the nation's air emissions?

Mr. PRUITT. Well, I think it is substantial. You know, many don't know that we are at pre-1994 levels today with respect to our CO<sub>2</sub> footprint. We have reduced our CO<sub>2</sub> levels from 2000 to 2014 by almost 20 percent largely through innovation and technology. We



have achieved a lot through mobile sources under the Clean Air Act for reduction of CO<sub>2</sub>, but with respect to stationary sources and other forms it has been primarily through innovation and technology.

But you do highlight something, Mr. Chairman, that I want to say. We need to celebrate progress that we have made as a country with respect to our air quality. We have reduced those pollutants that we regulate under the Clean Air Act by over 65 percent. That is a good thing and we need to celebrate that. And that has been because of the actions you have taken here and that has also been because of the actions we have taken at the EPA.

But it has also been because of the actions taken by the private sector in states across the country. It is a collaborative process that has achieved good outcomes with respect to air quality. We have much work to be done. Forty percent of the country live in areas that don't meet air quality standards, about 120 million people. We need to focus upon that and it is an important metric that we are measuring at the Agency.

But we do need to celebrate the progress we have made and that has been through innovation and technology in a very, very important way.

Mr. WALDEN. Thank you, sir. In addition, our committee has submitted, I think, at least five letters to your agency seeking records and documents and information. In the past administration it was very, very difficult to get responses to many of our requests. We appreciate the fact that we have received more than a thousand pages of documents on grant management issues. I also want to say we appreciate the numerous bipartisan briefings you and your team have provided especially in light of the hurricanes that took place. We do appreciate that.

So know that when we send a letter we want a response and we want it—you hear it from both sides I think that we expect all the agencies to respond to our requests so we can do our oversight work. And with that, Mr. Chairman, I would yield back the balance of my time.

Mr. SHIMKUS. The gentleman yields back his time. The minority's request for those letters to be accepted into the record, without objection, will be permitted.

[The information appears at the conclusion of the hearing.]

Mr. SHIMKUS. And with that the chair now recognizes the ranking member of the full committee, Mr. Pallone from New Jersey, for 5 minutes.

Mr. PALLONE. Thank you, Mr. Chairman.

And I wanted to talk to you about, Mr. Administrator, about TSCA, because unfortunately under your leadership I think EPA is retreating from the important task of TSCA in regulating toxic chemicals. The framework rules for implementation of TSCA published in June are not consistent with the law in very dangerous and worrisome ways, in my opinion, and I think this is because Nancy Beck, a former lobbyist for the chemical industry, was allowed to completely rewrite the rules in flagrant violation of ethics rules.

And I have written to you twice regarding Nancy Beck's involvement in these rulemakings, but I have not gotten a response. So

let me ask you a few questions and I would like you to just answer yes or no. Did you ask Nancy Beck to recuse herself from the framework rulemakings?

Mr. PRUITT. Nancy Beck like every employee at the Agency—

Mr. PALLONE. Just yes or no. I don't have a lot of time.

Mr. PRUITT. Ranking Member Pallone, I need the ability to answer your question and I will answer your question. Every—

Mr. PALLONE. Well, I just, can you say yes or no before you proceed with the answer?

Mr. PRUITT. Nancy Beck went through ethics review by the ethics official at the Agency.

Mr. PALLONE. So you did not recuse her. So let me ask you—

Mr. PRUITT. Mr. Ranking Member Pallone—

Mr. PALLONE. Well, you didn't recuse her.

Mr. PRUITT. That is something that we have career—

Mr. SHIMKUS. Let's be respectful and let's let people answer.

Mr. PALLONE. I understand but—

Mr. SHIMKUS. But let's answer shortly and concisely so the Ranking Member can—

Mr. PRUITT. We have career employees at the EPA that are ethics officials that review those issues.

Mr. PALLONE. OK, look. Mr. Chairman, he refuses to answer the question. He obviously has not recused her, so I want to move on. I have asked you for copies of all of Nancy Beck's ethics agreements and waivers. Will you provide those to the committee, yes or no?

Mr. PRUITT. Absolutely.

Mr. PALLONE. Thank you. The framework rules had already been completed and sent to various internal EPA offices for concurrence before Dr. Beck started at the Agency. We understand that they were completely rewritten after she started at EPA, by her. Now I asked you for a document tracking the changes she made to the rules. Will you provide that to the committee, yes or no?

Mr. PRUITT. We will provide the information that is requested and make sure it is available.

Mr. PALLONE. Thank you. Thank you, that is fine. I would like to quickly focus on one specific chemical undergoing review right now under the TSCA.

Mr. PRUITT. I am sorry. I didn't hear.

Mr. PALLONE. I am sorry. I would like to quickly focus on one specific chemical undergoing review right now under TSCA and that is asbestos. Unfortunately, your EPA's work on asbestos, in my opinion, clearly illustrates the problems in how you are implementing the act.

TSCA requires EPA to look at the intended conditions of use for a chemical defined as the conditions under which a chemical is manufactured, processed, distributed, used, and disposed of. But in the scoping document for the asbestos risk assessment, your EPA has announced that you will look only at manufacturing processing and distribution and you will completely ignore asbestos that is being used and disposed of in this country.

Let me just explain. The use and disposal of asbestos is the main source of risk from asbestos. If you ignore those things you will produce a risk assessment that fails to capture the risk to workers

and ordinary Americans and, in my opinion, will not be scientifically valid and will not be protective of public health.

So my question really is this. Do you think you can just ignore certain things that are inconvenient for the industry? In other words you are saying we will look at the manufacturing process, distribution, but we won't be looking at how it is used and disposed of in this country. Do you understand what I am asking?

Mr. PRUITT. Yes, absolutely. And I think you raise a very valid concern. In fact, I had a conversation last week about this issue with the chemical office. I think you raise a very, very meaningful concern.

Mr. PALLONE. All right. So hopefully, we will see action on looking at the use and disposal. Is that correct?

Mr. PRUITT. That is a very important factor that we need to consider and that is something that I have already raised with the office that is overseeing this.

Mr. PALLONE. All right. Well, I appreciate that. Thank you, Mr. Pruitt. The other concern I have is that now that Brazil has banned asbestos mining all of the asbestos that is going to continue to flow into the United States will come from Russia, OK, because Brazil has banned it. So again my concern is that the EPA is basically protecting Russian mining at the expense, I think, of American workers by saying that asbestos is going to continue to flow into the country but it can't come anymore from Brazil. So would you just respond to that the fact that right now Russian mining is the only source for it and we continue to allow it.

Mr. PRUITT. Well, I think that as you have indicated, this factor that hasn't been considered up until this point that is something we are going to do going forward and I think that is very important. I am not really familiar with the import issue that you have raised. If there is an impact we can have on that I look forward to the discussion on how better we can influence that. I don't know what role we would play in that regard, but look forward to that discussion.

Mr. PALLONE. Well, I appreciate again your willingness to look at that, Mr. Administrator. Thank you.

Mr. PRUITT. I think the primary issue is what you raised earlier which is the disposal issue I think is very valid and something we need to look at going forward.

Mr. PALLONE. All right, thank you.

Mr. Chairman, can I just ask unanimous consent to put into the record a letter from Linda Reinstein, who is executive director of the Asbestos Disease Awareness Organization, and a letter from the Safer Chemicals, Healthy Families coalition.

Mr. SHIMKUS. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. PALLONE. Thank you.

Mr. SHIMKUS. The gentleman's time has expired. The chair now recognizes the former chairman of the full committee, Mr. Barton, for 5 minutes.

Mr. BARTON. Thank you, Chairman Shimkus. I want to give Ranking Member Tonko A+ for the line of the day so far, his Sooner comment. That was—

Mr. PRUITT. That was very good. That was very good.

Mr. BARTON. Excellent. Mr. Administrator, at the very beginning of the Obama administration there had been a Supreme Court case, *Massachusetts v. EPA*, that said the Clean Air Act amendments didn't specifically say that CO<sub>2</sub> was or was not a pollutant, therefore it might be found to be a pollutant. As soon as President Obama came into office he asked the EPA for a findings document.

This finding document was rushed through very quickly within about, I want to say, 60 days and surprise-surprise said that they found that CO<sub>2</sub> was a pollutant. There was a career analyst at EPA that took exception to that and wrote a scathing report that ripped it apart. That analyst was discouraged from bringing his report forward and ultimately forced to retire.

Are you aware of that finding document and, if so, do you have any plans to revisit it?

Mr. PRUITT. Well, I am aware of the *Mass. v. EPA* decision as you indicated that occurred in 2007. There was work actually being done in 2008 by the Bush administration that was left to the Obama administration, and you are correct, Congressman, that the work done in 2009 was accelerated by the Agency.

In fact, there was something done in 2009 that in my estimation has never been done since and not done before that event, where they took work from the U.N. IPCC and transported it to the Agency and adopted that as the core of the finding. So there was a breach of process that occurred in 2009 that many believe was not handled the proper way. But the *Mass. v. EPA* decision and the processes that followed involved both the Bush and the Obama administrations and that process was again in 2009, I think, short shrifted.

Mr. BARTON. I would encourage you to go back and revisit the finding document and get the report that this career analyst put forward. If you can't find it let me know, because I have it and it is very damning on what they found.

My second question, I have been told that you plan at some point in time to set up a red team-blue team review of pending regulations where you have scientists basically engage in an internal debate pro the regulation, con the regulation so that you really get a balanced scientific understanding of the pending regulation. Do you plan to use a red team-blue team approach and if so when might we expect that to start?

Mr. PRUITT. That is an ongoing review internally, Congressman. It is something that I hope to be able to do and announce sometime beginning part of next year at the latest. But that is something we have been working on for the last several months in trying to put that together and that would be a process that would be focused upon an objective, transparent, real-time review of questions and answers around this issue of CO<sub>2</sub>.

I think one of the most important things we can do for the American people is provide that type of discussion, because it hasn't happened at the Agency. As I indicated, the Agency borrowed the work product of a third party and we need to ensure that that discussion occurs in a way that the American people know that objective, transparent review is taking place. And so that red team-blue team concept is something that is ongoing as far as an evalua-

tion and we may be able to get there as early as January of next year.

Mr. BARTON. Good. I would commend you on that. And I think you know under the Obama administration EPA became more than just an enforcement agency. It more and more began to intervene in the policy arena, in many cases going further than at least those of us on the Republican side felt that they should go.

Do you believe that before you set a standard you absolutely ought to check with the Department of Energy and the Federal Energy Regulatory Commission so that you really get a balanced analysis of what is going on, and do you feel that as we take a look at the reauthorization of your agency and the Department of Energy that it might be necessary to try to rebalance that equation between the energy policy arena and the environmental enforcement arena?

Mr. PRUITT. Well, as I indicated in my opening comments, Congressman, it is important that as we do our work at the Agency that we only do what Congress permits and authorizes us to do. I think the challenges over the last several years—it was mentioned in some of the opening comments about the Clean Power Plan. It was unprecedented for the U.S. Supreme Court to enter a stay against the Clean Power Plan, and as you know you don't get a stay of enforcement on a rule unless there is a likelihood of success on the merits later.

And so there was an understanding that the steps taken by the previous administration, building blocks 1, 2, 3 and 4, there was a reimagining of authority that took place under the Clean Air Act that caused a lot of confusion on what was authorized and what wasn't. That is not the proper way to approach these issues and we are addressing that at the Agency in ensuring that we hew to rule of law in these processes to make sure that there is confidence in the rules that we adopt going forward.

Mr. BARTON. My time has expired. I thank you, Administrator, for your answers.

Mr. SHIMKUS. All right. And the gentleman yields back. An announcement for my colleagues, we are going to go to Congressman Ruiz. He will have the last 5-minute block of questions before we allow the administrator to get downtown, and then I will make an announcement about getting back promptly at 2:00 for the administrator and for us to follow up. So with that the chair now recognizes the gentleman from California, Mr. Ruiz, for 5 minutes.

Mr. RUIZ. Administrator Pruitt, welcome to the committee. I am Dr. Raul Ruiz and it is a pleasure to meet you. I want to talk about particle pollution. Fine particle pollution is harmful to human health and can be deadly even at the very low concentrations. Hundreds of peer reviewed studies have found that these microscopic particles can reach the deepest regions of the lungs and actually enter the bloodstream. Exposure to fine particles is associated with premature death, asthma attacks, chronic bronchitis, decreased lung function, and respiratory disease.

As an emergency medicine physician from the Inland Empire in California, which has some of the country's highest levels of particle pollution, I have seen firsthand the impacts of exposure to dangerous levels of fine particle pollution and let me tell you it is

not nice. It is not a pleasant experience to treat kids who come in with asthma because of a bad air particle pollution day.

The scientific consensus long recognized by the EPA during both Republican and Democratic administrations is that fine particle pollution is a non-threshold pollutant, meaning that there is no level of fine particle pollution exposure below which no harm occurs, including premature death. So Administrator Pruitt, do you agree that fine particle pollution is a non-threshold pollutant?

Mr. PRUITT. Yes. And I would say to you that particulate matter under the NO<sub>x</sub> program, as you know we can't engage in a cost-benefit analysis there. It is all about health.

Mr. RUIZ. Yes.

Mr. PRUITT. And it is a very important role that we play in those criteria pollutants under the NO<sub>x</sub> program.

Mr. RUIZ. Thank you. Administrator Pruitt, were you aware that the Bush administration used the health benefits associated with reducing this non-threshold pollutant to justify their 2003 Clear Skies legislation cosponsored by Senator Inhofe?

Mr. PRUITT. I am familiar with the legislation.

Mr. RUIZ. Yes, they did.

Mr. PRUITT. I didn't know about the cosponsoring aspect.

Mr. RUIZ. They did. All right. And that the Bush administration relied on those same health benefits for its economic analysis for the 2004 Tier 4 rule to control emissions from nonroad diesel engines? That is a good thing.

Mr. PRUITT. Yes, it is, Congressman.

Mr. RUIZ. Yes, they did. They relied on that. Isn't it true that the Bush EPA agreed that there are no safe thresholds for fine particle pollution related health effects including premature death in the 2005 Clean Air Interstate Rule?

Mr. PRUITT. I think you have stated it well, Congressman.

Mr. RUIZ. They did. The recently confirmed Assistant Administrator for Air and Radiation, Mr. William Wehrum, played a key role in developing those rules during the Bush administration, and Andrew Wheeler, the nominee to be the deputy administrator handled the Clear Skies bill when he worked for Senator Inhofe.

Administrator, are Mr. Wehrum and Mr. Wheeler wrong about fine particle pollution having no safe level?

Mr. PRUITT. Wrong about what?

Mr. RUIZ. That there is no safe level for particle pollution, so I don't think they were wrong.

Mr. PRUITT. I don't think I stated that they were wrong.

Mr. RUIZ. OK, great. So you agree that—

Mr. PRUITT. Yes. So I am not entirely sure what your question is. That Bill Wehrum is doing a fine job, is focused on these issues as is Andy when he is confirmed as deputy and I agree with your position that it is a very important criteria pollutant that we need to regulate on the NO<sub>x</sub>—

Mr. RUIZ. Wonderful.

Mr. PRUITT [continuing]. In a very, very important way.

Mr. RUIZ. So despite that, this well-established scientific reality, your proposed repeal of the Clean Power Plan, EPA assumes for the first time that there are safe levels of deadly fine particle pollution. That is a concern of mine. Did you rely on any new peer-re-

viewed scientific studies to support reversing EPA's position on fine particle pollution?

Mr. PRUITT. As you know, Congressman, no, we did not base that upon—our withdrawal of the Clean Power Plan is largely based upon the jurisdictional issues of the Clean Air Act.

Mr. RUIZ. OK.

Mr. PRUITT. And all I have to have is a reasonable basis to withdraw a rule, a U.S. Supreme Court stay of the Clean Power Plan—

Mr. RUIZ. Well, that is obviously a point of difference in—

Mr. PRUITT. We did not base our withdrawal of the Clean Power Plan upon the issues that you have cited.

Mr. RUIZ. OK. So I do think that the mission of the EPA was charged by the people to protect the health and the environment of the American people so that everybody, regardless of socioeconomic status, can enjoy a healthy environment and therefore live their life to full health potential. And this Clean Power Plan was part of that mission to make sure that we protect the environment so therefore we could protect the people's health.

And there is no reliance on any scientific studies whether they were peer-reviewed or non-peer-reviewed, as you just admitted, in withdrawing this. This was your interpretation of the jurisdictional matter of the EPA which we beg to differ, of course, because we are here to protect the American people's health.

Do you believe therefore that it was appropriate to reverse the EPA's positions on the deadliness of fine particle pollution? Because there is the assumption here that now the EPA is saying that there is a threshold for that to happen.

Mr. PRUITT. We did not reverse it, Congressman. And moreover, we are going to be introducing a replacement rule too in place of the Clean Power Plan.

Mr. RUIZ. Before my time has expired—

Mr. SHIMKUS. Your time has just expired, but be quick.

Mr. RUIZ. Let me submit this unanimous consent to place this 2012 letter from EPA to Chairman Upton into the record, please.

Mr. SHIMKUS. Again we will look at it and I am sure we will do it.

Mr. RUIZ. Thank you.

Mr. SHIMKUS. And the gentleman's time has expired.

I want to remind all my members that pursuant to my announcement at the start of the hearing, we are recessing now so Mr. Pruitt can attend a meeting with the President at the White House. Mr. Pruitt will be returning to the committee to answer member questions. We will convene at 2322 Rayburn House Office Building. This is for people who don't know the operations here at 2:00 p.m. sharp, and stay as long it takes for every member who is present and wants to ask questions to be given their turn to ask questions.

For our guests in the gallery, your seat here does not guarantee your seat when we resume the hearing. Seats will be allocated on a first come-first serve basis starting at 1:45. Should you wish to join the proceedings in 2322, and it is a smaller hearing room, you will need to be in line outside of 2322. And I apologize for the inconvenience and the committee stands in recess.

[Whereupon, at 11:00 a.m., the subcommittee recessed, to reconvene at 2:28 p.m., the same day.]

Mr. SHIMKUS. The subcommittee will come to order. When we recessed, it was Mr. McKinley's turn to be recognized. So with that I want to recognize the gentleman from West Virginia for 5 minutes.

Mr. MCKINLEY. Thank you, Mr. Chairman. And thank you, Administrator, for coming and participating in this. Over the years we had asked your predecessors to come particularly as it relates to Section 321(a) to see the impact some of the regulations were having in the coal fields and they declined to do that.

But I am particularly appreciative of the fact that a week ago or 2 weeks ago the EPA, you sent—other folks came to West Virginia to get the impact of what these regulations are having, because it is pretty clear in the statute that we have to abide by the economic impact. We have to take that into consideration when rules and regs are promulgated. They didn't do that.

And I know you and I have had that conversation that you want to follow the law very clearly, and I know a federal judge has already ruled that the EPA in the past considered them discretionary and not mandatory. I think your position I have heard from you is that you think that they are mandatory and you intend to abide by them. Am I correct on that?

Mr. PRUITT. Yes, Congressman. And we did in fact as you indicated send representatives to West Virginia as part of the proposed withdrawal. And I do think it is important that that is a rule-making process. We have talked a little bit this morning about the withdrawal of the Clean Power Plan, and as I indicated earlier that is primarily jurisdictional as far as the basis for that withdrawal.

But that is a rulemaking process, and so that rulemaking process means that we go out and solicit and receive comment from across the country. We are not just going to be in West Virginia. We are going to be in Gillette, Wyoming soon. We are going to be in San Francisco. We are going to be in Kansas City. There is going to be a crosscurrent of viewpoints with respect to this issue and it is important we hear all voices and that process is ongoing.

Mr. MCKINLEY. Well, I think I particularly appreciate the fact that you sent people to the coal fields to understand the impact of what those regulations were doing when 86,000 coal miners lost their job during the Obama administration and no one paid attention. No one came to those communities to find out what was going to be the impact of another regulation that was going to put them out of business.

But part of the question is have they been able to debrief you? What were some of the salient issues? What were the points that were raised at the meeting in Charleston?

Mr. PRUITT. Well, quite a few comments that were offered, it was multiple hours of information, and again a crosscurrent of information that we are reviewing. And I think that, Congressman, you hit on some very important matters with respect to the cost of the Clean Power Plan that wasn't taken into consideration before and that is something that came out in the process in West Virginia.

Mr. MCKINLEY. I know you have made a commitment. You said you are going back to blocking and tackling the fundamentals of



rulemaking. Is there something that we should be doing here in Congress to make sure that we don't revert back to that old way of just following the ideology rather than science?

Mr. PRUITT. Well, I think there are some things we have done recently that I think are very important to the process that I talked about earlier. For many years the APA, the Administrative Procedure Act that governs how we do rulemaking has not been really followed as closely as it should. We have used guidance as forms of rules at times which I think subverts the voices that need to be heard on substantive actions. We have engaged in regulation through litigation. We talked about a sue and settle practice at the Agency that literally has impacted state implementation plans across the country with air quality.

And so there is much that we need to do to ensure that we respect that process and make sure that rulemaking is adhered to. Excuse me, the APA is adhered to as we are engaged in rulemaking.

Mr. MCKINLEY. Well, in the time—or is there something you would suggest, because that has been on the books that they are supposed to do that but we saw 8 years where they did not follow that. Is there something that we should do to tighten up that?

Mr. PRUITT. Well, I think that anytime an agency, and it is not just the EPA it is any agency of the executive branch that engages in litigation to change substantive requirements in the statute, you know, timelines that Congress sets or taking discretionary duties and making it nondiscretionary, as an example, that is something that should be dealt with by Congress. And I think speaking to that through codification is something that could be, I think it would be very helpful.

Mr. MCKINLEY. OK, thank you. I yield back.

Mr. SHIMKUS. The gentleman yields back his time. The chair now recognizes the gentleman from California, Mr. Peters, for 5 minutes.

Mr. PETERS. Thank you, Mr. Chairman. And thank you, Mr. Administrator, for being here. I wanted to ask you about the methane rule. EPA has an effort to control dangerous methane pollution from the oil and gas industry. The common-sense rule asks operators to put our natural gas resources to productive use rather than wastefully leaking them. I support the rule because it will boost energy supplies, reduce air pollution including smog, air toxins, greenhouse gases, and the estimated benefit of capturing methane emissions from the oil and gas industry is \$2 billion annually.

Do you support this rule and if not, without it what would you do to reduce wasted natural gas?

Mr. PRUITT. Congressman, historically, the way the Agency has dealt with methane has been part of a VOC approach where volatile organic compounds as we have regulated the VOCs methane has been part of that bundle. What happened with that particular rule is the EPA for the first time pulled methane out of the bundle and regulated it separately. We haven't taken any action on that as you know as far as the substantive rule itself. There are compliance dates that are forthcoming that have been extended and that has really been the focus up until now.

But I think there is a meaningful debate, discussions that should occur about whether the rule should be focused on a bundle approach, a VOC approach, or whether methane should be pulled out. As you know, methane is very valuable. Companies don't like to flare methane because it can be captured and used in other ways and it is very marketable, if you will. And so I think having a rule in place that incentivizes that and ensures that we approach it pursuant to the statute is something we should look at.

Mr. PETERS. OK. I think you and Secretary Perry have both made appearances on CNBC and on March 9th you said that carbon dioxide is not a primary driver contributing to recent climate change, and that said differently you said CO<sub>2</sub> is not the only contributor to climate change. Do you agree that methane, nitrous oxide, and other greenhouse gases are air pollutants?

Mr. PRUITT. Absolutely. Absolutely, and are more potent, actually, than CO<sub>2</sub>.

Mr. PETERS. Right, so—

Mr. PRUITT. Methane is more potent than CO<sub>2</sub> as you know in that regard.

Mr. PETERS. So I have to say it seems to me, I knew you have emphasized the importance of points of process before, but if the object is to reduce methane, nitrous oxide, and other greenhouse gases what would be the strategy whether as part of a bundle or is not part of a bundle, how do you think we should go about controlling and reducing those greenhouse—

Mr. PRUITT. I think that distinction matters though, Congressman.

Mr. PETERS. OK.

Mr. PRUITT. I think as we look at the statutory framework and how methane should be regulated the question whether it should be part of the bundle is a significant question and so that is what we are evaluating. Again the focus in the first 10 months has been on those compliance dates, and as you know the rule is in effect presently and that has been the primary focus. As we go forward, the discussion and the focus will be on whether it needs to be a part of the bundle or not.

Mr. PETERS. So I understand the procedural point you make about whether it is part of the bundle, but whichever avenue we take, whether it is part of the bundle or not, how would we go about reducing the emissions of methane gas?

Mr. PRUITT. Well, you look at the wellhead, you speak to companies with respect to the flaring practices that have gone on historically, and there are best management practices and best practices that can be deployed by companies to ensure again there is not an incentive for companies to waste methane. It is something that can be used and it is very valuable. We need to recognize that and encourage and incentivize that.

Mr. PETERS. Right. And I think one of the things that we have noticed is it has many benefits and the price of natural gas has gone down, so perhaps the incentive to lose that cheap gas isn't as great as it might be to actually force the control of it. But you mentioned a couple of things like looking at the wellhead and so forth. Substantively, do you think that what is the methane rule is the right kind of approach to deal with that?

Mr. PRUITT. I think, Congressman, it is probably best that in the rulemaking process it is important that I don't prejudge outcomes and I think that what will be important is taking comment on those issues as we go forward.

Mr. PETERS. Do you intend to start from zero or do you intend to put out the methane rule for additional comment? How do you intend to land this plane?

Mr. PRUITT. It is yet to be determined.

Mr. PETERS. All right. Well, I would say I think we have made a lot of progress on it. I think that there is a lot of understanding within the industry that natural gas can be a better burning fuel than some fuels we use, but you have to control methane to really get the benefit out of it from a climate change standpoint and that is kind of where we should be.

Mr. PRUITT. Thanks, Congressman.

Mr. PETERS. Thank you.

Mr. PETERS. The gentleman yields back his time. The chair now recognizes the gentleman from Texas, Mr. Olson, for 5 minutes.

Mr. OLSON. I thank the chair. And welcome, Administrator Pruitt. My congressional district, Texas 22, may be the biggest one in America. Right now we have 850,000 people and growing quickly. The huge majority of these people wanted me to tell you thank you, thank you, thank you for making EPA what it should have been, an agency in D.C. that works with local governments, local private sector to get clear air and cleaner water. Thank you for that.

They are frustrated by the last 8 years. The administration used the EPA that became a combatant that actually kept us from getting cleaner air and cleaner water, and they are thrilled to have you there. They got tired of things we can't achieve as human beings, technology that is not available and yet it is demanded. They are tired of arranging lawsuits to sue and settle and that is now gone also. Thank you for that.

There are many frustrations back home, one example, the RFS. As you know, sir, I have had long and serious concerns with the RFS. I hope this committee will act to take care of this matter quickly. But in the meantime, until we act, guess what, you are on point and you have a lot of leeway going forward.

My question is how have the concerns about the ethanol blend wall, or even RIN prices, figured in your decisions about the 2018 targets?

Mr. PRUITT. Well, a couple things. Number one, I was very, very appreciative to the Agency of the work that was done to meet the deadline. Historically, as you know the November 30th deadline to publish those volume obligations has been missed and it creates uncertainty. People don't know what is expected. It affects capital outlay, et cetera, and so it was very important to meet that November 30th deadline and we did in fact do that.

As we have looked at volume obligations with respect to conventional cellulosic, bio-based diesel, the advanced categories, the focus is try, we try to focus our efforts on objective criteria whether it is production levels and/or demand. As an example, the most we have ever produced with cellulosic is about 180 to 190 million gallons domestically, yet the volume obligations, historically, by the agencies have been set around 300 million or so.

So when you set those levels artificially high it creates other problems elsewhere and so I think in the administration of that statute it is very important upon our agency to be as objective as possible at setting those volume obligations to reflect true production levels.

Bio-based diesel, the capacity is about 2.6 billion I have heard, but the production levels have not eclipsed 2.1 billion. We imported about 700 million gallons from last year to meet that level, so there are a lot of questions obviously around the administration of RFS. Please know that we are committed to doing it pursuant to that statutory framework that you have established, but at the same time that statutory framework is very challenging because the levels that have been set by statute have never been met. And so we have got a lot of challenge there.

Mr. OLSON. And as you know, Senator Barrasso asked EPA to complete a long overdue study on the environmental impact of the RFS. That is something that is required by the Clean Air Act. Any update on the progress of this study?

Mr. PRUITT. Yes. Actually, I have been briefed on that within the last couple weeks and we have begun the process to provide that study to Congress. That is something that is statutory and something that needs to be done.

Mr. OLSON. Thank you. And also talk about Hurricane——

Mr. PRUITT. I am sorry. Say it again?

Mr. OLSON. Hurricane Harvey, sir——

Mr. PRUITT. Yes, yes.

Mr. OLSON [continuing]. Hit my district hard. As you know, hit us twice basically, the most expensive hurricane in American history. Talking with Dr. Bryan Shaw, who heads up our Texas Commission on Environmental Quality, he is quite pleased with the working together with EPA during that storm. You guys deployed all over the Gulf Coast, on the coast, inland, and got acting pretty quickly.

One concern is having money to go forward and one solution may be what is called the State Revolving Fund. Can that be used to address repairs in Texas? It is under your control and will you do that?

Mr. PRUITT. Well, SRFs as you know have been used in a very good way to address infrastructure challenges at the state level and I think it is something that Congress ought to consider.

Again I want to highlight something though with respect to Hurricane Harvey and Hurricane Irma and then what is going on in Puerto Rico. We embedded officials from EPA with local towns and cities across Texas, Florida as the storms approached in order to have real-time decisions made on the threats that it posed to drinking water, Superfund sites, chemical facilities, and the rest, and it was truly an example of federalism in action between the state, local towns and cities, and the U.S. Government working to address those issues. So I am very, very thankful for the leadership of Region 6, which is in Dallas and then obviously Region 4 as it relates to Florida. It was good work by their folks, employees, but also the folks at the state level.

Mr. OLSON. And speaking for Dr. Shaw, he would say great teamwork with the EPA. Thank you, thank you. One final thank you, the San Jacinto Waste Pits.

Mr. PRUITT. Yes.

Mr. OLSON. Harvey knocked them loose. All this benzene came out.

Mr. PRUITT. Yes.

Mr. OLSON. You stepped up and said we will stop this forever. So thank you for that.

Mr. PRUITT. I think it is important, Mr. Chairman, and this is an example. We talked about the Superfund initiative at the Agency. San Jacinto is a site in Houston, Texas that is just off of I-10. It has dioxin that has been placed there and embedded for a number of years and it is near a harbor and barge traffic goes through.

The Agency has been working with folks at the state level and responsible parties for a number of years and the solution has been to take a covering and put it over the site and then pile rocks on top of the site and it has been that way for 10 years. I was in Houston in mid-September and looked at the site and it is totally unacceptable to have that type of temporary situation because of potential hurricanes coming through and displacing those rocks.

So we provided a permanent solution there, about \$115 million of cost that responsible parties are going to bear to provide a permanent solution and the citizens, I think, have been very pleased with the outcome.

Mr. SHIMKUS. The gentleman's time has expired. Let me go to the other member from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you for being here today, Mr. Administrator. I used to have the San Jacinto Waste Pits but in Texas they keep changing our lines. I think it was in Pete Olson's for awhile. Now it is in Brian Babin's. Ted Poe had part of it. So, we change our lines in Texas.

But I want to thank you for visiting right after Harvey and seeing what was there. And I appreciate EPA continuing to make sure we have a permanent fix there because that area is like you said, barge traffic, people crab and fish in that area and both the city, the county, and the state have signs up in Spanish, English, in Vietnamese that expectant mothers or small children should not eat the crabs or the fish. But I don't know if that day you were there, but every time I go there everybody is fishing.

So, but thank you and hopefully we can move that as quickly as possible because it is an industrial area but it also is a recreational area, because I water-skied in that water back when I was young.

But is there a contradiction of priorities of EPA between the cleanup of the Superfund sites and the Agency's commitment to the drastic cuts in the Superfund program? I know the EPA's budget request was 30 percent cut in the Superfund program. I know that may not affect San Jacinto Waste Pits because we have a responsible party, but there are a lot of Superfund sites around the country that don't have a responsible party.

Mr. PRUITT. Well, it is a concern, Congressman. In fact, during the appropriations process, I conveyed to our committee that if monies were necessary to address those orphan sites—we have orphan sites that make up the Superfund portfolio—that I would

come and advise Congress and ask for those funds. I mean it is very important that as we go forward on Superfund cleanup that money not be the problem on how we get those cleanups. We need accountability there.

I will tell you that in my time evaluating the Superfund portfolio there are very few orphan sites and most of it is just a lack of direction on how we should clean up. There are several examples, in Chicago. I think one of the members earlier today mentioned Portland. San Jacinto was one of those where there just simply wasn't much direction on how to get accountability and how to get cleanup with these responsible parties.

And so we are trying to do both, but I commit to you that if there are issues, deficiencies on funding with respect to that Superfund priority we will advise you and ask for help as we work through the appropriations process.

Mr. GREEN. OK. Well, thank you. Because I know back in September the EPA Inspector General issued a report about the distribution of Superfund full time FTEs among the EPA regions does not support the current regional workloads. As a result, some regions have to prioritize work and are slowed down like you mentioned or discontinued. And are you aware of that OIG's report?

Mr. PRUITT. Yes. I have actually talked to the Inspector General about the Superfund issues going forward and we have looked at some management issues. How we bid projects, sometimes they are not competitively bid. We sometimes are getting bids that take—routinely I hear something will take 15 or 20 years. And I have pushed back saying that perhaps that is not how long it should take and maybe the bid is just trying to prolong things as far as receiving funding for 15 or 20 years in those contractors.

So we are trying to get reform both in how we process and how we bid out and do remediation, but also making decisions early in the process to make sure that we get accountability on outcomes.

Mr. GREEN. OK, since I come from the Houston area and the Houston ship channel, where we have five refineries, my next question. The EPA recently released its final ruling on renewable fuel standard that said 15 billion gallon standard for conventional ethanol. I know many of my refineries in my district and along the Gulf Coast were disappointed with this final number.

Would you commit to lowering future RFS requirements to avoid this blend wall that we are having? And I know from Oklahoma you understand.

Mr. PRUITT. Well, Congressman, I can't commit to certain outcomes with respect to that process. That is a rulemaking process. But what I can tell you is what I shared earlier with the question, we will objectively determine each year what the production levels look like they are going to be. We are tracking those numbers now.

Biodiesel has been as big of a challenge as conventional. We have routinely set that at 2.1 or higher. 2.1 was the last number before this year. And as I indicated, we imported 700 million gallons of bio-based diesel from Argentina to meet that 2.1 billion gallon limit. So we ought not be dependent upon the people of Argentina to meet a volume obligation that we are setting domestically so that is something that we will continue to look at, but we can't prejudge those outcomes at this point.

Mr. GREEN. Well, and every time I talk to one of my refineries they talk about the problems of RINs and of course the chair of the committee is a great fellow from Illinois but we do have some differences on corn ethanol as compared to biofuel.

Mr. PRUITT. But Congressman, it is a fair point and I will say to you it is a real issue as far as RIN reform. We need to get some accountability in the RIN market. There is a lot of speculation that goes on with respect to RINs. There are enforcement issues, fraud that occurs. In fact we just prosecuted a company, I think it was 30 million plus as a fraud that occurred in the RIN market. There is a lot of work to be done to get reform and accountability in the RIN market.

Mr. GREEN. I would be glad to work with you on that. Thank you.

Mr. SHIMKUS. The gentleman's time has expired. The chair now recognizes the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman. And Mr. Administrator, thank you for being here with us today. Let me first express my support for your comments on cooperative federalism. When issuing drastic regulatory changes like the Clean Power Plan, the previous administration did not take into account the people that would have been most truly affected by those regulatory changes and those are the hardworking coal miners, the power plant workers, and others throughout the industry supply chain, all of which, many of which live in eastern and southeastern Ohio where I live and represent.

As you well know, the Ohio EPA along with many other states breathed a sigh of relief when the Supreme Court issued a stay of this rule that would have had a devastating effect on not only Ohio's electricity generation and economy, but other states as well. That in my opinion is not cooperative federalism. Now EPA's recent public hearing in West Virginia on the proposed repeal of the Clean Power Plan I think exemplifies the Agency's willingness to listen to those that would have been most affected by the rule.

No one cares more about the air we breathe nor the water we drink than those of us that live in regions where that kind of work goes on, places like eastern and southeastern Ohio where some of the best paying energy and manufacturing opportunities for jobs reside. There is a necessary balance to environmental protection and a process to share that responsibility with states and local leaders like you have suggested is a crucial and much needed change to how these regulations have been approached in the past. So I applaud your work in that regard.

Mr. PRUITT. Well, if I could say, Congressman, and to give you an example about how it shouldn't work, when I came into this position there were 700 approximate state implementation plans that many of your states had prepared on how to improve air quality where resources had been devoted, expertise delegated at the state level to improve air quality pursuant to those state implementation plans. They were sitting on a shelf at our agency that we had not acted upon and that is just simply not a good way to do business.

We as an agency need to respond up or down on those kinds of plans to give input and direction back to states. We need to encourage and want to encourage states to take those kinds of steps. And

I think it was very disheartening over the last several years for that to take place. We are trying to remedy that.

Mr. JOHNSON. Well, I thank you for that collaborative approach. I want to move on to another subject though that is important in our state, the deadlines under which the Brick MACT which were set up under, set under a 2015 EPA rulemaking are soon approaching. These regulations affect domestic brick and tile manufacturers among other small businesses typically located in rural communities, and in most cases are the primary source of jobs in those little small communities especially in my district. The EPA, your agency, recently announced its intentions to reconsider these regulations. Can you please elaborate on status and timing of the Agency's reconsideration of the Brick MACT regulations?

Mr. PRUITT. Well, as far as the timing it would be very difficult to provide that to you at this point, Congressman. I think we need to assess what that process will look like. It is not a rulemaking process, per se, but it approaches that and so that is something that we will have to evaluate.

I apologize that I don't have that answer, but——

Mr. JOHNSON. Can you look at it and get back to us?

Mr. PRUITT. Sure.

Mr. JOHNSON. OK, all right. That will work. Let me just make some comments about that. The last Brick MACT rule was enacted in 2003. Hundreds of millions of dollars spent by the industries to comply then later vacated by a federal court, but only after most brick manufacturers had already committed to facility modifications to comply and the money had been spent.

So for all practical purposes, judicial review was meaningless in that case in terms of the economy and the jobs. Do you agree we don't want to see a repeat of that kind of situation?

Mr. PRUITT. Absolutely. And I think as we look at other, there are other examples, Congressman. Where that has happened where there has not been a stay of enforcement on a particular rule. Those that are required to meet the rule's obligations take those steps and by the time that judicial review takes place it is somewhat hollow with respect to whether the rule was constitutional or lawful in the first instance. So I think it is very important that we work to get these things right so that that doesn't happen.

Mr. JOHNSON. I appreciate it. Mr. Chairman, I yield back a 5 whole seconds, and I thank you for your service, Mr. Administrator.

Mr. SHIMKUS. The chairman thanks him and the chair now recognizes the gentlelady from Colorado for 5 minutes, Ms. DeGette.

Ms. DEGETTE. Thank you so much, Mr. Chairman. Administrator Pruitt, thank you for coming today. I am the ranking Democrat on the Oversight and Investigations Subcommittee of this committee and I will tell you, we all take our obligations very seriously. Effective oversight relies on receiving the information from the agencies that we oversee.

And members of the committee have sent the EPA over 34 written requests this year including requests about the lack of transparency at the Agency, removal of climate data from the website, and other critically important topics. Now to date, Mr. Administrator, we have received no response to eight of these letters. Let me give you an example and I can give you copies of all of these.



On May 18th, members of this committee and the Committee on Science, Space, and Technology sent a letter requesting documents and additional information on EPA's premature removal of qualified experts from EPA's board of science counselors. Now we still, 7 months later, have not received a response.

Mr. PRUITT, can you commit to giving us a timely response to this request?

Mr. PRUITT. Are you referring to BOSC? Is that what you are referring to, the Board of Scientific Counselors?

Ms. DEGETTE. That is correct.

Mr. PRUITT. Yes. We will provide whatever information you need there.

Ms. DEGETTE. Thank you.

Mr. PRUITT. I would disagree that it was a premature removal. Yes.

Ms. DEGETTE. Well, no, no. I am not arguing with you about the substance.

Mr. PRUITT. Yes. Yes.

Ms. DEGETTE. I just need to get the information.

Mr. PRUITT. Sure.

Ms. DEGETTE. And then there are seven other letters that we have not gotten responses. Can you also commit that you will give us responses to those letters?

Mr. PRUITT. If you inventory those. I have a—

Ms. DEGETTE. I will give you copies of all of them.

Mr. PRUITT. Yes. Yes.

Ms. DEGETTE. Now there are 22 other letters, Mr. Pruitt, that the minority at least feels have had incomplete response. For example, there was one on April 20th where Ranking Member Pallone sent a letter requesting a briefing on the budget requests and they got a five-sentence letter back that basically said we are developing the President's budget based on the framework provided by the blueprint and gave no other information. It is hard for us—

Mr. PRUITT. What timeframe is that? I am sorry, Congresswoman.

Ms. DEGETTE. It was April 20th.

Mr. PRUITT. OK.

Ms. DEGETTE. So it is hard for us to develop our oversight if we don't have this information. I am going to work with other members of this committee on those other 22 letters to drill down and see what additional information we feel we need from the Agency. Can I get your commitment to please also respond to those and I will give that all to you?

Mr. PRUITT. Yes, ma'am. And I will say we have got a group of individuals that—

Ms. DEGETTE. Thank you. Thank you very much. I only have 5 minutes. I am so sorry. One of the things about the lack of information is the TSCA bill. And I will tell you, my buddy Mr. Shimkus and I and all of us on this committee, we worked really hard to revise TSCA and that is one of the crowning achievements, we think, of this committee.

But since we did this on a bipartisan basis, the Obama administration proposed banning methylene chloride from use as a paint

stripper based on extensive evidence of unreasonable risk to human health, and so we haven't heard yet from the EPA whether they are giving the public an indication about whether they are finalizing the rule. I just have a couple of questions around that.

Have you personally met with Dow Chemical or the American Chemistry Council to discuss this rule while we are waiting for the update?

Mr. PRUITT. No, ma'am.

Ms. DEGETTE. OK. And will you commit to finalizing this TSCA rule for methylene chloride and doing so soon?

Mr. PRUITT. I will commit to reviewing it and giving you an answer soon, yes.

Ms. DEGETTE. That would be great. When do you think we can get an answer?

Mr. PRUITT. I don't know, but we will advise you soon after this meeting.

Ms. DEGETTE. OK. That would be great, thanks. We will be on top of it, don't worry. Now one last thing, a press account said that you installed a \$25,000 soundproof booth in your office at EPA headquarters. Is that true?

Mr. PRUITT. It is a secure phone line.

Ms. DEGETTE. OK, so it is a SCIF, what we call a sensitive compartmental information facility; is that right?

Mr. PRUITT. Yes.

Ms. DEGETTE. And did you do that because part of the EPA's mission involves classified information?

Mr. PRUITT. Yes, ma'am, part of that but also communications with the White House. There are secure conversations that need to take place at times and that is—

Ms. DEGETTE. So you believe it is appropriate to use the SCIF to talk to the White House?

Mr. PRUITT. I believe that there are secure conversations that need to take place that I didn't have access to that—

Ms. DEGETTE. OK. So what percentage of your work would you say is conducted in this SCIF?

Mr. PRUITT. It is hard to predict that—

Ms. DEGETTE. Well, is it 50 percent of your conversations? Is it 75 percent?

Mr. PRUITT. Cabinet level officials need to have access to secure communications.

Ms. DEGETTE. Oh. I am talking about the one that you put into the EPA. How often do you use that SCIF?

Mr. PRUITT. It is hard to predict in the future—

Ms. DEGETTE. 95 percent?

Mr. PRUITT. I haven't taken any calculations of that.

Ms. DEGETTE. Well, when you use that—

Mr. PRUITT. It is necessary for me to be able to do my job.

Ms. DEGETTE. OK, let me ask you. So you use that only for classified information or for communications with the President. Is that your testimony?

Mr. PRUITT. It is used for secure communications that need to take place at the office.

Ms. DEGETTE. And that is what you think is appropriate for a SCIF. Thank you, Mr. Chairman. I yield back.

Mr. SHIMKUS. The gentlelady yields back her time. The chair now recognizes the gentleman from Texas, I believe, Mr. Flores, for 5 minutes.

Mr. FLORES. Well, thank you, Mr. Chairman. And I thank you, Administrator Pruitt, for joining us today. I want to thank you for the EPA's timely rollout of the RFS standards. I think it is the first time in the RFS that that was done, so I appreciate that. There is a bipartisan group of us here in Congress including Chairman Shimkus, Peter Welch, others, and myself that are working on a solution to this, the challenges of the current RFS statute also with respect to RIN reform, so we may need data and input from you and so be expecting a request from us on that.

Moving to ozone for a minute, one of the challenges with ozone regs is that the 2008 standards were rolled out and then there were huge delays in the rollout methodology from the EPA and then the 2015 standards were levied out on top of that. That has created substantial uncertainty in our communities in terms of trying to comply with two standards essentially at one time.

And then when you add to that there is a growing recognition that—well, before I get to that, today I think most people agree that most of the country even based on some of the EPA's own modeling show that most of the country will be in compliance in 7 years with both standards.

And then you add to that there is a growing recognition that international pollution is causing several communities to not be able to meet the standards. There is actually a recent analysis by the Midwest Ozone Group of the EPA said that but for international contributions the United States east of the Rockies would attain the 2008 and 2015 standards by 2023.

So a couple of questions in this regard, the first one is does it make sense to force new compliance burdens on states before existing controls have been implemented?

Mr. PRUITT. Well, speaking generally to those pollutants that we regulate under NO<sub>x</sub>, I think the 5-year review process that we engage in should be a review and not necessarily just an automatic ratcheting down, because I think when you look at the 75 parts per billion versus the 70 parts per billion that was the focus of the ozone rule, there are issues that you describe. Air transport issues, background ozone, exceptional events I think came up earlier today. There are issues that we need to calculate and understand as those standards are set.

So going forward, I think the 5-year review process should not be interpreted as an automatic ratcheting down. It should be a review of whether the levels are protective of human health.

Mr. FLORES. OK. Do you think it makes sense for states or communities to be punished for ozone that is beyond their control that comes in from other areas or background ozone?

Mr. PRUITT. No. And in the designation process, Congressman, we try to take that into consideration. There are areas in Wisconsin as an example that are facing compliance issues because of air transport issues.

Mr. FLORES. Right.

Mr. PRUITT. And we are trying to calculate that into the designation process as best we can.

Mr. FLORES. Good. In order to address the situations that we have just talked about, supplementally, in order to comply with my time limit, I would like you to tell me what you think Congress could do to help with this and also what EPA could do under its current statutory authority.

Mr. PRUITT. Well, I think that, mentioning background ozone and background levels, I think there are certain parts of the country that really have—there is no economic activity that could occur and they still would be violative of the standard that has been set. So I think Congress assisting the EPA in how to address background levels would be substantially important.

I think also the exceptional events, there is a lot of confusion, better put, lack of clarity on how to apply exceptional events in the designation process and otherwise and so I think some clarity around that would be much appreciated.

Mr. FLORES. OK, great. We are working on that. I wanted to take a second of my remaining time to ask for your help with an agricultural herbicide that is called glyphosate. I think it is more commonly known as Roundup by the manufacturer.

Last month, HHS released an agricultural health study that determined that this particular chemical does not cause cancer, again does not cause cancer, and that is similar to a study, the outcome of a study that the EPA made this past March. The challenge is that the state of California and the International Association for the Research of Cancer claiming that it does and that creates uncertainty among our agricultural community as well as the manufacturer of this particular herbicide.

And of course we have got to get all of this sorted out because you have one group of folks saying it does, you have got two other government agencies saying it does not cause cancer. Can I get a commitment from you to have your team take a look at this to try to sort this out?

Mr. PRUITT. Yes. And there has been another study I think at NIH that was similar to the one you cited. So there is some clarity that we need to provide on this going forward and, yes, we need to work with you and others on the committee that are concerned about that.

Mr. FLORES. OK, thank you. I yield back the balance of my time.

Mr. SHIMKUS. The gentleman yields back his time. The chair now recognizes the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. MCNERNEY. I thank the chairman and I thank the administrator for coming here in front of us today. In response to Chairman Walden's questions, you said that the U.S. should celebrate the progress that has been made in reducing air pollution. I agree. You also said that that is in large part due to technology and innovation. I agree completely. But do you think that the progress that has taken place would have been made without the EPA regulations enforcements? And these are regulations that you are now eliminating.

Mr. PRUITT. I think the EPA's regulation framework has helped, absolutely, in contributing to those outcomes, but I think it has been a partnership between regulatory response as well as tech-

nology in the private sector. So I think it has been a combination of factors.

Mr. MCNERNEY. OK. Ozone pollution is one of the most widespread pollutions in the United States and scientists have been studying its effect on health for decades. Hundreds of research studies have confirmed that ozone harms people at levels currently found in the United States. The Clean Air Act requires that the EPA to review the latest scientific evidence and set air quality standards that will protect public health, these standards that we rely on to know whether ozone is safe, what levels of ozone are safe.

Administrator Pruitt, do you agree that the ozone pollution is a problem that the EPA should address?

Mr. PRUITT. Yes. It is a criteria pollutant under the NO<sub>x</sub> program that needs to be addressed.

Mr. MCNERNEY. Good. Approximately 30 percent of the people in my district suffer from asthma partly related to ozone, but your actions, in my opinion, do not demonstrate a commitment to addressing the problem. For example, on October 1st, 2017 marked the legal deadline for the EPA to identify communities with levels of ground level ozone pollution above the EPA's 2015 ozone standard. These are also known as non-attainment areas.

Administrator Pruitt, you spoke a lot about the rule of law in your statement. Did the EPA announce attainment designations by the October 1st statutory deadline?

Mr. PRUITT. Congressman, we have designated all but 50 sites across the country, approximately, and we have made tremendous progress since the timeframe that you are talking about, so we are very close to finishing that process.

Mr. MCNERNEY. But you didn't make the October 1st deadline.

Mr. PRUITT. Some of those were designated prior to that time, yes, but not all.

Mr. MCNERNEY. Well, I think you mentioned this already, about half of the counties that were not designated by October 1st comprise about half of the United States population.

Mr. PRUITT. Some of that is based upon, Congressman, on information that has not been provided by the states. So sometimes there is insufficient information in which for us to make a determination and so there is a communication to those states to get that in to help us finish that process. It is not exclusively, you know, something we can do without that information.

So it is a combination of factors, but we are working diligently to finish that process. The designations are occurring. And as I indicated, there is only approximately 50 sites across the country that need to be designated, out of hundreds by the way.

Mr. MCNERNEY. OK. Will the EPA engage in a transparent and science-based process in setting designations for the remaining parts of—

Mr. PRUITT. I am sorry, Congressman.

Mr. MCNERNEY. Will the EPA engage in scientific and transparent process in designating those areas—

Mr. PRUITT. It will absolutely be a part of the record.

Mr. MCNERNEY. Well, on your website you state that the purpose of the EPA is to ensure that all parts of society—communities, indi-

viduals, businesses, state and local and tribal governments—have access to accurate information sufficient to effectively participate in managing human health and environmental risks. Are you fulfilling the purpose of the EPA keeping information from Americans about the ozone levels in their area?

Mr. PRUITT. I am not sure in what ways, Congressman. Maybe you can clarify your question, how we are keeping it from those citizens.

Mr. MCNERNEY. Well, you haven't, you didn't meet the October 1st deadline and you still haven't fulfilled the entire requirement. So you are keeping information from communities that need to know what their attainment levels are.

Mr. PRUITT. That is not information, it is a designation process which is a legal process, Congressman, that we are going through to make those designations, which we need information to do that and I think we are making tremendous progress and should be done very soon.

Mr. MCNERNEY. Administrator Pruitt, you have made it clear that you are committed to Superfund cleanup, but what about preventing creation of new Superfund sites? What is your commitment in that regard?

Mr. PRUITT. In what regard, Congressman?

Mr. MCNERNEY. Well, the EPA's job is to protect public health, so it should be the job to prevent companies or entities from creating Superfund sites. Are you committed to that?

Mr. PRUITT. Correct. That is something—when you say creating Superfund sites, sometimes states actually ask for us to put Superfund sites on a list which I was just trying to get clarity about that. Yes.

Mr. MCNERNEY. I am not talking about designation. I am talking about creating pollution that could be designated as a Superfund site.

Mr. PRUITT. Obviously lead, uranium, these issues, we want to do all we can to eliminate those things so we don't have those kinds of sites across the country, absolutely.

Mr. MCNERNEY. Well, in your rush to eliminate regulations that is exactly what you are doing is creating opportunity for new Superfund sites to be created.

Mr. PRUITT. I wouldn't interpret it that way, Congressman.

Mr. SHIMKUS. The gentleman's time has expired. The chair now recognizes the gentleman from North Carolina, Mr. Hudson, for 5 minutes.

Mr. HUDSON. Thank you, Mr. Chairman. And thank you, Mr. Administrator, for making the extra effort to come back and take all of our questions and thank you for your strong leadership at the Agency. I appreciate also your efforts to make the EPA focus on air and water and soil contamination.

My state of North Carolina has been shaken by a discovery of a chemical called GenerationX in the Cape Fear River. I know my state reports that GenX is no longer getting into the river and that treated drinking water is within state health goals. The previous EPA administrator permitted use of this chemical within conditions in 2009. Can you say whether EPA has discovered if GenX was used in an impermissible fashion?

Mr. PRUITT. I am not aware, Congressman. We can provide that information to you. I don't have any information on that today, but we can get that to you.

Mr. HUDSON. I appreciate it. I understand the EPA is updating its risk assessment of GenX and is performing an independent laboratory analysis and several other compounds in water samples that are being collected now by the North Carolina DEQ along the Cape Fear River including waste water, surface water, ground water, and treated drinking water samples. Are there any findings that you can discuss on that so far?

Mr. PRUITT. Again on that I would have to get the information from the office and provide that to you to make sure it is complete, comprehensive, and up to date.

Mr. HUDSON. Great. I appreciate that. One issue that is a real concern to folks in my part of North Carolina, whether it is agriculture or just property owners in general, is the Waters of the USA regulation. And I have heard some of your critics say that you have done the same thing as your predecessor in that you have already decided the outcome of the rule and are just casting about for justifications. That is sort of the claim that we keep hearing. I would love to give you a chance to respond to that.

Mr. PRUITT. Well, I think oftentimes with respect to issues like Waters of the United States and CPP, it is not deregulation in the true sense. The Waters rule that was adopted in 2015, the stated objective was to provide clarity. That was what the past administration said. If that were the stated objective it was they failed miserably.

Mr. HUDSON. I agree.

Mr. PRUITT. Because the confusion across the country on what a Water of the United States is where federal jurisdiction begins and ends. And so there is a process that we are going through to deal with the deficiency. There is a court stay against this 2015 rule that you are aware of, and so our obligation is to provide a definition and that process has begun in earnest and we should have a proposed rule by April of next year timeframe and we are taking significant comment on that along with the withdrawal of the 2015 rule. So it is not deregulation in the truest sense, it is regulatory clarity going forward so we know where federal jurisdiction begins and ends.

Mr. HUDSON. Sounds good to me. One of the main arguments in favor of the Obama administration's Waters rule is that it is essential to protecting drinking water and that without this version of the rule public health would be at risk. The Safe Drinking Water Act, however, has provisions addressing both the protection of source water, Sections 1453 and 1454, and underground sources of drinking water, Part C. Do you agree that the Safe Drinking Water Act has these provisions and provides protection to source waters?

Mr. PRUITT. Absolutely. And let me say to members of the committee, one of the things that we are focused upon as we head into 2018 is lead in our water supply, safe drinking water. And I think there are tremendous challenges we have across the country with respect to service lines in particular communities and the lead that is seeping into the water supply of our children. It is one of the greatest environmental threats I think we face as a country.

And one of the things that I hope that I can work with this committee on as we go into 2018 is a strategy over a 10-year period to eradicate those concerns. And it is going to be a very ambitious initiative at our agency and it is something that we have various offices in the Agency working upon. There are about 17 agencies actually that are working on this issue of lead as well.

And I am sending a letter to my colleagues in other agencies to make this a point of emphasis as we go into 2018. So not only do I agree with what you are saying about the reach on these issues, but I think there are important matters that we can take on lead that will make a difference for our citizens across the country going forward.

Mr. HUDSON. Well, thank you for your answers.

And Mr. Chairman, I think I can speak for folks on both sides of the aisle that we look forward to that discussion. And with that I will yield back.

Mr. SHIMKUS. The gentleman—

Mr. PRUITT. And I understand, if I may for a second.

Mr. SHIMKUS. You may.

Mr. PRUITT. I understand that that is a costly endeavor. Replacing service lines across the country it has been estimated may cost as much as \$30 billion or maybe upwards of \$50-, \$30- to \$50 billion. But I will say to you that if we can develop a 10-year strategy on how to address that across the country—the State of Michigan as an example, right now, is considering lowering its levels from 15 parts per billion down to 10 parts per billion on the standard, but they are also spending a tremendous amount of money to replace those lead lines, as I understand it.

And that is good leadership with the governor of Michigan and I think, frankly, we in Washington need to have that kind of conversation with states across the country to focus on that issue. The President has talked about infrastructure, the importance of using some of the infrastructure discussion to address some of these things and I look forward to that discussion with you.

Mr. SHIMKUS. So if the gentleman would allow me to yield, so we passed a Safe Drinking Water Act out of the full committee which should be helpful in this. My friends on the other side wanted more money, so maybe in a supplemental and stuff in this process, we have already started moving to try to do that legislatively, but executive branch focus would be helpful.

Mr. PRUITT. Look, it is not just service lines. It is corrosion control measures that need to be deployed, obviously paint as well. So there is a multifaceted approach that we need to evaluate on how to declare a war on lead, if you will, but I want to let you know as a committee it is something I desire to work with you going forward in 2018.

Mr. SHIMKUS. You will have some interest.

The chair now recognizes the gentleman from California, Mr. Cárdenas, for 5 minutes.

Mr. CÁRDENAS. Thank you very much, Mr. Chair.

Mr. Pruitt, appreciate the opportunity for us to—as I quote you, the dialogue that begins today. I hope that future dialogue doesn't span 10 months between these opportunities. Is your current office, place of work, Washington, D.C.?



Mr. PRUITT. Yes, sir.

Mr. CÁRDENAS. OK. And prior to becoming the EPA administrator what city or state did you live in?

Mr. CÁRDENAS. Tulsa, Oklahoma.

Mr. CÁRDENAS. Tulsa, Oklahoma, OK. Well, Mr. Pruitt, I would just like to point out for the record that you traveled to Oklahoma for 43 out of 92 days this spring according to the Washington Post. That is almost half of every day in March, April, and May of this year. I am extremely troubled by reports that your frequent travel to and from Oklahoma occurred at the expense of the U.S. taxpayer and cost more than \$15,000 just on those trips alone. And it appears I am not the only one concerned.

At the request of members of this congressional committee, EPA's Office of Inspector General has begun an audit to review issues of potential waste, fraud, and abuse associated with your frequent travel back to Oklahoma at taxpayers' expense. Also, your record of wasting taxpayer dollars does not end there.

Later news reports uncovered that you along with other members of the Trump administration have been using private jets and military aircraft at tremendous taxpayer expense. One of the most expensive examples was in early June when you and several of your staff traveled on a military jet from Cincinnati, Ohio to John F. Kennedy Airport in New York on your way to Italy. The cost of that flight alone was reportedly over \$36,000. In August, you chartered a private plane to fly from Denver, Colorado to Durango, Colorado, in the same state, costing the U.S. taxpayers over \$5,000. You did so even though the governor of California had reportedly offered to fly you on a state-owned plane.

Mr. Pruitt, the taxpayer bill for your travel on private jets and other non-commercial aircraft is a record total more than \$58,000 since February of this year alone. These costs are especially offensive given the severe cuts you have proposed to essential and life-saving EPA programs. Take, for example, the Office of Environmental Justice which helps poor communities who are being disproportionately impacted by environmental pollution. This administration proposed to eliminate the Office of Environmental Justice.

So Mr. Pruitt, are the American people supposed to believe that we cannot afford \$2 million to help our most vulnerable communities but we can afford tens of thousands of dollars for you to fly on private jets?

Mr. PRUITT. First, I want to say to you, Congressman, I do look forward to the dialogue and I appreciate your comments going forward. I think there is much work that we can engage in together and I look forward to that discussion.

Environmental justice is something that I met with, actually, internal members of our team, yesterday, talking about issues like East Chicago. Environmental justice is an important issue. It is something that we seek to translate to real action on the ground and we have since I have been serving, with particular emphasis on Chicago in the east, the Superfund situation there.

On the travel that you have highlighted I would just say to you, every trip that I have taken to Oklahoma with respect to taxpayer expenses has been business related. When I was in Oklahoma for a WOTUS meeting, a Waters of the United States meeting, we had

three states converge in the Panhandle of Oklahoma that had Kansas, Oklahoma, and Texas come together. There were hundreds of individuals in attendance. That is a very important effort.

Bird Creek in Osage County had high salinity levels. Region 6 had not responded to those high salinity levels. There was harm taking place with fish in that water and as such we needed to take action and I was there to address that. There are concerns that affect Oklahoma and Region 6 just like every state. Every dollar that was expended with respect to those travel was business related. When I have traveled back to the state for personal reasons I paid for it and that will bear out in the process.

But let me say this to you, finally, with respect to the travel, commercial travel is what we fly almost exclusively. The situation in Cincinnati, I fly with the President for a meeting on infrastructure. We were going to the G7 in Italy and could not make the flight at JFK unless we got a public transport, so that is why that decision was made. But it has been only four instances during the entire time that I have been serving as administrator and it was always based upon circumstances.

You mentioned the one in Colorado, the reason that occurred is because we were going into Gold King, Colorado to address the needs and concerns of the citizens there and couldn't make it otherwise. And I would dispute the governor's reference that you made earlier.

Mr. CÁRDENAS. Oh, really. OK. Well, thank you very much for stating for the record, because the Inspector General is looking into those details and I hope it all bears out and let's see what the outcome is.

Well, I wanted to be respectful of giving you an opportunity to answer and there goes all of my time. So with the last 5 seconds, I just would like to ask that I be able to insert these two letters from the EPA's Inspector General agreeing to investigate this travel. I ask unanimous consent to enter them into the record.

Mr. SHIMKUS. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. SHIMKUS. The chair now recognizes the gentleman from North Dakota, Mr. Cramer, for 5 minutes.

Mr. CRAMER. Thank you, Mr. Chairman.

Thank you, Mr. Administrator, for your candor, for being here, and for your strong leadership. And I might just say you used a term in responding to Mr. McNerney that I think is a new term at the EPA and that was partnership. And I think that my friend from California's line of questioning bears out that you see states as stakeholders and partners not as subordinates. Thank you for going to places like Oklahoma and to North Dakota and other states in the middle of real America that are affected by what for the last 8 years has simply been a dictatorship by the EPA. So thank you for that and we appreciate your willingness to address us in our home states.

I also want to congratulate you on your incredible work on meeting these deadlines, the 27 years that gets done in a matter of weeks and months. It probably shouldn't seem like such a high standard, but by comparison and doing all that with only one con-

firmed AA is really quite remarkable. So I look forward to when you have a full staff and a full team and we can really get to it.

And I know CPP and WOTUS are the big topics obviously in North Dakota as you know, but I want to get to the heart of a couple of things that you have emphasized. And like my friend from Texas, Mr. Olson, I appreciate your commitment to process and rule of law. I appreciate your commitment to cooperative federalism.

And I know you are very familiar with a couple of North Dakota cases. One in particular of course, the regional haze case that started in California and North Dakota was blocked from intervening in, which just kind of blows me away that states don't have as a matter of right, constitutional right, standing in cases that affect them especially with regard to regulations that they have primacy over regulating.

The more recent one is one that sort of straddled your memo on sue and settle that I want to bring to your attention and see if we can't work more closely together—you, me, our attorney general—on addressing it as we go forward. And that was a RCRA revision of rules that was proposed in 2016, a consent decree was declared between the EPA and environmentalist groups and North Dakota was blocked from intervening.

And this is, it related to oil and gas industry in our state, where our state has primacy we were blocked from intervening. Oral arguments in October of this year, about the same time as you were putting out your memo, occurred in the D.C. Circuit Court of Appeals and we were blocked again. The environmentalists and the EPA prevailed.

But what was most disturbing about that and why I want to bring it to your attention is because you have a really big task in front of you to meet not just the rules but the culture change that we hope to achieve, and that is it was the Department of Justice attorneys that argued so effectively against the State of North Dakota in the D.C. Circuit.

So as we go forward, what I would love to do is be able to maybe have a meeting with my attorney general and you and me and plan the next phase of this and use the State of North Dakota as a partner as opposed to a litigant on the other side.

Mr. PRUITT. Yes. As I indicated earlier in my opening comments and I think in response to questions, from your perspective, you have put into place a process by which we are supposed to adopt rules. And rules are supposed to be what, laws of general applicability. And so when you are involved in litigation and you change requirements under a statute, discretionary to nondiscretionary or timelines or otherwise and then you apply it in a general fashion, that is something that I think is offensive with respect to the APA process and should be dealt with.

And that is why the sue and settle practice is important as we go forward. We may consider codifying that loosely said with respect to rulemaking, but it is important that we implement this directive I have sent to respect the APA as we make decisions.

Mr. CRAMER. Well, with regard then to states' rights, because I really feel like it is not just RCRA, it is all of the acts under the EPA, it is several other agencies where it seems like the right for

a state to have standing somehow has to be based on some finding of harm or injury. And it seems to me that in a cooperative federalism states should just have that right, especially if it is a regulation that they have primacy over.

I am wondering if we should be doing something to codify that which it seems to me the Constitution should be adequate for, but whether we should do it broadly or whether we should do it very specifically. And I might add and then you can answer and wrap up my time, should you have some more independent litigation authority, independent of, say, of the DOJ or other—

Mr. PRUITT. Well, look. I think on the first point, I do think that perhaps Congress addressing the standing of states to address some of those. Most of those are state implementation plans. Many of them deal with regional haze requirements under the Clean Air Act, and I do think it is important that the voice of those states are heard.

And that is the reason as it relates to the directive that I issued, we asked Justice to take a very accommodating posture with respect to the state intervention on these issues, but there probably is more that can be done to make sure that that happens going forward.

Mr. CRAMER. Thank you. And I thank you for your service.

Mr. SHIMKUS. Time is expired. The chair now recognizes the young lady from Michigan, Ms. Dingell, for 5 minutes.

Mrs. DINGELL. Thank you, Mr. Chairman.

Administrator Pruitt, it is good to see you here and I was very glad to hear you talk about this war on lead we need to have. I share like every one of us, I have met those children in Flint. I have lived with some of those families. It is a very serious problem and we all need to work together to make sure it never happens in another community again.

We have been meeting with my mayors for the last year even in my own community, included the state.

Mr. PRUITT. It is not just Flint either.

Mrs. DINGELL. No, it is all—I have it in my district. I don't have Flint in my district, but it is a concern all over the country. But having said that there are some things I think that are happening at EPA that actually threaten that what you are talking about. So I have got a lot of stuff to talk about, EPA matters in Michigan.

Could I ask for some yes or no questions just to this. For example, the EPA budget for 2018 eliminated two programs that provide grants to states and tribe grants to support their lead training and certification programs for lead paint removal contractors and the lead risk reduction program; is that correct?

Mr. PRUITT. We welcomed Congress restoring that and we talked about that in the appropriations process.

Mrs. DINGELL. OK. It would have represented a 90 percent reduction or a \$26.5 million in funding. In addition to proposed cuts, we have seen delays on several key rulemakings. You talked about one of them which isn't only in Flint. It is another plume that I have got in mind, which is the Agency's long overdue update to the Lead and Copper Rule for drinking water system. It was supposed to be completed by June of this year and now it appears to be delayed to next month. Will we see it next month?

Mr. PRUITT. The Agency, Congresswoman, as you know has taken over a decade on that.

Mrs. DINGELL. I nudged them too.

Mr. PRUITT. No, no. 1991 was the last time we had a Lead and Copper Rule.

Mrs. DINGELL. But we need it and you have been promising it.

Mr. PRUITT. And there is much work that has gone on over a decade and I will tell you it is a major part of what we need to be about with respect to this war on lead.

Mrs. DINGELL. So when are we going to see it?

Mr. PRUITT. We are working on it and it is something I am committed to.

Mrs. DINGELL. All right. And the Agency recently delayed implementation of a 2015 rule to require steam electric power plants to install pollution control equipment to limit effluents, including lead, from being discharged to rivers. The 2015 rule was the first update to these regulations in 30 years; is that correct?

Mr. PRUITT. I am not sure about the timeline, Congresswoman. I take that but I don't know for sure if it has been 30 years.

Mrs. DINGELL. All right. Can we work together to get these things done, because they matter to our communities.

Now I am going to quickly—but I am going to make one little—I am not trying to be—I just care. You made a comment to MDEQ that you should have made about reducing the amount of staff that they had and that they needed to have more people on their team addressing these Flint issues.

Mr. PRUITT. MDEQ.

Mrs. DINGELL. Michigan Department of Environmental Quality, do you know that? You recommended that MDEQ hire more staff with water management expertise. I agree with that, but you have only got one person. You are offering buyouts and cutting experience and manpower at your agency, the one with oversight responsibility for all these state programs while advising Michigan to do the opposite. So I would encourage you to look at that.

But I have got to do two more things. First, I am going to go to my—all politics is local, but it is not just local. It matters to this country. We have an EPA lab in Ann Arbor that is doing critical work for every single state on automotive emissions and fuel economy. The budget would have eliminated that. The auto companies support it. The environmentalist community supports it. Everybody knows what good work it has done.

Will you support keeping that lab open with all the important work we have got coming down the road?

Mr. PRUITT. I will.

Mrs. DINGELL. Thank you. You just made my day. But now having said that the Great Lakes. Michigan is, it is not just Michigan. It is all the states that are on the Great Lakes. They matter. They are more than 20 percent of the fresh water supply in the world. The EPA, the President's budget would have eliminated all the dollars for the Great Lakes Restoration Initiative or the GLRI. Republicans and Democrats on this committee and in the House and Senate worked to restore that. The EPA had something to do with eliminating that down to zero. Can you explain why and can we work with you to make sure that never happens again?

Mr. PRUITT. Well, I actually talked to your senator about this a couple nights ago.

Mrs. DINGELL. We care.

Mr. PRUITT. Oh, I know, and not just Michigan, but other regions. The Great Lakes Initiative is something that has been very successful. You have an issue with invasive species there with carp.

Mrs. DINGELL. A serious one.

Mr. PRUITT. And it is something we need to pay attention to and I respected Congress and their restoration of those funds and appreciate that and we will continue to work with you in that regard.

Mrs. DINGELL. And not cut them again?

Mr. PRUITT. Excuse me?

Mrs. DINGELL. And not make an effort to cut them again?

Mr. PRUITT. That is a process that we will go through next year. That is not something that is unilaterally our decision as you know. That is a combination of decisions—

Mrs. DINGELL. We will be back if you do.

Mr. PRUITT. Yes.

Mrs. DINGELL. Thank you.

Mr. SHIMKUS. The gentlelady's time has expired. The chair now recognizes the gentleman from Michigan, believe it or not, Mr. Walberg, for 5 minutes.

Mr. WALBERG. Thank you. And Michigan works together on these things, so I want to thank my colleague for some of the questions there.

But also, Administrator Pruitt, I want to thank you for being here. Thank you for your straight talk. I thank you for the fact that we don't have to watch you use a lot of notes. That says something about your understanding of the issues.

You made a statement in this Great Lakes Restoration, the Initiative report that had a lot of good things in it, your Interagency Task Force on the Great Lakes that you—I am grateful—chair, and you said that the GLRI is protecting public health in the Great Lakes more than any other coordinated interagency effort in the U.S. history in helping to ensure that our children and their children live in safe, healthier communities. I thank you for that statement. I agree with you on it.

I would just follow up my good friend and colleague from the other side of the aisle. My question is this. Can I count on you and your agency to work with my office, our Michigan delegation, and the state to support programs to protect cleanup and preserve the Great Lakes?

Mr. PRUITT. Yes, sir.

Mr. WALBERG. I appreciate that and whatever it takes I would assume that that would be the case.

Mr. PRUITT. I mean as an example, Congressman, as was mentioned earlier, the Great Lakes Initiative is similar to the Chesapeake TMDL and how the states came together to address a concern. There it was something different, but this process is, the Great Lakes Initiative is something that we should work together to make sure that it is achieving good outcomes and I think it has and we will continue that discussion as we head into 2018.

Mr. WALBERG. Right. Well, thank you. Another issue I feel very strongly about is the environmental threat the algae blooms pose

to Lake Erie which is in my district. This committee has worked over the years to address this issue and encourage cooperation between federal agencies and the states.

I supported my colleague from Ohio. It is tough for a Michigander to support Ohio at times especially after the game 2 weeks ago, but I supported Bob Latta's legislation in 2015 that required the EPA to develop and submit a plan to Congress for assessing and managing risks from the cyanotoxins. Could you please update me on the latest efforts by the Agency to address the harmful algae blooms in the Great Lakes and more specifically Lake Erie?

Mr. PRUITT. Yes. The algal blooms there, but other parts of the country have been a primary point of emphasis for the Office of Water working with states on nonpoint source discharge for a number of years as you know, Congressman. It is something that we actually have a task force internally and a dedicated team of individuals looking at that to try to achieve better outcomes and that is ongoing.

I can provide other specifics to questions that you have as it relates to Lake Erie. I would have to get that from the staff to get an update for you, but it is something that is absolutely a priority.

Mr. WALBERG. And we are taking a broad perspective. Agriculture has its problems, we know that. We also know in Michigan the MAEAP program has attempted to be very effective in trying to address the concerns about excess nutrients, fertilizers, all sorts of things that come from agriculture. But there are other processes that go into this as well and I would assume that you would be looking at the total.

Mr. PRUITT. Well, look. And I think we need to recognize that there are farmers and ranchers all over the country that have taken very important steps to address those issues. I have said many times those farmers and ranchers are our first conservationists or our first environmentalists. They care about these issues as well and we need to make sure their voices are heard to ensure that we are working together to achieve those outcomes.

Mr. WALBERG. I thank you for that. What cooperative efforts has EPA undertaken with other federal agencies in this matter dealing with algae blooms?

Mr. PRUITT. Congressman, I am not entirely sure if Department of Ag has been a part of our discussion. I am sure that they have been historically. Sonny Perdue and I have not addressed it, but it is something that we ought to do going forward and ensure that there is partnership like with the Department of Ag and there are probably others, but perhaps the Department of Interior with certain aspects of Secretary Zinke's shop. But I think Department of Ag would be a very important partner in this process.

Mr. WALBERG. OK, invasive species, specifically Asian carp. What is the involvement with EPA in looking at that? It is a huge, huge problem for the Great Lakes. The Army Corps of Engineers, any involvement with them, other federal agencies as well as state and local governments, what is the EPA doing there?

Mr. PRUITT. A point of emphasis and you mentioned the Corps, the Corps has been very, very involved in that.

Mr. WALBERG. Very, very slow in that as well.

Mr. PRUITT. Well, perhaps we can encourage them.

Mr. WALBERG. I would appreciate that and we will look forward to——

Mr. PRUITT. We are working together with the Corps on a multitude of issues, Congressman, not the least of which is WOTUS. But the leadership there has been responsive and so we will take that information and make sure that we communicate that to our partners.

Mr. WALBERG. Thank you and I yield back.

Mr. SHIMKUS. The gentleman's time has expired. The chair now recognizes the gentlelady from California, Ms. Matsui, for 5 minutes.

Ms. MATSUI. Thank you, Mr. Chairman, and thank you, Mr. Pruitt, for being here today.

Mr. Pruitt, I understand that you and President Trump have decided to reopen the Midterm Evaluation, the greenhouse gas emission standards from model year 2022 to 2025. Can you briefly list for us which groups and companies asked you to revisit the evaluation?

Mr. PRUITT. I wouldn't say reopen, Congresswoman, necessarily. This is, as you know the Midterm Evaluation was supposed to have taken place in April of 2018. That is when it was supposed to occur. The past administration accelerated that for it to happen in December of '16 into January of '17. And this was simply a restoration of process to ensure that the midterm review took place consistent with the original understanding.

Ms. MATSUI. So this is the halfway step, it is not a total evaluation?

Mr. PRUITT. That is right.

Ms. MATSUI. OK, all right. OK, so I will go along with you for that. I just want to suggest to you though that this half-step evaluation I am somewhat concerned about this because these standards to save consumers particularly dollars at the pumps and reduce oil consumption has been validated many times to reduce greenhouse gas emissions that contribute to climate change. And the standard is good for American drivers and good for the environment and it is really necessary, particularly because the International Energy Agency found that the transportation sector is the only area in which the U.S. has become less energy efficient.

Now I also believe that our country should be investing in clean transportation options and many auto companies share my opinion. One of our major domestic auto manufacturers recently announced it is cutting spending on internal combustion engines and instead investing billions of dollars in electric vehicle development. Another company plans to release 20 all-electric vehicles in the coming years.

Can you please answer yes or no, do you support efforts to strengthen American innovation and manufacturing through electric vehicle R&D and production?

Mr. PRUITT. It definitely should be a part of the mix, Congresswoman. And I would say this to you as well, the Agency has not adequately considered with those standards high octane being used as well. There has been a lot of focus on the design of vehicles and access to electric vehicles as well, but not as much on the fuel side



and I think that we need to incorporate that into the discussion as well.

Ms. MATSUI. So you have a plan to support the electric vehicle market in the long term?

Mr. PRUITT. That would definitely be part of the evaluation as we head into April of 2018 and we continue in the years ahead, I am sure.

Ms. MATSUI. All right. I am pleased to hear that because EVs will be a significant portion of our vehicle mix in the future and we need to be positioning the United States to benefit from their adoption.

Mr. PRUITT. We want to ensure, if I may for a second?

Ms. MATSUI. Yes.

Mr. PRUITT. We want to ensure that as we set those standards that you don't want people staying in older model vehicles. The whole purpose here is to ensure that as the vehicles are manufactured that they meet efficiency levels and outcomes that are important to the environment.

Ms. MATSUI. I understand.

Mr. PRUITT. And so if you don't look at the cross section of issues from high octane fuel design and what you have raised, Congresswoman, the very purposes are not achieved. And so we are taking all those into consideration as we head into April '18.

Ms. MATSUI. OK, certainly. Mr. Pruitt, I am now running out of time. Does California currently have a waiver to set its own light-duty vehicle emission standards through 2025?

Mr. PRUITT. Yes. There is, as you know, a statutory waiver for California that is evaluated as part of the midterm review.

Ms. MATSUI. Right. Is the EPA involving the State of California in your review or partial review to a 2022 through 2025 emission standards?

Mr. PRUITT. I missed the first part of the question, I am sorry.

Ms. MATSUI. Are you involving the State of California in your review of the 2022 to 2025 emission standards?

Mr. PRUITT. As part of the midterm review the California waiver is necessarily a part of that process.

Ms. MATSUI. OK, great. That is encouraging because I believe that the communication of all involved stakeholders is very important. And Mr. Pruitt, can you please answer yes or no. Do you believe that environmental laws envision a cooperative relationship between states and the federal government?

Mr. PRUITT. Yes.

Ms. MATSUI. In the past you have said that the previous administration was "aggressive about dictating to the states and displacing their authority." Is this correct?

Mr. PRUITT. Yes, ma'am.

Ms. MATSUI. Given your support for states' rights under federal environmental laws, do you support California's ability to seek a waiver to set its own Clean Air Act light-duty vehicle standards?

Mr. PRUITT. Well, federalism principles, Congresswoman, do not say that one state can dictate to the rest of the country the standard for the entire country. So there are a multitude of considerations with respect to the waiver and those we considered in due time.

Ms. MATSUI. That we will definitely work with states in order to do this.

Mr. PRUITT. We have already reached out to the governor of California and are waiting for a response.

Ms. MATSUI. OK, great. So as I mentioned previously, certain auto manufacturers asked for changes to the emission standards. Some have specifically asked for flexibilities under the current program. Are you considering providing these types of flexibilities or are you also looking at relaxing the standards entirely?

Mr. PRUITT. As part of that midterm review all things will be considered.

Ms. MATSUI. OK. NHTSA has made—

Mr. SHIMKUS. The gentlelady's time has expired.

Ms. MATSUI. All right. Thank you very much, Mr. Chairman.

Mr. SHIMKUS. The chair now recognizes the gentleman from South Carolina, Mr. Duncan, for 5 minutes.

Mr. DUNCAN. Thank you, Mr. Chairman.

Administrator Pruitt, thank you for being here today. This hearing has been extremely informative to me for learning the Trump administration priorities within the EPA and I have to say I have been extremely impressed and supportive with the EPA thus far under the Trump administration and your leadership. You all understand what the intended role of the Agency is and have effectively worked to roll back the bureaucratic overreach and power abuses of the Agency under the previous administration.

Through cooperative federalism you prioritized what should be left up to the states when it comes to both energy and environmental matters. The states should be the ones to set their own limits in regards to the environment and I thank you for understanding the crucial role the states and localities play in this process. A quick question about the February 28th presidential executive order on Waters of the U.S., could you inform me of the status of that AEO?

Mr. PRUITT. Yes. On February 28th, the President issued an executive order asking the Agency to review that definition from 2015. We in fact are doing that. There is a two-step process presently that is ongoing. One is a proposed withdrawal of the Waters rule and that is in the marketplace.

There is comment being taken upon that, in fact the comment period is closed. And we have a substitute definition of what a Water of the United States is that will come out sometime in April of next year. So there is a substantive replacement that is forthcoming and a withdrawal that is already in the marketplace that makes up the response to the February 28th executive order.

Mr. DUNCAN. Thank you. A lot of us were alarmed when we saw what was defined as a navigable waterway under the previous administration. A lot of times these were ditches that didn't hold any water, no stream bed, only had water during a significant rain event, but yet they were regulated under the Waters of the U.S. and that was to the detriment of the developer, the landowner, the farmers, and what not. So I thank you and the administration for doing that.

I want to shift gears to ports. The South Carolina port regulated by the Ports Authority in South Carolina, our Charleston port, is

important. One in every 11 jobs in South Carolina is attributed to some sort of port activity. So could you explain how under the Trump administration the permitting process for ports is carried out in a more timely and efficient manner to ensure that these ports continue to maintain, be a main economic driver while still protecting the environment?

Mr. PRUITT. Yes, it is not just a port issue, Congressman, but I think the permitting process at the EPA has been very inconsistent. I talked about this, this morning, with respect to the ten regions and how individuals in Region 8 or Region 6 are being treated differently than Region 5 and Region 10. And so we are trying to get processes in place to ensure that there are timely responses.

A permitting process shouldn't go on for years and years and years, and we have many examples at the Agency where, literally, the decision on whether to grant or deny a permit has taken over a decade. That is entirely unacceptable. And what we are doing is trying to set an outside time limit that a decision will be made up or down on whether a permit should issue.

In fact, I have been told, I mentioned the chief operating officer earlier today, it is our goal by the end of 2018 to have processes in place to ensure an answer up or down on permits within 6 months as we go forward. So that is something states are doing across the country. It is a major undertaking at our Agency but we are trying to reform the processes internally to provide answers with more clarity and more certainty.

Mr. DUNCAN. I applaud you for that and I wish this committee had jurisdiction over the Corps of Engineers and we could encourage them to manage river systems in this country on a regional basis instead of a one-size-fits-all. Because I can tell you, eastern river systems like the Savannah River system is different than western river systems, and how the Savannah River Basin is managed from a Corps of Engineers standpoint and possibly even an EPA standpoint is different than how a western river system should be managed. That is important to my district that has core lakes and downstream flows that affect Mr. Carter's district.

So Mr. Administrator, I appreciate you being here. With that Mr. Chairman, I yield back a minute of my time.

Mr. PRUITT. Well, if I may, I really appreciate the comment about regional variation, because as we look at the Waters of the United States rule as an example, I mentioned this earlier today. The states have, North Dakota has something called prairie potholes and as I spent time in North Dakota I had never seen a prairie pothole. But that is a unique aspect of that state that needs to be taken into consideration as we look at these issues. So I really appreciate your feedback. That is the reason we were reaching out to governors and these DEQs, DNRs across the country to make sure that we are making informed decisions not only on just permitting, but the substantive rules that we are talking about.

Mr. DUNCAN. Yes. That is critical. I yield back.

Mr. SHIMKUS. The gentleman yields back his time. The chair now recognizes the gentleman from Georgia, Mr. Carter, for 5 minutes.

Mr. CARTER. Thank you, Mr. Administrator. I appreciate you being here today very much. Pardon me?

Mr. SHIMKUS. My apology, talking to another member here.

Mr. CARTER. No worries.

Administrator Pruitt, during the last administration, toward the end of the last administration there was a rule that was titled Greenhouse Gas Phase 2 Rule for Medium and Heavy-duty Trucks. And in my opinion this had a lot of overreach in it because it included regulating truck trailers as self-propelled vehicles. And I have introduced legislation to deal with this and I just wanted to ask you.

You issued a statement on this rule back in November and in that rule you issued a statement on the review of glider kits, but you didn't include anything about tractor trailers. Do you intend to do that? Are you familiar with this at all?

Mr. PRUITT. I actually appreciate you bringing it to my attention. I was aware of the latter that you mentioned but not the former, so that is something that I will definitely take a look at.

Mr. CARTER. OK. I appreciate it because it is something that is very important to us, particularly to the tractor trailer industry which is a big industry down in our area as well.

I also wanted to ask you, in my district in the coastal region of Georgia, the entire coast of Georgia I have the honor and privilege of representing that area. We have got three significant Superfund sites, and very briefly can you just bring me up to date where we are at with that with the Superfund sites and the status of the program and the improvements you may have made with this?

Mr. PRUITT. Yes. There were 42 recommendations that we would be happy to make available to the committee, but in the month of May-June timeframe we commissioned this task force to evaluate how we can better manage the Superfund portfolio and out of that came 42 recommendations. Those recommendations are being implemented as we speak and the great progress is being made.

And we are trying to address because there are certain areas, and in Portland—I am sorry. I can't recall the member that brought it up this morning, but the City of Portland and the harbor there were substantial issues. It was a large area that was impacted. There was progress that could be made in certain parts of the Superfund area and not others. And so we made a call to get started on those areas, because what has happened historically is that we delayed taking any positive action until the entire area had been decided upon on how to proceed.

So we are trying to make those kinds of changes to provide clarity to the communities and also ensuring that we are hearing the voices of those cities and towns and citizens about those decisions. I think that has been neglected in the past. So there are many things we are looking at, but ultimately it is to ensure that we get outcomes and we get decisive outcomes and decisions are made and responsible parties are held responsible for the harm they have caused in those areas.

Mr. CARTER. Are there any kind of legislative actions that you feel like you need that we would be able to make that would help you in that area?

Mr. PRUITT. It is a good question because in the brownfields program as an example this body has been very, very successful with respect to changes in the brownfields program. I think there are

some reusability opportunities with respect to Superfund sites, sites that are more marketable going forward. Ultimately, our goal in the Superfund portfolio should be to remediate those sites, protect human health, and see those sites redeemed as far as using them going forward. And so there may be some things we can work on together to adopt a brownfields kind of approach to some of the Superfund areas within the portfolio.

Mr. CARTER. Good. As I mentioned before, I represent the entire coast of Georgia, over a hundred miles of coastline. So as you can imagine, we have a lot of boaters in that area and our office has been getting a lot of calls about the tiers of engine classes that are available for specialized boats particularly among the harbor pilots and the bar pilots. They are having a lot of trouble with the lack of flexibility that is in the framework.

They have got situations where we have heard requirements of them forcing people to, in the scenarios where the manufacturers don't necessarily make an appropriately tiered engine for a boat type and they are having a lot of trouble with this and it is causing them problems with being able to order these boats. Are you familiar with this or is this something that you have been addressing at all?

Mr. PRUITT. It is not something that I have been privy to as far as discussions at the Agency, but I would be happy to look at it.

Mr. CARTER. OK. And if it is OK I would like my office to be able to send you this information so that you can review it because it is a serious problem down here. They want to comply and they want to do this to do the right thing, but they need some flexibility with it as well.

Mr. PRUITT. OK.

Mr. CARTER. Thank you, Mr. Administrator. One last question, as I understand it, Mr. Administrator, you are from Oklahoma; is that correct?

Mr. PRUITT. Yes, sir.

Mr. CARTER. Can you say Go Dawgs?

Mr. PRUITT. It is hard. It is hard.

Mr. SHIMKUS. I think the gentleman is out of order.

Mr. CARTER. Out of order.

Mr. PRUITT. Yes, Boomer Sooner comes out easier.

Mr. CARTER. Thank you, Mr. Chairman. I yield back.

Mr. SHIMKUS. The gentleman yields back his time. The chair now recognizes the gentleman from Mississippi, Mr. Harper, for 5 minutes.

Mr. HARPER. Thank you, Mr. Chairman.

And thanks so much for being here, Administrator Pruitt, and congratulations on a great, almost 10 months I guess that you have been in this role. And while I was born in Mississippi, my late father was born in Altus, Oklahoma and grew up there, so we have a great affinity for the State of Oklahoma in my household. So I appreciate you taking the time to be here and go through this.

Yesterday, I was appointed chairman of the Subcommittee on Oversight and Investigations here in Energy and Commerce, an important responsibility that I will now have and I certainly don't take that lightly. Many of the matters that we have reviewed and will review will concern the EPA.

While I cannot comment on the minority's interest and agenda, I can pledge to my colleagues across the aisle and to you that I will work with you when at all possible and that in the weeks ahead I will be reviewing available information with the chairman of the full committee and committee staff to determine our oversight agenda regarding the many agencies under the committee's jurisdiction including EPA.

I will also work closely with the chairmen of the other subcommittees to identify issues we think deserve focus and attention. In addition, I wanted to emphasize that as with all agencies in the committee's jurisdiction, we do anticipate and expect that the EPA will cooperate with our inquiries and I hope you, Administrator Pruitt, will respect our constitutional prerogatives and will be fully responsive to our inquiries and requests for information, and I assume we can count on that.

Mr. PRUITT. Yes, Congressman.

Mr. HARPER. Thank you.

Mr. PRUITT. And it is good to meet you and I am glad to hear about your connection to Altus.

Mr. HARPER. Thank you so much. The Obama administration's EPA rule on wood heaters had two steps. Step one took effect in 2015 that reduced emissions up to 90 percent. Step two is scheduled to take effect in 2020 and will reduce emissions a bit more. The 2015 step one has already gone into effect.

But the wood heater industry, many of them are having great difficulty developing models that meet the 2020 step two standards. So one of the things we have looked at is giving more time in a matter that was actually marked up yesterday to extend that by 3 years. Do you believe that it makes sense to give this industry a little more time to meet the step two standards rather than seeing companies going out of business and letting workers go?

Mr. PRUITT. Well, I think it is always helpful, Congressman, in response to your question, for Congress to provide those kinds of direction to the Agency, and I am glad to hear and encourage that this body is looking at that to give us the path forward in that regard. And as that occurs we will make sure we work with you to address the issue.

Mr. HARPER. Many of the customers for these wood heaters, many of them will be in the rural areas, many low-income individuals or households. So, it is a feeling I would assume that you would agree that the EPA needs to make sure that its rules don't drive up prices unnecessarily.

Mr. PRUITT. All those things have to be considered in the regulatory process, but I very much appreciate the congressional response as well on those deadlines.

Mr. HARPER. One last thing in the time we have. Last week, the Oversight and Government Reform Committee held a hearing on the Regulatory Reform Task Force. During the hearing, Deputy Associate Administrator Bolen testified that retrospective review of regulations was nothing new to EPA. What are some regulations that have been repealed and what are some others that have been proposed but maybe not yet finalized?

Mr. PRUITT. Goodness. Are you talking about Brittany Bolen?

Mr. HARPER. Yes.

Mr. PRUITT. And I am not sure. I haven't reviewed her testimony, but are there any specific rules or areas that you are concerned about?

Mr. HARPER. Just wondering if there is something that you have got on your radar that we need to be aware of that you are looking at.

Mr. PRUITT. I think that we have been very, regulatory reform pursuant to the executive order and that task force is something that I think is going to be ongoing as we head into 2018. The agenda that we have spelled out there is very apparent and I think we have addressed some of those here today.

If there are certain rules or regulations that are of concern to you or others on the committee, we look forward to that discussion but I can't point to any particular one that hasn't been discussed already. My apologies in that regard, but.

Mr. HARPER. Administrator Pruitt, we want to thank you for your time and your insight. We look forward to working with you in the years ahead. Thank you.

Mr. PRUITT. Thank you, Congressman.

Mr. SHIMKUS. The gentleman yields back his time. Just an announcement of my apologies to my colleagues who have been here for a long time, the committee rules dictate that members who don't serve on the committee go by seniority on the full committee. So with that I recognize the gentleman from Illinois, Mr. Rush, for 5 minutes.

Mr. RUSH. I want to thank you, Mr. Chairman.

And I want to thank you, Administrator Pruitt, for your attendance here. After your confirmation hearing in January you were submitted questions for the record asking you to define environmental justice and whether you considered it a serious issue. And in your response you seemed to give the issue, in my opinion, short shrift as you reported as saying that you were "familiar with the concept of environmental justice."

You then went on to say in a vague way, and I quote you directly, "the administrator plays an important role regarding environmental justice." And this statement you repeated 11 times in your written response. Then a few months later, after you took over the Agency, the former Assistant Associate Administrator for Environmental Justice, Mr. Mustafa Ali, an individual who worked with my office on several occasions, Mr. Ali resigned in March after 24 years of service stating that he did not see any indication that you or the rest of the Administration are interested in any way in helping vulnerable communities.

I just want to say this is deeply disturbing to me because as you know protecting these communities is an essential aspect of the EPA's mission and is one that appears to have been, in my opinion, summarily neglected. So Mr. Administrator, how would you prioritize EPA's responsibility to protect the nation's most vulnerable populations from pollution? Is it a high, medium, or low priority? How would you define it?

Mr. PRUITT. Congressman, thank you for your comments. And let me say to you it is a priority and I will give you feedback.

Mr. RUSH. Is it a high, medium, or low priority?

Mr. PRUITT. It is a very important priority at the Agency, and I will give you an example. East Chicago, an area that I am sure you are familiar with, with respect to a Superfund site there, there are threats to water supply and there is a community in East Chicago that has faced those threats for a number of years.

I traveled to East Chicago, met with members of the community there that make up the constituency group, those that have not had a voice in some of these areas, and met with them about a progress and an answer on that East Chicago area. In fact, we have sent staff there multiple times since I left to ensure progress. So it is something that I consider an important priority.

I met with internal members of our team as recently as yesterday, the NEJAC group that meets internal to the EPA on environmental justice, and we talked about these very issues of making sure that individuals who historically have not had voice to impact outcomes with respect to Superfund or other issues that we take that seriously and actually take that into account going forward. So it is something that is an important priority going forward.

Mr. RUSH. So it is an important priority, all right. The record shows that you—let me ask you another question then. The record shows that you have met either in person or by phone with the API on at least three different occasions, on the 28th of June, on the 29th, and also on the 6th of November. My question to you, there is as an individual who is a scientific advisor for the API and her name is Ms. Una Blake. Are you familiar with this individual?

Mr. PRUITT. The name doesn't sound familiar, Congressman.

Mr. RUSH. So have you had any occasion to discuss her position on hydraulic fracturing? She indicated that hydraulic fracturing is a health benefit to minority communities, to African American communities specifically and this is in contrast to NAACP study that found that many African American communities face an element of risk of cancer due to air toxic emissions in natural gas. Are you familiar with the NAACP study?

Mr. PRUITT. The person to whom you refer, I am not familiar with that person. So I am sorry.

Mr. SHIMKUS. The gentleman's time has expired. The chair recognizes the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. GUTHRIE. Thank you very much, Administrator Pruitt. I also want to thank you personally for meeting with me earlier this year to discuss some of the issues in the 9th congressional district of Virginia, and I appreciate that you will continue to work on those. One of those that I think that we talked at that time but I want to discuss again today dealt with the EPA's regulations affecting medium and heavy-duty vehicles. Now the problem that I have is that the prior administration wanted to regulate both the tractor and the trailer.

But the code says that the motor vehicle which is the area where the authority comes from, the term motor vehicle means any self-propelled vehicle designed for transporting persons or property on a street or highway, and of course a trailer is not self-propelled. It has to have the tractor component and we make both in my district. I have Volvo which makes the tractor and then I have companies that make the trailers and about 2,000 employees just making trailers in my district. So it is a very important question.



And so I guess what I have to ask is, is that with that reading of the law—and look, I have to applaud you all for agreeing to reconsider those regulations overall, but at some point the EPA needs to either acknowledge that there is no authority over the trailers or come and ask Congress for that authority. Do you know how long it will take before you get to that point?

Mr. PRUITT. And I agree wholeheartedly. It is one of those areas where the text of the statute is something that governs whether we have authority or not and we need to provide clarity on that and do it soon and advise Congress if there is a deficiency. So I agree wholeheartedly with your position.

Mr. GRIFFITH. Well, I appreciate that. In fact, one of the folks there before said that since you had to have goods in the trailer to move anything that that is how they got authority. And I made the analogy at the time, well, that gives the EPA the authority to restrict the weight of the driver because you can't drive at least at this point until we get to the driverless trucks. At this point you have still got to have a driver in the truck and if you are going to get to weights and that kind of thing on things that aren't self-propelled motor vehicles then you can do anything.

All right. I do want to talk about some New Source Review issues and I am concerned that the EPA has been using New Source Review programs inappropriately in the past as a weapon against coal-fired power plants using enforcement actions to change the way the program is supposed to work and making it hard for these plants to do the type of maintenance projects that are needed to keep them running reliably and efficiently.

I have introduced legislation to address this problem. A lot of us are hoping that you will help on this. Can you give me some yes or no answers to the following questions? One, EPA has taken New Source Review enforcement actions against coal-fired power plants because they have taken steps to become more efficient. Are you aware of this?

Mr. PRUITT. I am.

Mr. GRIFFITH. And do you think that this is the way the program is supposed to work?

Mr. PRUITT. I don't.

Mr. GRIFFITH. To be more efficient?

Mr. PRUITT. I don't.

Mr. GRIFFITH. Do you think that a power plant should be required to go through a long and costly permitting process before it can do something to improve its efficiency including less pollutants?

Mr. PRUITT. I don't.

Mr. GRIFFITH. And do you believe that such a requirement might actually discourage plant owners from doing things to make their plants more efficient?

Mr. PRUITT. In fact it is happening across the country. And I would say to you, Congressman, we have a task force. I mentioned earlier today that Bill Wehrum, who is an AA for air recently confirmed, there is a task force internal to the Agency to address NSR steps going forward in 2018. It is a very important area as you have indicated. There are companies across this country that seek to invest capital to improve emissions and they are very concerned

if they do that it will trigger new permitting requirements and it is a disincentive. And that is not the way that it should work and we are trying to address that and believe it is a very important issue.

Mr. GRIFFITH. Well, I appreciate that and look forward to working with you on that issue because I do believe it is a very important issue. And while I do represent a coal district, it is also, I think, important for those who are concerned about pollution because we are going to continue to need coal well into the future at least at some percentage level to keep our grid reliable. And as we use that coal we want to do it more cleanly and more effectively and more efficiently and to discourage people from taking on the new technology because it might put them out of business is not a good idea.

Mr. PRUITT. We should remember that this is really an issue that affects all utility companies that seek to invest monies to improve emission outcomes. We celebrate that and encourage that. We don't want there to be disincentives in place to impact that adversely.

Mr. GRIFFITH. And I know the technology is changing. I am going to switch gears on you a little bit. I know the technology has changed, but I would like to allay some people's fears. Every rock, every rock system is a little bit different and I know that too, but they have been fracking in my district for probably about 40, 45 years. And so for those people who are afraid of it, if you have the right rock and you are taking a look at the ingredients that are being put into that rock, I think it can be done very safely.

Mr. PRUITT. To your point, Congressman, hydraulic fracturing itself is not new technology. It has been around for decades. And the uniqueness, the shale revolution that has occurred is largely because of horizontal drilling combined with the fracking process. So—

Mr. SHIMKUS. The gentleman's time has expired. The chair will now recognize the gentlelady from Illinois, Ms. Schakowsky, for 5 minutes.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. I appreciate being allowed to be at this hearing today.

Thank you, Secretary Pruitt. I have a number of questions so I am going to try and push through these. Last Congress, Assistant Administrator McCabe appeared before the subcommittee on Digital Commerce and Consumer Protection—I am the ranking member there—to discuss EPA and NHTSA technical assistance report, the technical analysis that supported the decision to retain EPA's greenhouse gas standards for the 2022 to '25 model year cars and light trucks. You reopened the midterm review after receiving a request from the auto industry in February, and I have a number of questions that may help me understand why you agreed to their request.

So first, let me ask you this. Is there a revised technical report that you used as a basis for reopening the midterm review of the EPA fuel efficiency standards?

Mr. PRUITT. The reopening, Congresswoman, was to keep consistent with what was committed on the midterm review when it was supposed to happen initially. It was supposed to occur April

of 2018. This was not a change of that date, it was just a commitment to keep the date that was agreed to at the beginning.

And that date was not—actually accelerated by the previous administration, December of '16, January of '17, so this was just restoring order to the process to make sure that the original date was upheld and enforced and it occurred in the time it was supposed to occur initially.

Ms. SCHAKOWSKY. OK. So you are saying there were no changes and is that already closed now again?

Mr. PRUITT. No, the review is ongoing. But the review is ongoing because the initial commit was April of 2018. So this is a restoration of process to say that the midterm review should occur pursuant to April 2018 as originally discussed.

Ms. SCHAKOWSKY. Well, my understanding is that it was already approved in the last Congress. So in answer to my question, is there a revised technical report that you used as a basis for reopening and is it—

Mr. PRUITT. The Agency accelerated the review process inconsistent—

Ms. SCHAKOWSKY. All right.

Mr. PRUITT [continuing]. With the original understanding and this was a restoration of that process.

Ms. SCHAKOWSKY. So let me ask you this. I would like to know if you agree or disagree with the information your agency provided to us at that time, that is, last Congress. I don't have any—

Mr. PRUITT. What timeframe is that? What timeframe would that be as far—

Ms. SCHAKOWSKY. So that was in September of 2016. Do you agree or disagree with the information that your agency did provide, now your agency, provided to us at that time?

Mr. PRUITT. I think my comment is what I said earlier, Congresswoman. It is consistent with the commitments were made that the midterm review would occur in April of 2018.

Ms. SCHAKOWSKY. OK. So I am a bit confused, because Ms. McCabe testified that the EPA found that fuel efficiency technology development was moving faster than they had expected and is being implemented in the early years of the program. Has this finding changed?

Mr. PRUITT. I am not aware, Congresswoman.

Ms. SCHAKOWSKY. The EPA found that to meet the proposed standards automakers do not have to manufacture and sell large numbers of hybrids and electric vehicles. The Agency projects that the 2022 through '25 standards can be met largely with more efficient gasoline powered cars. Has this finding changed?

Mr. PRUITT. That will be part of the review that occurs in April of '18.

Ms. SCHAKOWSKY. So all of these are dependent on a review that was opened earlier than expected. In other words you decided—

Mr. PRUITT. The Agency concluded their process, Congresswoman, inconsistent with the original timeframe that was established and we have restored that process. So this review that you are referring to will occur and culminate in April of 2018.

Ms. SCHAKOWSKY. OK, so we are going to be interested then. And the transportation sector accounts for a third of the total green-

house gas emissions in the United States. With light-duty truck vehicles making up more the 60 percent of the emission standards in that sector, the EPA found in that original review that these standards are a critical part of any program to reduce greenhouse gases. Would you agree and do you expect that that finding may change?

Mr. PRUITT. The progress made in the mobile source category has been significant and the auto industry has made significant progress over the years. That is why the process matters and we are going to go through that and it will culminate in April of '18.

Ms. SCHAKOWSKY. And EPA and NHTSA found that the average cost increase for a car by 2025 due to the standards will be about \$1,200 and that that cost would be offset by an estimated fuel cost savings of about \$1,900. Are you aware of that finding that there would actually be a savings in the cost of a car?

Mr. PRUITT. The vehicle emissions and efficiencies are dramatically more than people anticipated several years ago so there has been great progress as I indicated.

Ms. SCHAKOWSKY. The gentlelady's time has expired. The chair now recognizes the gentleman from Florida, Mr. Bilirakis, for 5 minutes.

Mr. BILIRAKIS. Thank you, Mr. Chairman. I appreciate it. Thanks for letting me sit in on the subcommittee as well. And I thank you for your testimony, Administrator, and your patience.

Administrator Pruitt, this subcommittee recently held a hearing regarding the status of the hurricane response in Florida, Texas, Puerto Rico, and the Virgin Islands. A key issue of concern was how EPA addressed the Superfund sites both in advance of and in the wake of the hurricanes. This is a big priority for me because in my district I have the Stauffer Chemical Company Superfund site.

I want to thank you for having your staff be so responsive again during and leading up to the hurricanes as well. I appreciate that very much. Can you walk us through EPA's process to secure Superfund sites before and after a hurricane and how does EPA coordinate with state and local agencies?

Mr. PRUITT. Thank you, Congressman. And there are assessments that are made in conjunction with governors, Governor Abbott in Texas, the Florida governor, Governor Scott. That is going to be bad because he is going to call me a little bit later.

Mr. SHIMKUS. And I knew it. I am from Illinois, so.

Mr. PRUITT. The governor of Florida and the governor of Texas, we were in conversations with them leading up to the hurricanes in both instances to talk about how to secure those sites. So you have conversations that are ongoing with responsible parties, the governors in those states, the DEQ, DNR at the state level.

There is a pre-assessment on whether proper steps are being taken to secure those sites, and there is constant evaluation during the storms. And then postscript a determination whether there has been any release. So it is both a pre-, during, and post process that occurs with those states and members of our agency.

Mr. BILIRAKIS. OK, thank you. Again the Stauffer—

Mr. PRUITT. Governor Scott is a great governor.

Mr. BILIRAKIS. And Governor Scott—I will repeat it. Governor Scott is a great governor and did a great job during—

Mr. PRUITT. He is. And I will say he showed tremendous leadership. In fact, I will tell you with respect to the fuel waivers that occurred, access to fuel is a key issue for citizens during those kinds of storms and working with Governor Abbott in Texas and Governor Scott in Florida we were able to address that in a proactive way to ensure better access to fuel during those storms and Governor Scott was a tremendous leader in that regard.

So I really commend his leadership, the leadership of the State of Florida, the DEQ there, but also in the State of Texas as well.

Mr. BILIRAKIS. Ditto. I agree. OK, the current status of the Stauffer site, the Superfund site that I referred to earlier, is better than most of the sites on the national priority list in that the remedy is largely in place and the most recent 5-year review found that the remedy was protective of people and the environment. I know that not all sites on the National Priorities List are in such good shape. I have a couple questions for you about the Superfund cleanup program if I may. Number one, how does EPA plan to work through the sites on the National Priorities List and how does EPA prioritize existing sites on the National Priorities List?

Mr. PRUITT. We have had some changes at the Agency to address sites that are over \$50 million, because historically regions have been the primary place where that has been decided and we have had inconsistency on large sites based upon it being a region by region evaluation. And so what we did is institute a change that on sites of over \$50 million, that would actually be a decision made at headquarters to ensure greater consistency and uniformity and urgency to address those sites.

So that is ongoing based upon the task force recommendations that came out in June of this year, as I previously referred to that. And the other thing we are looking at is to ensure that if we have sites as I indicated earlier that have the ability to be cleaned up partially, where it is a large site and we can make progress, instead of waiting until there is a remedy or proposed remedy for the entire site, we are trying to address those hot spots, if you will, throughout the process to get some clarity and success, if you will, through the cleanup process. So those are just a couple of examples.

But the Superfund program, overall, in my view, has lacked a sense of focus, a sense of leadership and management over making decisions. It is really unacceptable for an agency to take decades to make a decision on how you clean up sites. I would love to tell you that that is an isolated situation at the Agency. It has not been historically.

I have had individuals in the Land and Emergency Management Office that have been in EPA for a number of years that really appreciate how we have vitalized that area and really focused in this and they look forward and are actually making a difference in as early as the time we have been in there.

Mr. SHIMKUS. I am going to ask my colleague to yield back that time so we can get—and also make an announcement that they are going to call votes real soon. We are going to try to drive through our last colleagues. And with that—

Mr. TONKO. Mr. Chair?

Mr. SHIMKUS. Yes.

Mr. TONKO. Yes, just quickly. If I might ask the Fumes Across the Fence-Line issued by the Clean Air Task Force and NAACP referenced by Congressman Rush be entered into the record.

Mr. SHIMKUS. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. SHIMKUS. And the very patient Kathy Castor is recognized for 5 minutes.

Ms. CASTOR. Well, thank you, Mr. Chairman.

Mr. PRUITT, I appreciate the work that the EPA professionals out of Region 4, the work they did before and after Hurricane Irma, so thank you for that.

Mr. PRUITT. They worked very diligently.

Ms. CASTOR. But clean water and clean air are vital to our economy in Florida. And I had to choke a little bit when you called our governor a great governor, because one of the things—and I wasn't going to mention this. One of the things he has done is to deny the rising cost of the changing climate. Florida is probably one of the most impacted states when it comes to that, looking at flood insurance, property insurance, property taxes from these extreme weather events and hurricanes.

And I hope that EPA was not taking a page out of Governor Scott's book. Governor Scott at one point prohibited folks at our environmental agencies from using the term climate change at all and also scrubbed websites. And now you have an unfortunate, now you are laying down that same legacy and I think that is unfortunate as well. To be great you have to great things and work in the public interest and not for private interests. And——

Mr. PRUITT. I think the Governor did exercise tremendous leadership during the hurricanes. And——

Ms. CASTOR. On climate he has been a denier and that is a problem and that is going to cost us dearly in the State of Florida. Mr. Pruitt, prior to becoming administrator of EPA you served as attorney general of Oklahoma. In that role you sued the EPA repeatedly, in fact, 14 different times fighting clean air protections, fighting clean water protections.

And interestingly, the CEO of one private company, Murray Energy, was a co-plaintiff in 8 of the 14 lawsuits. You also acted with other energy companies and special interests such as Peabody Energy, Southern Power Company, the American Fuel & Petrochemical Manufacturers, Oklahoma Gas & Electric, and others. How many of these groups have you met with during your 10-month tenure at the EPA?

Mr. PRUITT. Look, the claims that were made by those companies were separate from the claims of the states——

Ms. CASTOR. No, just answer that question because we have limited time.

Mr. PRUITT [continuing]. And the state interest.

Ms. CASTOR. How many times have you met with those companies?

Mr. PRUITT. I don't know, Congresswoman.

Ms. CASTOR. All right, so please submit that information for the record. These groups also reportedly contributed money to you or your political action committees. Murray Energy CEO Bob Murray was a top donor to your Super PAC. In fact, according to the Na-

tional Institute on Money in State Politics, you have received over \$345,000 in campaign contributions from these fossil fuel interests.

You previously served two terms as chairman of the Republican Attorneys General Association, correct?

Mr. PRUITT. That is correct.

Ms. CASTOR. And Murray Energy donated not only to your Super PAC but also to the RAGA. In fact, in 2014, press report describes a “secretive alliance between energy firms and attorneys general,” according to this report, under your leadership at the RAGA that set up a separate entity called the Rule of Law Defense Fund which could accept unlimited anonymous donations from companies benefiting from your lawsuits.

Under this arrangement, fundraising reportedly skyrocketed. The report also states that “the work in Mr. Pruitt’s office has sometimes seemed to blur the distinction between his official duties and the advancement of his political career.” And I have to be frank. Many of us are very concerned that you continue to blur the distinction between your official duties and your political ambitions. You pledged that while you are administrator you would recuse yourself from any active cases where Oklahoma is a party/petitioner/intervener; is that correct?

Mr. PRUITT. I have, in fact.

Ms. CASTOR. So given your extensive history of suing the Agency you now oversee and the vast amounts of money you have raised from the fossil fuel industry, offering to recuse yourself from only active cases and only cases from where Oklahoma, itself, is a party is grossly inadequate. So will you commit to recusing yourself from cases involving your past co-litigants and donors to the Rule of Law Defense Fund?

Mr. PRUITT. It has not been inadequate according to the ethics official at the EPA who is a career employee. And that—

Ms. CASTOR. So you are saying you will not commit today?

Mr. PRUITT. I follow the advice of counsel.

Ms. CASTOR. So yes or no, you will not—

Mr. PRUITT. Mr. Chairman, if I may.

Mr. SHIMKUS. The time is the gentlelady’s from Florida, so.

Ms. CASTOR. So I understand—

Mr. PRUITT. If I may.

Mr. SHIMKUS. Well, let the gentlelady ask her question.

Ms. CASTOR. So if you cannot do that you will cement your legacy as one who serves the powerful special interests and not the public interest. I am also deeply concerned that you have not recused yourself from regulatory proceedings on specific rules you have previously targeted despite the fact that your position on the issue is clearly already established. Will you commit to recusing yourself from rulemakings and other regulatory actions that were the subject of your past lawsuits?

Mr. SHIMKUS. The gentlelady’s time has expired. The chair now recognizes the gentleman from Maryland for 5 minutes.

Ms. CASTOR. He can answer that.

Mr. SHIMKUS. The gentlelady’s time has expired. The chair recognizes the gentleman from Maryland.

Mr. PRUITT. No, you don’t, Congresswoman. These issues have been addressed by the ethics official at the EPA.

Mr. SHIMKUS. The gentleman will suspend. The chair recognizes the gentleman from Maryland.

Mr. SARBANES. Thank you, Mr. Chairman. Thank you for being here, Mr. Pruitt, and staying until the end.

President Trump has promised the American people he and his administration would drain the swamp in Washington, overturn, “decades of special interest dealing.” Do you agree that as EPA administrator your job is to protect public health and the environment by serving the public interest and not wealthy special interests?

Mr. PRUITT. A very key mission of the Agency.

Mr. SARBANES. Yes.

Mr. PRUITT. Yes.

Mr. SARBANES. That is a yes answer. The Democracy Reform Task Force, which I am privileged to chair, has been monitoring the Administration’s progress with respect to draining the swamp. And as you might suspect from the title of our most recent report, it is still swamped and it is only getting deeper. We didn’t want to do this report, but we felt compelled to do it when we looked at all of the ethical lapses that exist within this administration.

On March 30th you met with CropLife America which is a trade association run by several large pesticide companies including Dow Chemical; is that correct?

Mr. PRUITT. If that is what the calendar reflects.

Mr. SARBANES. OK. This was a day after you denied a science-based petition to ban a widely used pesticide tied to developmental delays in children and that action was strongly supported by Dow Chemical, which I will mention donated a million dollars to President Trump’s inaugural committee. On April 26th you met with Southern Power, one of the nation’s largest coal-burning utilities, and had dinner with Alliance Resource Partners, a major coal mining company. Is that also correct?

Mr. PRUITT. If that is what the calendar reflects.

Mr. SARBANES. Well, I think that is what the calendar shows. Since then, the EPA has announced that the Agency will consider rolling back rules that protect mining communities from toxic coal ash, and Alliance Resource Partners CEO donated almost \$2 million to elect the President. I am not mentioning this stuff as a gotcha thing. I am mentioning it because it really makes a lot of Americans anxious when you consider the conflicts of interest that this suggests.

Let me turn now to a topic of importance to my home State of Maryland, if I can, the Chesapeake Bay Program. In your confirmation hearing before the Senate Environment and Public Works Committee, you commended the state and federal partnership to restore the Chesapeake Bay and you committed to enforcing the Bay pollution diet or the TMDLs; is that correct?

Mr. PRUITT. That is correct. In fact, Senator Cardin and I had wonderful conversations during that process.

Mr. SARBANES. Yes, I am going to get to that conversation you had with the senator. Despite the fact that as Oklahoma attorney general you sued the EPA challenging the Bay TMDLs previously, you also pledged with Senator Cardin that you would support the federal government’s role in Chesapeake Bay partnership through



funding critically important programs and supporting the grantmaking role of EPA; is that correct?

Mr. PRUITT. Yes.

Mr. SARBANES. You would say that is correct. And yet if you look at the President's fiscal year 2018 budget, it completely eliminated the Chesapeake Bay Program at EPA. Now we have pushed back against that, but that is hardly a follow-through on the pledge that you made to Senator Cardin and the statements that you made about the Chesapeake Bay Program. So that is not standing up and enforcing the TMDLs, making the grants that we need to support Bay restoration. It appears rather that under your leadership that commitment is being zeroed out.

Mr. PRUITT. I think, Congressman, that the comments that I made during the appropriations process should also be referenced, which I spoke to members of this body as well as the members of the Senate on the very issue and expressed my commitment.

Mr. SARBANES. I appreciate that. What I guess I am looking for is a follow-through on the original commitment that you made in the sense of fighting back inside the Administration and saying programs like the Chesapeake Bay Program are valuable, the funding needs to be there. Don't just rely on Congress to restore these things, which by the way we have tried to do on a bipartisan basis demonstrating the commitment to the program here—

Mr. PRUITT. Those discussions happen.

Mr. SARBANES [continuing]. But become an ally of ours—

Mr. PRUITT. Those discussions in fact have taken place historically.

Mr. SARBANES [continuing]. In that respect. OK. Well, I appreciate you continuing to do that. Let me finish real quickly to speaking to Executive Order 13770, which relates to ethics commitments by executive branch appointees, which requires, "every executive agency appointed on or after January 20th, 2017, agency employee to be contractually committed to an ethics pledge;" is that correct?

Mr. PRUITT. Yes.

Mr. SARBANES. Yes. And that pledge stipulates that Administration appointees are prohibited for 2 years from the date of their appointment from participating in any matter involving specific parties that is directly or substantially related to the former employer or former clients including regulations and contracts.

Executive Order 13770 states that appointees have a 2-year cooling off period in terms of handling matters related to their previous lobbying. But I am concerned that several of your personnel decisions deviate from those guidelines. There is a growing list of appointees at EPA that appear to have substantial conflict.

Mr. SHIMKUS. The gentleman needs to wrap it up.

Mr. SARBANES. So I hope that you will bring some real attention to these conflicts as we move forward and I yield back my time. I thank the chairman for allowing us to participate off the committee and I would ask for unanimous consent to submit these Still Swamped—

Mr. SHIMKUS. Yes. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. SHIMKUS. And you are welcome. The chair recognizes the gentleman from Iowa, Mr. Loebsack, for 5 minutes.

Mr. LOEBSACK. Thank you, Mr. Chair. I do appreciate the opportunity to be here today.

And Administrator Pruitt, I am sorry I haven't been able to meet you yet, even though I am from Iowa and I know you were just there last week. Thank you for coming to Iowa. I am sure that you heard a lot about the RFS while you were there. I know you have heard a lot about it since you have been administrator. We have bipartisan concerns in Iowa, as you well know, about the RFS in making sure that the Administration lives up to what the RFS demands and what the statute says we should be doing. And I am a Democrat but I also held the Obama administration accountable. I probably wore my Do Not Mess with the RFS button to the White House on one occasion and talked about that with folks there.

The renewable fuels industry as you know, including biodiesel, supports over 40,000 jobs in Iowa. And simply put, I think the RFS works for Iowa. I think it works for America. I think it works to make sure that our economy grows when it comes to jobs. I think it works for our environment. And there is no question that it works for our energy security, because when we are able to produce biofuels I think that contributes to a reduction in our dependence on foreign oil and I think that is really, really critical. It is a security issue as much as it is an economic issue.

During your confirmation hearing, you affirmed without question your belief that Congress intended for the RFS to increase the amount of renewable fuel blended into our transportation fuel supply, yet on November 30th as you know you finalized the 2018 RVO that lowers the amount of cellulosic biofuels called for in the statute and flatlines biodiesel volumes. I have the numbers in front of me here as well.

How can you explain these actions when it is clear that these two industries have enormous potential for growth?

Mr. PRUITT. By the way, Congressman, the visit to Iowa last week was very good. I enjoyed the conversation with your constituents. I met with my farmers and ranchers on this issue along with others and it was a very good dialogue. And I think as you look at the volume obligations you reference cellulosic, as you know under the statute there is a waiver authority that is given to the EPA to address production levels. The most we have ever produced domestically is around 190 million, 190 million gallons of cellulosic. The Agency has routinely set those levels higher than that and we did this year as well. I think it was around 280 million gallons of cellulosic. So it is in excess of production levels that we have seen.

Mr. LOEBSACK. After you increased it by 50 million over your previous proposal, the light proposal.

Mr. PRUITT. That is right.

Mr. LOEBSACK. But actually it is down 23 million from last year.

Mr. PRUITT. It is, but it is—

Mr. LOEBSACK. Far short of what the statute calls for.

Mr. PRUITT. But the statute calls for billions of gallons to be—and that waiver authority is there for a reason. Congress gave it to us to address real market issues, production and demand, and that has been utilized in that area. With biodiesel we did keep it flat. There is some consideration that it is 2.6 billion as far as capacity, but we never breached the 2.1 billion in production. In fact,

we imported about 700 million gallons last year from Argentina. So that is the reason those were flatlined and we discussed those numbers in Iowa last week.

Mr. LOEBSACK. And a lot of us that issue is with the logic of what you are saying, and I understand what you are saying and I have heard that from Gina McCarthy as well as from you. But I think a lot of us in Iowa and other places have real concerns about the logic of those statements. I will move on.

When it comes to the Reid vapor pressure issue, I know that is something that EPA is looking into. I have introduced legislation along with Adrian Smith, bipartisan legislation—that is what is great about the RFS, I think, is we have bipartisan support for the RFS—to lift the restrictions on the sale of E15 in the summer months. I am a strong supporter of doing that.

And this is something as you know that will put more biofuels into the market. It will help to stabilize the RIN market as well, I believe, create jobs, support farmers, and quite frankly I think consumers are demanding it. I think if we had more infrastructure out there, if we had more opportunities for E15, I know at least in Iowa but I think around the country, folks would in fact buy the E15.

I know you have talked about a legislative fix achieving that goal. Members of this Administration including your deputy administrator have indicated that the RVP fix can be made through the administrative process through EPA and that EPA is committed to completing the analysis. Can you update us at this point where you are in that analysis?

Mr. PRUITT. Well, I am not sure to whom you refer as far as the deputy, but I will say to you that I have been personally involved in the evaluation of the statutory authority for us to grant a national waiver 12 months a year and it is something we are evaluating, but that has not been concluded yet.

Mr. LOEBSACK. I really hope that you will move in that direction, then we wouldn't have to have a legislative fix. It is clear that the demand is there for that and it is clear that I think what was done previously by the EPA was the wrong way to go. So I would look forward to you moving forward on that.

Mr. PRUITT. What I would say to you is I appreciate that and I would say to you that as I shared with the folks there in Iowa on Friday, if the statute permits us to do that we will proceed that direction, if it doesn't we will advise Congress.

Mr. LOEBSACK. All right, thank you very much. And thank you, Mr. Chairman.

Mr. SHIMKUS. The gentleman yields back. I thank my colleagues. Seeing no further members wishing to ask questions, I would like to thank our witness again for being here.

Mr. PRUITT. Thank you, Chairman.

Mr. SHIMKUS. We have a unanimous consent request. Earlier today we entered into the record a 2012 letter response to the committee from Administrator McCarthy regarding policy decisions concerning the use of particulate matter. This information was also entered into the record of an EPA hearing last year along with the initial committee letter and EPA's supplemental response.

To ensure this hearing is just as complete, I ask unanimous consent to enter the full correspondence surrounding that letter into the hearing record as well. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. SHIMKUS. Pursuant to the rules, I remind all members that they have 10 business days to submit additional questions for the record and ask the witnesses to submit their responses within 10 days of receipt of the questions. Without objection, the committee is adjourned.

[Whereupon, at 4:34 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

FRED UPTON, MICHIGAN  
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA  
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

December 14, 2011

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Jackson:

Pursuant to Rules X and XI of the Rules of the U.S. House of Representatives, the Committee on Energy and Commerce seeks information regarding analyses published by the Environmental Protection Agency (EPA) containing estimates of the public health benefits expected to result from regulatory actions. In March 2011, EPA published estimates which attributed \$2 trillion of benefits to regulations issued through 2005<sup>1</sup>, nearly 9 percent of the GDP forecasted for the year 2020<sup>2</sup>. Most of those benefits are attributable to reductions in premature mortality associated with reductions of a single pollutant in the ambient air, fine particulate matter. Additional estimates of benefits published by EPA include up to \$280 billion associated with the Cross State Air Pollution Rule (published August 8, 2011), and \$140 billion estimated for the proposed Utility MACT rule (published May 3, 2011). Nearly all of the monetized benefits estimated represent "PM-Related Mortalities Avoided" at concentrations much lower than the level of the protective national standard.

On October 5, 2011, you testified before the Committee's Subcommittee on Oversight and Investigations that the National Ambient Air Quality Standards (NAAQS) are set at a level to protect the public health with a margin of safety. However, in the above referenced and other analyses, EPA's estimates of extensive public health benefits that will accrue from avoiding exposure to airborne fine particulate matter are calculated for air concentrations much lower than

<sup>1</sup> EPA, March, 2011, "The Benefits and Costs of the Clean Air Act Amendments 1990 to 2020", available at <http://www.epa.gov/air/sect812/feb11/fullreport.pdf>.

<sup>2</sup> Forecasts of 2020 nominal GDP from CBO, "The Budget and Economic Outlook: Fiscal Years 2010 to 2020", available at <http://www.cbo.gov/ftpdocs/108xx/doc10871/01-26-Outlook.pdf>.

Letter to the Honorable Lisa Jackson  
Page 2

the current fine particulate matter NAAQS. The apparent conflict between EPA's definition of clean air and the mortality reductions estimated by EPA at significantly lower (cleaner) concentrations raises questions about the interpretation of information provided to Congress and to the public.

It is well documented that, under existing standards and regulations, air quality in the United States has improved considerably and will continue to do so. EPA's data shows significant improvements in a variety of environmental measures, including all six common air pollutants. A critical component of protecting public health and the environment is accurate analysis based upon robust science, including estimates of the benefits and costs of alternative policy strategies. EPA's mandate requires that such analyses rely upon the best available science, interpreted in an unbiased manner.

To assist the Committee in evaluating the estimates contained in agency reports, EPA testimony, and other public information, we request that you provide written responses to the following questions and the requested documents by January 6, 2012:

1. In the regulatory impact analysis for the Portland Cement rule published September 9, 2010, EPA reported that it has changed its assumption concerning the concentration threshold for PM 2.5-related mortality: "EPA now estimates PM-related mortality without assuming an arbitrary threshold in the concentration-response function." (August 2010, "Regulatory Impact Analysis: Amendments to the National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards (NSPS) for the Portland Cement Manufacturing Industry, Final Report", Section 6.2.1.)
  - a. Did EPA change its assumption concerning the concentration threshold at which PM is likely to cause premature mortality?
  - b. If EPA changed the assumption, explain who gave ultimate direction to change the assumption, when was it changed, and what was the basis for making the change.
  - c. If EPA changed the assumption, provide all analyses and briefing or decision memoranda, for the EPA Administrator or EPA Assistant Administrator for Air and Radiation, relating to the change in assumptions.
2. For each final economically significant rule issued by EPA after January 1, 2007, what proportion of monetized PM 2.5 benefits represent reductions in mortality at air concentrations below 15 micrograms per cubic meter averaged annually, the level of the current PM 2.5 NAAQS?
3. For each final economically significant rule issued by EPA after January 1, 2007, what proportion of monetized PM 2.5 benefits represents reductions in mortality at air concentrations below Lowest Measured Level as defined by EPA in regulatory analyses using Laden, et al. 2006. "Reduction in Fine Particulate Air Pollution and Mortality" (*American Journal of Respiratory and Critical Care Medicine*)?

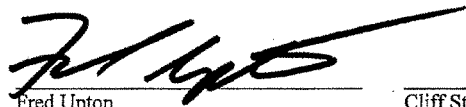
Letter to the Honorable Lisa Jackson  
Page 3

4. For each final economically significant rule issued after January 1, 2007, what proportion of monetized PM 2.5 benefits represents reductions in mortality at air concentrations below Lowest Measured Level as defined by EPA in regulatory analyses using Pope, et al. 2002. "Lung Cancer, Cardiopulmonary Mortality, and Long-term Exposure to Fine Particulate Air Pollution" (*JAMA*)?
5. Do you consider the level of air quality that is established through the NAAQS process, including peer review by science advisors, to result in an "arbitrary" threshold, or do you believe that the NAAQS standard represents a level of air quality that is protective of public health, including sensitive populations, with an adequate margin of safety, as required by the Clean Air Act?
  - a. If the NAAQS standards protect the public health with an adequate margin of safety, explain how can the EPA estimate that short-term exposure to air in attainment areas would result in hundreds of thousands of deaths each year?
6. Please provide any scientific studies EPA has relied upon to show a causal or associative relationship between fine particulate matter and premature mortality at levels below what EPA calls the "Lowest Measured Level" in the Pope and the Laden studies.
7. According to the most recent Particulate Matter Risk Assessment, EPA estimates that "total PM<sub>2.5</sub>-related premature mortality ranges from 63,000 and 88,000" each year above the lowest measured level. EPA's estimate of benefits from the CSAPR rule, which involves almost all PM-related benefits, notes that mortality ranges between 130,000 and 320,000 deaths per year.
  - a. Please explain how EPA came to these two different estimated mortality ranges.
  - b. Please explain the basis for EPA's monetization of a dramatically higher number than is identified in the peer-reviewed Risk Assessment.
  - c. Did you or the Assistant Administrator for Air and Radiation approve the public report of a dramatically higher number?
  - d. If so, please provide all documents relating to such approval.
  - e. If not, please explain why not.

Letter to the Honorable Lisa Jackson  
Page 4

We request that you adhere to the instructions relating to the requests for documents attached to this letter. Thank you for your prompt attention to this request. Should you have any questions, please contact Peter Spencer of the Majority Committee staff at (202) 225-2927.

Sincerely,



Fred Upton  
Chairman



Cliff Stearns  
Chairman  
Subcommittee on Oversight and Investigations



Ed Whitfield  
Chairman  
Subcommittee on Energy and Power

Attachment

cc: The Honorable Cass Sunstein  
Administrator of the Office of Information and Regulatory Affairs  
Office of Management and Budget

The Honorable Henry A. Waxman, Ranking Member

The Honorable Bobby L. Rush, Ranking Member  
Subcommittee on Energy and Power

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 04 2012

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20510

OFFICE OF CONGRESSIONAL AND  
INTERGOVERNMENTAL RELATIONS

Dear Mr. Chairman:

Consistent with discussions with your staff, enclosed is a supplement to Assistant Administrator Gina McCarthy's February 3, 2012 response to your December 14, 2011 letter to Administrator Jackson regarding the Environmental Protection Agency's estimates of the public health benefits expected to result from regulatory actions.

The first enclosure provides additional information responsive to question 1 in your letter. Consistent with discussions with your staff, it further describes the process through which the EPA, in late 2008 and early 2009, updated its approach to calculating the benefits associated with reduction in fine particulate matter emissions.

The second enclosure is a document responsive to the request, in item 1.c of your December 14 letter, for "analyses and briefing or decision memoranda, for the EPA Administrator or EPA Assistant Administrator for Air and Radiation, relating to the change in assumptions." The enclosed document is a page from a March 23, 2009, briefing for the Administrator with regard to the then-draft proposal for Portland Cement National Emissions Standards for Hazardous Air Pollutants. It reflects estimates of the costs and benefits of two different regulatory options, including estimates under both the "old" and the updated methodologies for calculating benefits. The remainder of the relevant briefing is not responsive to your request.

Please note that this document implicates important agency confidentiality interests because it reflects non-public deliberations. Although we recognize the importance of the Committee's oversight functions, the EPA is concerned about further disclosure of this document for a number of reasons. First, because the document reveals deliberative information of the agency, the EPA is concerned about the chilling effect that would occur if agency employees believed their frank and honest opinions and analysis were to be disclosed in a broad setting. In addition, further disclosure could result in misunderstanding or misrepresentation of the purposes and rationale for the relevant EPA actions. This document is pre-decisional and may not reflect the agency's full and complete thinking on the relevant matters, which is provided in the final, public documents setting forth the relevant agency actions – in this case the relevant notice of proposed rulemaking and supporting analysis.

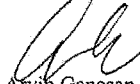
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Accordingly, we have added a watermark to this document that reads "Internal Deliberative Document of the U.S. Environmental Protection Agency; Disclosure Authorized Only to Congress for Oversight Purposes." Through this accommodation, the EPA does not waive any confidentiality interests in this document or any similar documents in other circumstances. The EPA respectfully requests the Committee and its staff protect the document and the information contained in it from further dissemination. Should the Committee determine that its legislative mandate requires further distribution of this information outside the Committee, we request that such need first be discussed with the agency to help ensure the EPA's confidentiality interests are protected to the fullest extent possible.

Thank you for your interest in this important subject. If you have questions, please contact me or have your staff contact Tom Dickerson in my office at (202) 564-3638.

Sincerely,



Arvin Ganesan  
Associate Administrator

cc: The Honorable Henry Waxman  
Ranking Member

Enclosures

## ENCLOSURE

## Supplemental Answer to Question 1 of the December 14, 2011 Letter

NOTE: This supplements the answer that was enclosed in Assistant Administrator Gina McCarthy's February 3, 2012 letter.

**Question 1.b.: If EPA changed the assumption, explain who gave ultimate direction to change the assumption, when was it changed, and what was the basis for making the change.**

The decision to return to a no-threshold approach for estimating the benefits of reducing PM 2.5 exposures was based on the EPA's assessment of the science and flowed from staff recommendations that were elevated through the appropriate management chain and regulatory development process.

As noted in Assistant Administrator McCarthy's letter of February 3, 2012, the EPA used a no-threshold approach to develop our main PM 2.5 benefits estimates for Clean Air Act rules from 1997 to 2006. This approach was based on the scientific literature showing that health effects can occur along the entire range of potential exposures to fine particles. In 2006, as the letter notes, the EPA changed its long-standing approach and applied an assumed threshold for the main benefits estimates of the 2006 PM NAAQS. As a result, the main benefits estimates for all regulatory analyses of regulations reducing exposure to PM2.5 conducted between 2006 and 2009 (when EPA returned to the no-threshold approach) reflected an assumption that there were no benefits associated with reducing PM2.5 below 10 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ).

In November 2008, several of the EPA's benefits analysts at the Office of Air Quality Planning & Standards (OAQPS) recommended changes to PM benefits analyses to improve the technical basis and scientific credibility of our benefits estimates for air quality regulations, including a recommendation that the EPA change the assumptions regarding applying thresholds to PM2.5 mortality estimates. The staff recommended using a non-threshold approach to estimating PM benefits for the main estimates because they believed that the current science did not support the application of concentration thresholds to epidemiologically-derived PM mortality estimates. The staff identified the then-upcoming Reciprocating Internal Combustion Engine (RICE) NESHAP proposal and Portland cement NSPS and NESHAP proposals as the rules that should be affected first by this change.

In December 2008, the EPA's Office of Research and Development released the first draft of the Integrated Science Assessment for PM for public comment. That assessment confirmed that there is no scientific evidence supporting an assumption of a threshold for PM2.5-related effects. That same month, and in January 2009, the benefits staff presented their recommendation of a no-threshold approach internally -- to other members of their benefits team, the science advisor for their division, and several OAQPS managers -- before presenting them to, and receiving

endorsement from, OAR's Office of Policy Analysis and Review and the agency's National Center for Environmental Economics (part of the Office of Policy) in February 2009.

The EPA sent a draft of the benefits analysis for the RICE NESHAP proposal to the Office of Management and Budget (OMB) that used the no-threshold approach. However, because the OMB had an unusually short period to review the draft RICE proposal and the Regulatory Impact Analysis (RIA), the EPA agreed to remove the no-threshold approach from that RIA and wait until the upcoming proposed cement rules to make the change. The RICE rule was proposed Feb. 25, 2009; the accompanying RIA used the threshold-based approach in its PM benefits analysis.

During a March 2009 options selection meeting for the Administrator on the proposed Portland cement rules, the no-threshold methodology was mentioned. As that proposal and the accompanying RIA moved forward through the standard interagency review process, the EPA and OMB had several discussions on the methodology change, which was included in the RIA for the proposed Portland cement rules. In that proposal, which was signed April 21, 2009, the agency specifically sought comment on the use of the no-threshold approach. The EPA staff considered the comments received, along with advice from outside advisory panels, in developing the final RIA for the Portland cement rules. That final RIA (and all subsequent RIAs) used the no-threshold approach, which is fully supported by the scientific literature on the health effects of fine particles.

**Question 1.c.: If EPA changed the assumption, provide all analyses and briefing or decision memoranda, for the EPA Administrator or EPA Assistant Administrator for Air and Radiation, relating to the change in assumptions.**

Please see the enclosed document.

## Estimated Costs and Benefits of Proposed Cement NESHAP

	Emissions Reductions <sup>a</sup>	Total Annualized Costs (millions of 2005\$)	Updated Benefits** Methodology (millions of 2005\$)	Old Benefits <sup>b</sup> Methodology (millions of 2005\$)
<b>Total with HCl MACT option</b>	6,300 tpy PM <sub>2.5</sub> 139,240 tpy SO <sub>2</sub>	\$360 (engineering costs) \$700 <sup>c</sup> (social costs)	\$4,400 to \$11,000 (620 to 1,600 avoided premature mortalities)	\$3,100 to \$6,500
<b>Total with HCl Health- based option</b>	6,100 tpy PM <sub>2.5</sub> 14,500 tpy SO <sub>2</sub>	\$260 (engineering costs)	\$1,400 to \$3,500 (200 to 520 avoided premature mortalities)	\$1,200 to \$2,400

<sup>a</sup> Assumes PM<sub>2.5</sub> fraction is 45%. Includes emission reductions from existing kilns and assumes 20 new kilns by 2013. Includes emission reductions from controls on HCL, THC, and Hg.

<sup>b</sup> Benefits estimates are for the year 2013.

<sup>c</sup> Includes compliance costs and costs to consumers due to increases in cement prices.



7 December 2017

The Honorable Greg Walden  
2185 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Frank Pallone  
237 Cannon House Office Building  
Washington, DC 20515

The Honorable John Shimkus  
2217 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Paul Tonko  
2463 Rayburn House Office Building  
Washington, DC 20515

Dear Chairmen Walden and Shimkus and Ranking Members Pallone and Tonko:

On behalf of the American Geophysical Union (AGU) and its more than 60,000 scientist members, I am writing to express concerns about recent policy changes at the Environmental Protection Agency (EPA) regarding new scientific advisory panel eligibility requirements and approval processes for EPA grants.

In October, EPA Administrator Scott Pruitt followed through on his plan<sup>1</sup> to disallow EPA grantees from serving on scientific advisory panels. Scientific advisory panels, which are charged with ensuring the quality of science across the agency, provide essential insight that allows the agency to make informed decisions. Restricting the participation of science experts on these panels undermines EPA's ability to fulfill its purpose to ensure "that all Americans are protected from significant risks to human health and the environment where they live, learn, and work." To accomplish its mission, it is imperative that the EPA receive the best available scientific counsel, which must include expert scientists drawn from industry, academia, NGOs, and government – an exchange between these groups is the best way to move forward and protect safety, health, and security.

The new policy was established in an effort to prevent scientists who receive EPA grant funding for their research from providing biased advice and furthering their own agenda. AGU finds troubling the assertion that the independence, transparency, and objectivity of the scientists who

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<sup>1</sup> "Strengthening and Improving Membership on EPA Federal Advisory Committees," Issued by EPA Administrator Scott Pruitt, Environmental Protection Agency, 31 October 2017 (online at [www.epa.gov/sites/production/files/2017-10/documents/final\\_draft\\_fac\\_directive-10.31.2017.pdf](http://www.epa.gov/sites/production/files/2017-10/documents/final_draft_fac_directive-10.31.2017.pdf))

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December 4, 2017

The Honorable Greg Walden  
The Honorable Frank Pallone

RE: Energy and Commerce Committee Hearing with Environmental Protection Agency (EPA) Administrator Scott Pruitt on December 7, 2017

Dear Chairman Walden and Ranking Member Pallone,

On behalf of the Asbestos Disease Awareness Organization (ADAOS), we thank you for holding a hearing on Thursday, December 7, 2017 for Environmental Protection Agency (EPA) Administrator Scott Pruitt to address the Energy and Commerce Committee's concerns.

ADAOS is an independent 501(c)3 nonprofit dedicated to eliminating asbestos-caused diseases through education, advocacy, and community efforts.

We are deeply concerned with President Trump's political appointees and the alarming changes in every department within the EPA, whose vital purpose is to protect human health and the environment. We share the belief of Chairmen Walden and Shimkus that, "it is past time for EPA to refocus on pursuing its important public health and environmental missions as Congress originally intended."

As a stakeholder in legislative discussions and policy, we have witnessed the irreversible rollbacks already in the implementation of The Toxic Substances Control Act (TSCA) reform bill that was signed into law in 2016.

During your hearing, we respectfully request that you ask Administrator Pruitt to speak on the following issues:

- The Asbestos Scoping Document (June 2017) that excludes the evaluation of risk for both legacy exposure and the Libby Amphibole.
- Under the Lautenberg Chemical Safety Act of 2016, the EPA has deliberately ignored the statutory evaluation requirements and has dangerously narrowed the "conditions of use."
- The EPA's scheduling of Michael Walls, Vice President of Regulatory and Technical Affairs for the American Chemistry Council, to appear as a panelist on the EPA's Public Meeting, "Progress Implementing Changes to the New Chemicals Review Program under the Amended TSCA" on December 6, 2017.
- The overwhelming preponderance of evidence supportive of the need to ban asbestos, including:
  - Asbestos is a known carcinogen, and there is no safe or controlled use.
  - Centers for Disease Control and Prevention (CDC) reported that from 1999 – 2015, Mesothelioma deaths increased by 4.8%.

Asbestos Disease Awareness Organization is a registered 501(c) (3) nonprofit organization  
 "United for Asbestos Disease Awareness, Education, Advocacy, and Community Support"  
 1525 Aviation Boulevard, Suite 318 • Redondo Beach • California • 90278 • (310) 251-7477  
[www.AsbestosDiseaseAwareness.org](http://www.AsbestosDiseaseAwareness.org)



- Centers for Disease Control and Prevention (CDC) National Institute of Occupational Safety and Health (NIOSH) reported, "The population of firefighters in the study had a rate of mesothelioma two times greater than the rate in the U.S. population as a whole."
- Asbestos imports doubled from 340 metric tons in 2015 to 705 metric tons in 2016.
- Brazil's Supreme Federal Court ruled that there is "no safe or controlled use" and banned the mining, use, and commerce of asbestos. In addition, the court refused to grant an exemption for asbestos use in chlor-alkali plants.
- In the USA, the chlor-alkali industry is the sole asbestos importer and user, and they are seeking an exemption from the EPA to continue using asbestos in some antiquated plants.

We hope this important hearing gives the Committee greater knowledge, so you can address the problems disempowering the EPA. If left unaddressed, these issues will, without a doubt, result in the Agency's inability to ban dangerous chemicals like asbestos, lead, Bisphenol A (BPA), Trichloroethylene (TCE), and phthalates.

Again, we thank you for calling this hearing, and for your ceaseless dedication to protecting public health, the environment, and the American people.

Sincerely,

Linda Reinstein  
Co-Founder/President  
Asbestos Disease Awareness Organization (ADAO)





December 6, 2017

The Honorable John Shimkus, Chairman  
The Honorable Paul Tonko, Ranking Member  
House Energy and Commerce Committee,  
Subcommittee on Environment

The Honorable Greg Walden, Chairman  
The Honorable Frank Pallone, Ranking Member  
House Energy and Commerce Committee

Re: TSCA Issues for Administrator Pruitt at Today's Committee Hearing

Dear Chairmen Walden and Shimkus and Ranking Members Pallone and Tonko:

In advance of today's hearing testimony by EPA Administrator Scott Pruitt, we are writing to express several concerns about how he and his staff are implementing the 2016 Frank H. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act (LCSA).

Safer Chemicals Healthy Families (SCHF) is a coalition of national, state, and local organizations committed to assuring the safety of chemicals used in our homes, workplaces and the many products to which our families and children are exposed each day. SCHF and its members took a leadership role during the LCSA legislative process, advocating the most protective and effective legislation possible to reduce the risks of toxic chemicals in use today.

LCSA is the first major overhaul of the 1976 Toxic Substances Control (TSCA) and an important step forward in evaluating and reducing the risks of chemicals to public health and the environment in the US. If EPA takes forceful and proactive steps to implement the new law, it can deliver significant health and environmental benefits to the American people. Unfortunately, under Administrator Pruitt, EPA is undermining the law's key provisions, weakening protection of health and the environment and allowing the chemical industry to dictate decisions that further its commercial interests at the expense of public health and safety.

Our principal concerns about EPA's failure to implement the law in accordance with its bi-partisan goals include the following:

Weak and Unlawful Framework Rules for Risk Evaluations and Chemical Prioritization: Under Administrator Pruitt, EPA rewrote sound and health protective rules proposed by the Obama Administration so they incorporated the chemical industry's recommendations, casting into doubt the effective implementation of LCSA's core mechanisms for conducting risk evaluations and prioritizing chemicals. Among several shortcomings, the final rules reflect the highly questionable propositions that EPA can pick and choose which uses it will assess in risk evaluations, has no obligation to consider the risks and exposures of discontinued products that remain in use, and can limit risk evaluations requested by industry to the particular uses that industry wants to declare safe and ignore uses and

exposures that could present serious risks. Along with other public health and environmental groups, SCHF is challenging the validity of the two framework rules in court.

Incomplete and Deficient Risk Evaluations for the First 10 Chemicals. We are deeply troubled by gaps in EPA's ongoing risk evaluations on the initial 10 chemicals. A glaring example is the Agency's decision not to address the many asbestos-containing building materials and products present in millions of homes and businesses despite the known dangers of asbestos to human health. Another example is EPA's decision not to evaluate production of 1,4-dioxane as a byproduct despite its contribution to the widespread presence of this carcinogen in the drinking water supply. These omissions will lead to risk evaluations that are insufficiently protective and incomplete, and fail to support effective risk management actions.

Failure to Finalize Proposed Restrictions on Unsafe Solvents. The new law removes the roadblocks to effective risk reduction that prevented EPA from regulating all but a handful of unsafe existing chemicals in more than 40 years. Using its expanded authority under section 6 of TSCA, the Obama EPA proposed to ban certain high-risk uses of three solvents -- trichloroethylene (TCE), methylene chloride (MC) and N-methylpyrrolidone (NMP) -- known to cause cancer, reproductive and developmental harm and severe neurological damage, including death. The EPA assessments for these uses demonstrate unusually high and widespread risks based on an extensive body of data that has been rigorously peer reviewed. Yet the Pruitt EPA has reportedly decided not to finalize the proposed rules and instead to conduct yet another review of science that is clear and compelling. If these rules are delayed, more than two million workers and consumers and their offspring will be needlessly exposed to serious, well-documented health threats and the revitalized chemical regulatory program that Congress directed EPA to establish will fail to materialize.

Backtracking on Enhanced Protection against Unsafe New Chemicals. In LCSA, Congress also strengthened the TSCA new chemical program significantly, requiring an *affirmative determination of safety* for every new chemical and directing EPA to issue an order restricting the chemical if it concludes that it does or may present an unreasonable risk, lacks sufficient information for an informed risk evaluation, or has or may have substantial production volume and exposure. Responding to the meager amount of data historically available on new chemicals, Congress also expanded EPA's authority to require testing necessary for an informed evaluation of potential risks. Initially, EPA diligently worked toward the goals of the new law, subjecting many more new chemicals to orders placing limits on human exposure and environmental release and increasing the amount of testing. But industry has relentlessly attacked EPA's early efforts to implement the law, claiming that it was "overreaching" even though Agency career scientists and engineers were simply doing the job that Congress intended. Now, industry has found a receptive ear in Administrator Scott Pruitt and his political staff. EPA is shifting gears, backtracking on its original implementation approach and weakening the core protections the law provides. If EPA continues on this path, the PMN program will be *weaker than under the old law*, a stark reversal of Congress's expectations when it called for a stronger program just 18 months ago.

Conflicts of Interest by the Ex-Industry Official, Dr. Nancy Beck, Directing the TSCA Program. Administrator Pruitt's appointee to direct the TSCA program, Dr. Nancy Beck, is a former senior policy official at the American Chemistry Council (ACC). As an unconfirmed appointee, her credentials and industry ties have never been scrutinized by Congress. In her prior position, she prepared comments and presented testimony to Congress and EPA on behalf of chemical producers on the very issues that she is

now addressing as an EPA decision-maker. Although she is a senior policymaker in the Agency, Dr. Beck has never signed the Trump Administration's ethics pledge. Her role in rewriting the framework rules to incorporate ACC's positions was in violation of the specific advice she received from EPA ethics officials, and the subsequent "impartiality determination" allowing her free rein to protect ACC's interests was contrary to established ethics requirements. We and other organizations have repeatedly sought Dr. Beck's recusal from TSCA matters raising conflicts of interest.

We hope that you and other Committee members will raise these concerns during Administrator Pruitt's testimony and look forward to a productive and informative hearing.

Sincerely yours,

Elizabeth Hitchcock  
Government Affairs Director



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

AUG 28 2017

The Honorable Frank Pallone Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives  
Washington, D.C. 20515

Dear Ranking Member Pallone:

Thank you for your July 28, 2017, letter requesting that the U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) review the adequacy of and adherence to policies and procedures regarding travel by an EPA Administrator. Your letter also requested that the OIG determine whether the EPA controls applicable to such travel are sufficient to prevent fraud, waste and abuse.

The OIG will undertake a systemic audit to review those issues. Attached is the OIG's notification memo announcing this audit. In addition to undertaking this review, the OIG will refer your letter—including the specific questions you pose—to EPA ethics officials to determine whether there are any aspects of this matter that they wish to pursue.

We appreciate your interest in the work of the OIG. A similar letter is being sent to Representative DeGette and Representative Tonko. If you have any questions about this or any other matter, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,

Arthur A. Elkins Jr.

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 17 2017

THE INSPECTOR GENERAL

The Honorable Frank Pallone Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives  
Washington, D.C. 20515

Dear Ranking Member Pallone:

You wrote on September 27, 2017, to request that the U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) expand the scope of its ongoing review of the EPA's travel policies and procedures to include the EPA Administrator's use of private planes and government aircraft.

In determining whether the OIG can undertake requested work, initially we have to find that the matter is within our jurisdiction. But, beyond that threshold question, we have to determine whether we have sufficient resources—people, time and funds—to do a project in a timely fashion, and whether it would preclude our doing other crucial work. The fact is that the OIG has been funded at less than the levels we deem adequate to do all of the work that should be done, and we therefore have to make difficult decisions about whether to accept any given potential undertaking. Many of our projects are statutorily mandated work, with Congress adding new mandates each session. Further, our annual work plan, which is also statutorily mandated, uses a risk-based analysis that identifies dozens of additional high-impact projects. All of this means that for every discretionary review that the OIG decides to undertake, there will be others we cannot.

Analyzing your request in light of these constraints, we have decided to expand the scope of our ongoing review as set forth in the enclosed amended project notification memorandum dated October 5, 2017. The new scope is expanded to include all travel by the Administrator through September 30, 2017. The amended notification memorandum describes our revised objectives and plans for conducting the project.

Thank you for your interest in the work of the OIG. Similar letters were sent to Representatives Diana DeGette and Paul D. Tonko. If you have any questions about this or any other matter, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,

  
Arthur A. Elkins Jr.

Enclosure

cc: The Honorable Greg Walden, Chairman, Committee on Energy and Commerce



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
INSPECTOR GENERAL

October 5, 2017

**MEMORANDUM**

**SUBJECT:** Amended Project Notification:  
Audit of EPA's Adherence to Policies, Procedures and Oversight Controls  
Pertaining to the Administrator's Travel  
Project No. OA-FY17-0382

**FROM:** John Trefry, Director, Forensic Audits *John Trefry*  
Office of Audit

**TO:** David Bloom, Acting Chief Financial Officer

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) plans to expand the scope of preliminary research on the EPA's adherence to policies, procedures and oversight controls pertaining to the Administrator's travel, which was originally focused on his travel to Oklahoma through July 31, 2017. The scope of our review is expanded to include all travel by the Administrator through September 30, 2017. Our revised objectives will be to determine the following:

- The frequency, cost and extent of the Administrator's travel through September 30, 2017.
- Whether applicable EPA travel policies and procedures were followed for Administrator Pruitt's travel, as well as other EPA staff and security personnel traveling with or in advance of Administrator Pruitt.
- Whether EPA policies and procedures are sufficiently designed to prevent fraud, waste and abuse with the Administrator's travel.

To accomplish these objectives, we will review supporting documentation and conduct interviews with management and staff to determine whether the EPA followed applicable policies and practices, and complied with federal requirements. The OIG plans to work with the EPA's Cincinnati Finance Center and the Office of the Chief Financial Officer to obtain needed information. Applicable generally accepted government auditing standards will be used in conducting our work. The anticipated benefits of this project are to improve operational efficiency.

We will contact the audit coordinator to arrange a mutually agreeable time to discuss our revised objectives. We would also be particularly interested in any areas of concern that you may have. We will answer any questions you may have about the project process, reporting procedures, methods used to

gather and analyze data, and what we should expect of each other during the course of the project. Throughout the project, we will provide updates on a regular basis through a monthly meeting or via email, phone or video conference.

We respectfully note that the OIG is authorized by the Inspector General Act of 1978 to have timely access to personnel and all materials necessary to complete its objectives. We will request your resolution if an agency employee or contractor refuses to provide requested records to the OIG, or otherwise fails to cooperate with the OIG. We may report unresolved access matters to the Administrator and include the incident in the Semiannual Report to Congress.

I will supervise the project and the Project Manager will be Angela Bennett. Should you or your staff have any questions, please contact me at (202) 566-2474 or [trefry.john@epa.gov](mailto:trefry.john@epa.gov), or Angela Bennett at (404) 562-9844 or [bennett.angela@epa.gov](mailto:bennett.angela@epa.gov).

cc: Scott Pruitt, Administrator  
 Ryan Jackson, Chief of Staff  
 Henry Darwin, Chief of Staff for Operations  
 Kevin Chmielewski, Deputy Chief of Staff for Operations  
 Kevin Minoli, Acting General Counsel  
 Troy Lyons, Associate Administrator for Congressional and Intergovernmental Relations  
 Liz Bowman, Associate Administrator for Public Affairs  
 Julia Valentine, Acting Director, Office of Media Relations, Office of Public Affairs  
 Howard Osborne, Associate Chief Financial Officer  
 Jeanne Conklin, Controller, Office of the Chief Financial Officer  
 Bobbie Trent, Agency Follow-Up Coordinator  
 Ellen Treimel, Audit Follow-Up Coordinator, Office of the Administrator  
 Arthur A. Elkins Jr., Inspector General  
 Charles Sheehan, Deputy Inspector General  
 Alan Larsen, Counsel to the Inspector General  
 Kevin Christensen, Assistant Inspector General for Audit  
 Carolyn Copper, Assistant Inspector General for Program Evaluation  
 Patrick Sullivan, Assistant Inspector General for Investigations  
 Edward Shields, Acting Deputy Assistant Inspector General for Management  
 Richard Eyermann, Deputy Inspector General for Audit  
 Jennifer Kaplan, Deputy Inspector General for Congressional and Public Affairs  
 Jeffrey Lagda, Congressional and Media Liaison, Office of Inspector General  
 Tia Elbaum, Congressional and Media Liaison, Office of Inspector General

**ASBESTOS**

(Data in metric tons unless otherwise noted)

**Domestic Production and Use:** The last U.S. producer of asbestos ceased operations in 2002 as a result of the decline in U.S. and international asbestos markets associated with health and liability issues. The United States has since been wholly dependent on imports to meet manufacturing needs. In 2016, U.S. consumption of asbestos was estimated to be about 340 tons, essentially unchanged from that of 2015. The chloralkali industry, which uses asbestos to manufacture semipermeable diaphragms that prevent chlorine generated at the anode of an electrolytic cell from reacting with sodium hydroxide generated at the cathode, likely accounted for 100% of asbestos consumption during 2016. Insufficient data were available to reliably identify any additional markets, but most industrial applications for asbestos have been significantly curtailed in the United States since the first domestic ban on some asbestos-containing products was implemented in 1973. In addition to asbestos minerals, an unknown quantity of asbestos was imported within manufactured products, possibly including brake linings and pads, building materials, gaskets, millboard, and yarn and thread, among others.

<b>Salient Statistics—United States:</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016<sup>a</sup></b>
Imports for consumption	1,610	772	406	343	340
Exports <sup>1</sup>	—	—	—	—	—
Consumption, estimated <sup>2</sup>	1,020	772	406	343	340
Price, average U.S. Customs value, dollars per ton	1,570	1,510	1,830	1,780	2,100
Net import reliance <sup>3</sup> as a percentage of estimated consumption	100	100	100	100	100

**Recycling:** None.

**Import Sources (2012–15):** Brazil, 100%.

<b>Tariff:</b>	<b>Item</b>	<b>Number</b>	<b>Normal Trade Relations</b>
			<b>12–31–16</b>
	Crocidolite	2524.10.0000	Free.
	Amosite	2524.90.0010	Free.
	Chrysotile:		
	Crudes	2524.90.0030	Free.
	Milled fibers, group 3 grades	2524.90.0040	Free.
	Milled fibers, group 4 and 5 grades	2524.90.0045	Free.
	Other	2524.90.0055	Free.
	Other, asbestos	2524.90.0060	Free.

**Depletion Allowance:** 22% (Domestic), 10% (Foreign).

**Government Stockpile:** None.



## ASBESTOS

**Events, Trends, and Issues:** Consumption of asbestos minerals in the United States has steadily declined during the past several decades, falling from a record high of 803,000 tons in 1973 to an estimated 340 tons in 2016. This decline has taken place as a result of health and liability issues associated with asbestos use, leading to the displacement of asbestos from traditional domestic markets by substitutes, alternative materials, and new technology. The chloralkali industry is currently the only major user of asbestos and accounted for an estimated 100% of domestic consumption in 2016, rising from an estimated 35% of consumption in 2010. The quantity of asbestos used by the chloralkali industry will likely continue to decline, however, as companies make greater use of nonasbestos diaphragms and membrane cells. Globally, asbestos-cement products are expected to continue to be the leading market for asbestos. Owing to continued demand for asbestos products in many regions of the world, global production is likely to remain steady at approximately 2.0 million metric tons per year for the near future.

In 2016, about 95% of the asbestos minerals imported into and used within the United States were shipped from Brazil, with the remainder originating in Russia. All imports of asbestos minerals consisted of chrysotile. Although Canada was a major source of imports in the past, the United States has not imported asbestos from Canada since 2011.

### World Mine Production and Reserves:

	Mine production <sup>a</sup>		Reserves <sup>d</sup>
	2015	2016	
United States			Small
Brazil	311,000	300,000	10,000,000
China	400,000	400,000	Large
India	200	200	Moderate
Kazakhstan	215,000	200,000	Large
Russia	1,100,000	1,100,000	Large
World total (rounded)	2,000,000	2,000,000	Large

**World Resources:** Reliable evaluations of global asbestos resources have not been published recently, and the available information is insufficient to make accurate estimates. However, world resources are large and more than adequate to meet anticipated demand in the foreseeable future. U.S. resources are large, but are composed mostly of short-fiber asbestos for which use in asbestos-based products is more limited than long-fiber asbestos.

**Substitutes:** Numerous materials substitute for asbestos. Substitutes include calcium silicate, carbon fiber, cellulose fiber, ceramic fiber, glass fiber, steel fiber, wollastonite, and several organic fibers, such as aramid, polyethylene, polypropylene, and polytetrafluoroethylene. Several nonfibrous minerals or rocks, such as perlite, serpentine, silica, and talc, are also considered to be possible asbestos substitutes for products in which the reinforcement properties of fibers are not required. For the chloralkali industry, membrane cell technology is one alternative to asbestos diaphragms.

<sup>a</sup>Estimated. — Zero.

<sup>b</sup>Exports of asbestos minerals reported by the U.S. Census Bureau were 47 tons in 2012, 27 tons in 2013, 279 tons in 2014, 517 tons in 2015, and an estimated 980 tons in 2016. These shipments likely consisted of materials misclassified as asbestos, reexports, and (or) waste because the United States no longer mines asbestos.

<sup>c</sup>Assumed to equal imports, except in 2012, when an estimated 590 tons of asbestos were put into company stocks for future use.

<sup>d</sup>Defined as imports – exports.

<sup>e</sup>See [Appendix C](#) for resource and reserve definitions and information concerning data sources.

GREG WALDEN, OREGON  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-2927  
Minority (202) 225-3841  
January 19, 2017

The Honorable Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Pruitt:

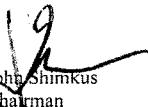
Thank you for appearing before the Subcommittee on Environment on December 7, 2017, to testify at the hearing entitled "The Mission of the U.S. Environmental Protection Agency."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Friday, February 2, 2018. Your responses should be mailed to Allie Bury, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to [Allie.Bury@mail.house.gov](mailto:Allie.Bury@mail.house.gov).

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

  
John Shimkus  
Chairman  
Subcommittee on Environment

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment

Attachment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

February 16, 2018

OFFICE OF CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable John Shimkus  
Chairman  
Subcommittee on Environment  
Committee on Energy and Commerce  
House of Representatives  
Washington, D.C. 20515

Dear Chairman Shimkus:

Enclosed please find the U.S. Environmental Protection Agency's responses to the Subcommittee's Questions for the Record following the Subcommittee's December 7, 2017, hearing entitled "The Mission of the Environmental Protection Agency."

If you have further questions, please contact me, or your staff may contact Christian Rodrick in the EPA's Office of Congressional and Intergovernmental Relations at [rodrick.christian@epa.gov](mailto:rodrick.christian@epa.gov) or (202) 564-4828.

Sincerely,

A black rectangular redaction box covering the signature of Aaron Ringel.

Aaron Ringel  
Deputy Associate Administrator

cc: The Honorable Paul Tonko  
Ranking Member

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

February 16, 2018

OFFICE OF CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable Paul Tonko  
Ranking Member  
Subcommittee on Environment  
Committee on Energy and Commerce  
House of Representatives  
Washington, D.C. 20515

Dear Ranking Member Tonko:

Enclosed please find the U.S. Environmental Protection Agency's responses to the Subcommittee's Questions for the Record following the Subcommittee's December 7, 2017, hearing entitled "The Mission of the Environmental Protection Agency."

If you have further questions, please contact me, or your staff may contact Christian Rodrick in the EPA's Office of Congressional and Intergovernmental Relations at [rodrick.christian@epa.gov](mailto:rodrick.christian@epa.gov) or (202) 564-4828.

Sincerely,

A black rectangular redaction box covering the signature of Aaron Ringel.

Aaron Ringel  
Deputy Associate Administrator

cc: The Honorable John Shimkus  
Chairman

Enclosure

Attachment—Additional Questions for the RecordThe Honorable John Shimkus

1. This committee was instrumental in developing the Electronic Hazardous Waste Manifest Act of 2012, which requires EPA to replace the outdated paper documents with a new electronic system for tracking all hazardous waste shipments.
  - a. What are some of the other ways the hazardous waste program could be improved, particularly in terms of the elimination of duplicative and unnecessary regulations?
  - b. Is EPA pursuing any of these efforts?

**Response:** EPA continually looks for ways that the hazardous waste program could be improved. For example, we recently completed a review and revision of the hazardous waste generator regulations which included over 60 regulatory changes that increased the flexibility for the regulated community to better fit today's business operations, clarified requirements, and improved environmental protection. The revisions also reorganized the regulations to make them easier to follow. These changes were directly responsive to feedback from our regulated community, states, communities, and other stakeholders. We have also updated our hazardous waste import/export regulations and have moved from paper to electronic submission of most of the required documents. Our goal is to make all of the required submittals electronic.

The agency currently has a number of rulemakings underway as well. For example, we proposed a new regulatory structure for addressing hazardous waste pharmaceuticals, and are working to finalize that rule in 2018. The agency also intends to propose adding aerosol cans to the federal universal waste regulations in 2018. Both of these efforts streamline regulatory requirements and are directly responsive to issues raised by stakeholders. Finally, we are reviewing comments submitted to EPA as part of the overall regulatory reform efforts, and the agency has met and continues to meet with representatives from the regulated community, states, and other stakeholders to discuss their major concerns and determine whether regulatory changes would be appropriate.

2. The previous Administration attempted to regulate farms and agricultural processors by saying that its 2009 Endangerment Finding regulated "biogenic" CO<sub>2</sub> from agricultural crops. I understand The Endangerment Finding, however, never mentions the word "biogenic."
  - a. Do you intend to look at this interpretation of the Endangerment Finding?
  - b. If so, would you view it in terms of whether EPA overreached to regulate natural CO<sub>2</sub> from U.S. farms?

**Response:** The 2009 Endangerment Finding does not directly address this issue. The Finding is a scientific determination and does not itself regulate any particular entity. The agency is aware of this interpretive issue. The Finding recognizes the potential for positive or negative contribution to net emissions of land use, land-use change, and forestry. The EPA has never regulated CO<sub>2</sub> from farms.

3. On October 17, 2017, EPA's Air Enforcement Division sent a letter to the Ozone Transport Commission stating that the agency "agrees that the 1986 policy on aftermarket catalytic converter emissions is outdated."

- a. What steps are being taken to update this policy?
- b. Does the Agency have a timeline for this process?

**Response:** EPA is conducting a policy and legal review of the 1986 policy. Given the complexity of the issues, it is not possible to project the timing for an action in this regard.

4. There has been concern that EPA's regional offices enforce their authority differently from each other and Headquarters guidance. Do you intend to bring alignment among EPA Headquarters and the Regions?

**Response:** Yes, it is of the utmost importance for regulatory certainty that EPA speaks with one voice.

5. The Administration's budget request zeroed out the funding to the Department of Justice for superfund-related enforcement activities and for cost recovery efforts for the superfund program. If the goal is to get more sites cleaned up and to speed up cleanups, that seems like an odd budget request since DOJ brings money back into the federal coffers from superfund polluters – can you explain to us why the president's budget request would zero out those funds?

**Response:** Cleaning up the nation's Superfund sites and returning them to communities for beneficial use is one of EPA's top priorities. Under the President's Budget, DOJ support for Superfund Enforcement would come from DOJ's base resources and EPA would work with DOJ to focus on the highest priority sites, particularly those that may present an immediate risk to human health and the environment.

6. On December 1, 2017 EPA issued a decision not to do a final rule regarding financial assurance requirements for the hard rock mining sector. Can you tell us what the status is of the 108(b) rule making for the other industry sectors that are next in line [chemical manufacturing, petroleum and coal products manufacturing, and the electric power generation, transmission, and distribution]?

**Response:** EPA intends to proceed with the regulatory process for possible development of CERCLA Section 108(b) financial responsibility requirements for the chemical manufacturing; petroleum and coal products manufacturing; and electric power generation, transmission, and distribution industries, as required by the January 29, 2016, Order of the U.S. Court of Appeal for the District of Columbia.

The next milestone in the Order's schedule requires the agency to sign for publication in the Federal Register a notice of proposed rulemaking for one of those three industries by July 2, 2019. At that time, EPA will decide whether proposal of requirements for classes of facilities within that industry sector is necessary and, if so, will propose appropriate requirements. Similar decisions about the remaining two industries will be made in subsequent rulemakings.

7. EPA announced that it could be a year before it can start cleanup of the San Jacinto River Waste Pits, which sprung a leak during Hurricane Harvey flooding. Is that because EPA officials are in the process of negotiating with responsible parties to pay for the \$115 million project?
  - a. Does EPA have a plan to address the leaking cap in the meantime?

**Response:** The area of the waste pits with elevated levels of dioxin was repaired to pre-storm standards in September 2017 following Hurricane Harvey. Damaged areas were fully covered with rock. The EPA dive team completed an under-water reconnaissance to define the full extent of the damaged area, collected samples to characterize the exposed materials, and conducted the oversight of the repairs. This work addresses the damage from the storm.

- b. It was also announced that once the cleanup process starts, it is expected to take about 27 months. What safeguards will EPA put in place to ensure that more damage to the cap does not occur before the removal can be completed?

**Response:** The temporary armored cover system requires routine and episodic maintenance to maintain its protectiveness until the final remedy can be implemented. EPA has instructed the responsible parties to implement an inspection and repair program to inspect and repair the armored cover periodically and after each significant storm event. In addition, the remedy selected includes provisions for dry excavation behind water tight barriers.

8. Administrator Pruitt, in October you announced a new policy of the Agency regarding the use of settlements to circumvent the regulatory process and indicated that EPA “will no longer go behind closed doors and use consent decrees and settlement agreements to resolve lawsuits filed against the Agency.” The issue of “sue and settle” and the ability of special interest groups to use deadline lawsuits to force EPA to issue regulations that advance their priorities on a specified timeframe has long been a concern of this Subcommittee.
  - a. As you noted in your statement about the new policy, “‘sue and settle’ cases establish Agency obligations without participation by states and/or the regulated community; foreclose meaningful public participation in rulemaking; effectively force the Agency to reach certain regulatory outcomes; and, cost the American taxpayer millions of dollars.” Has the Agency started implementing the changes?

**Response:** Yes. EPA continues to post, as it has since 2013, Notices of Intent to Sue (NOI) that are filed with the agency, and any associated complaints that are filed with courts related to those NOIs. These NOIs and complaints are available at <http://www.epa.gov/noi>. In addition, EPA is also now posting online all environmental complaints and petitions for review, regardless of whether an NOI was filed. These complaints and petitions for review are available at <http://www.epa.gov/programs-and-projects-office-general-counsel-ogc/complaints-and-petitions-review>. Consistent with the Directive, EPA’s Office of General Counsel has also sent notices of lawsuits filed against EPA to affected states and regulates entities. Additionally, for the first time, EPA has posted a table that contains all consent decrees and settlement agreements that continue to bind future agency action.

That table is available at <https://www.epa.gov/programs-and-projects-office-general-counsel-ogc/consent-decrees-and-settlement-agreements>.

- b. There has been some pushback on your sue and settle proposal. How do you respond to the people, many of whom are former EPA attorneys, who say that the policy "discourages settlements when they would have been appropriate and increases agency costs?"

**Response:** The directive provides the process by which the Agency may settle litigation. Nothing in the directive prevents EPA from settling cases.

- c. How do you differentiate between the negative aspects of sue and settle [lack of transparency etc...] and the positive? For example, regulated entities and EPA often reach agreement on a cleanup or enforcement issue, enter a settlement, and then file a lawsuit seeking court approval and enforcement of the settlement. Is your new "sue and settle" policy agency-wide? And is it a mandate to not use sue and settle in ways that shorten the administrative time it takes to get a cleanup or resolution of an enforcement action?

**Response:** The directive does not apply to enforcement actions.

- 9. When was the last time EPA listed a Federal facility on the National Priorities List (NPL)?

**Response:** In 2013, EPA placed a Department of Veterans Affairs site on the NPL. The site was listed as the 700 South 1600 East PCE Plume site, located in Salt Lake City, Utah.

- a. If a site scores high enough to rank on the Hazard Ranking System (HRS), will EPA list the Federal facility on the NPL?

**Response:** EPA does not automatically move to list a site on the NPL if it scores high enough to rank on the HRS. EPA consults with both OMB and the State before proposing a site for listing on the NPL. In cases where a site scores on the HRS but is not listed on the NPL, the State will take the lead on oversight of cleanup by the other federal agency.

- b. How does OMB factor into the decision about whether to list a Federal facility on the NPL?

**Response:** A review by OMB is not required before a proposed listing rule moves forward. However, several years ago, EPA began to share its proposed NPL listing information with OMB prior to publication of the proposed rules in the Federal Register, in an effort to collaborate more fully with its federal partners. In the case of federal facilities, that dialogue also includes the other federal agency responsible for the site. EPA does not proceed with any listing decision until OMB concurs.



- c. What if a Federal facility ranks on the HRS and the State in which it is located requests that the Federal facility be added to the NPL, will EPA list the Federal facility?

**Response:** EPA generally consults with the governor of the state before proposing to list a site on the NPL. If a site ranks on the HRS and the state supports listing, EPA will move to list the site on the NPL. If a state does not support listing a site that has scored on the HRS, state laws for non-NPL sites regarding removal and remedial actions, including enforcement, apply under CERCLA Section 120(a)(4). If a state concurs on the listing, EPA will still seek OMB concurrence before listing a site on the NPL.

10. How do you reconcile Executive Order 12580 when it gives the polluter who is also the person paying for the cleanup, the right to make all of the decisions with respect to the remedy with no oversight from EPA?

**Response:** In 1987, President Reagan signed Executive Order No. 12580 that delegates the President's Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) authority in certain circumstances to Executive Branch agencies. However, for federal facilities on the National Priorities List (NPL), federal agencies are required to enter into an interagency agreement (often referred to as a Federal Facility Agreement (FFA)) with EPA (and states are often parties as well) that provides a framework for carrying out the investigation and cleanup. The FFAs are enforceable agreements to ensure that Federal agency cleanups are timely and protective. Specifically, the FFA includes a stipulated penalties provision for use when federal agencies are not compliant with the FFA, when appropriate. Regarding making decisions, CERCLA mandates that at NPL sites, EPA and the head of the affected Federal agency jointly select remedies. In the event of disagreement, EPA selects the remedy. Finally, under CERCLA Section 120(a)(4), for non-NPL sites, state laws regarding removal and remedial actions, including enforcement, apply.

11. How will EPA build consistency into how the Regions manage CERCLA cleanups?

**Response:** EPA Headquarters promotes national consistency in the regional management of CERCLA cleanups through a combination of oversight, training, review, and implementation of recommendations on selected remedies to ensure compliance with the National Contingency Plan (NCP) and guidance documents. Regional coordinators at EPA Headquarters provide day-to-day assistance to regional staff and management in reviewing draft documents and strategies, including draft and final decision documents, five-year reviews, and NPL deletion documents. In addition, Headquarters technical and policy staff provide support during required regional consultations, ensure that program policies are given due consideration, and the best science is used to support decisions. Further, a subset of sediment remediation strategies and high cost proposed remedies are reviewed formally by the Contaminated Sediments Technical Advisory Group (CSTAG) and/or the National Remedy Review Board (NRRB). In certain cases, regional managers must brief Headquarters management prior to finalizing key site decisions or response strategies in order to ensure appropriate national consistency from established groups of EPA experts, such as the NRRB and CSTAG.

12. What is the timing for the issuance of the Record of Decision for the Westlake Landfill in Bridgeton, Missouri?

**Response:** On February 1, 2018, the EPA announced its proposed preferred remedy for Operable Unit 1 of the West Lake Landfill Superfund Site. The proposed preferred remedy – “Excavation Plus” – includes both the removal of the majority of the radiologically impacted material and construction of an engineered cover system, which are designed to protect the community of Bridgeton over the long term. EPA believes its proposed preferred remedy is protective and represents the best balance of the criteria prescribed by the CERCLA and the NCP. The public comment period for this proposal will begin on February 6, 2018 and the proposed plan and administrative record will be available for public comment for a minimum of 45 days. EPA expects to receive requests to extend the comment period. Following the close of the comment period, EPA will review the comments and will make its final remedy decision, which will be documented in an amendment to the agency’s 2008 Record of Decision for the site. As required by CERCLA, EPA will also prepare a Responsiveness Summary for all of the significant comments received during the comment period. We expect this amendment to the Record of Decision to be released in the fall of 2018 at the earliest, but the timing of this will ultimately depend on the length of the public comment period and the volume and complexity of comments received.

13. The Superfund Task Force conducted a 30-day review of the program and released 42 recommendations in July. The Task Force reemphasized long accepted concepts that are necessary to ensure remedies are consistent nationwide, data-driven, and efficient – such as adaptive management, early actions, technical oversight, and strengthening partnerships with stakeholders. You also revised the delegation of authority procedures to require that remedies potentially totaling more than \$50 million must receive approval from the Administrator, which will help promote regional accountability.

- a. How have you been implementing the recommendations of the Task Force at sites with existing Records of Decision and how will you implement the recommendations with new cleanups?

**Response:** EPA has been working to implement the Task Force recommendations. Each recommendation or in some cases sub-recommendations have work groups that are undertaking steps to implementation. The agency intends to provide a summary of the status of each of these work groups each quarter. These summaries along with other information pertinent to the Task Force will be available on the EPA Superfund Task Force website at <https://www.epa.gov/superfund/superfund-task-forceforce> beginning January 31, 2018.

- b. How will EPA ensure that Regional offices closely follow the principles set forth by the Agency’s 2005 Sediment Guidance and the National Contingency Plan?

**Response:** EPA’s policy and technical guidance encourages selection and implementation of sound, nationally consistent remedies at contaminated sediment sites. For example, on January 9, 2017, EPA issued “Remediating Contaminated Sediment Sites - Clarification of Several Key Remedial Investigation/Feasibility Study and Risk Management Recommendations, and Updated

Contaminated Sediment Technical Advisory Group Operating Procedures.” This memorandum builds on agency actions over the prior decade and responds, in part, to an October 2016 Government Accountability Office report (GAO-16-777) and updates the agency’s 2005 guidance with additional recommendations, consistent with CERCLA, the NCP, and existing CERCLA guidance, for characterizing sediment sites, evaluating remedial alternatives, and selecting and implementing appropriate response actions.

Sediment site decisions are often complex and multifaceted, underlain by multiple, often controversial determinations that require interpretation (e.g., cleanup level determinations, background levels for contaminants of concern, remedial footprint determination, and technology selection), each with a degree of uncertainty. While all those determinations and site decisions need to reflect site conditions and be consistent with guidance and the NCP, there is no single “correct” remedy. Regions have always received substantial input from Headquarters prior to selecting a remedy. At the largest sites (Tier 2 in the Sediment Guidance), regions consult with the Contaminated Sediments Technical Advisory Group (CSTAG) prior to initiation of the remedial investigation/feasibility study (RI/FS) for the site. Regions coordinate with Headquarters as the RI/FS progresses and come to the Office of Superfund Remediation and Technology Innovation and the Office of General Counsel for statutory, regulatory and guidance clarification. As sites of national interest proceed, there are often multiple issue-specific meetings with the subject matter experts and management. Depending on the nature of the issue, a particular remedy or issue may be elevated to the Administrator’s level. As appropriate, issues and remedies are coordinated with the Department of Justice or the U.S. Army Corps of Engineers (USACE) for their expertise, as well.

- c. Since many of the Task Force’s recommendations require further action, what is your timeline and plan for next steps?

**Response:** For most of the Task Force recommendations, next steps are underway and we continue to make progress addressing the action items for each recommendation. To date, substantive portions of several of the recommendations have been completed while implementation of many of the recommendations will commence in calendar year 2018. The Agency has created a Superfund Task Force website for the public (<https://www.epa.gov/superfund/superfund-task-force>) that includes quarterly updates on the progress made addressing the recommendations as well as information about opportunities for the public to participate.

**The Honorable David McKinley**

1. Mr. Administrator - when EPA finalized the “coal ash” regulations, they adopted in the self-implementing rule a “one-size-fits-all” approach that does not allow for the consideration of site specific, risk-based factors.

I appreciate that EPA has committed to reconsider elements of the rule. The timing of these revisions is critical to ensure that the power sector has regulatory certainty.

- a. Can you provide an update on how this process is going?

**Response:** EPA has made substantial progress in this task. At the present time, EPA has submitted a regulatory package to the Office of Management and Budget for interagency review containing proposed regulatory changes for those provisions where EPA has determined that regulatory changes are appropriate. EPA will complete its review of the remaining provisions under reconsideration, and, if it determines that regulatory changes are appropriate, will propose an additional rulemaking.

On November 15, 2017, pursuant to an order from the United States Court of Appeals for the DC Circuit, EPA submitted a status report indicating which provisions of the final CCR rule were being or were likely to be reconsidered by the agency and a timeline for this reconsideration. EPA further stated that it anticipated it would complete its reconsideration of all provisions identified in two phases. EPA indicated that in the first phase EPA would continue its process with respect to those provisions which were remanded by the Court to EPA in June of 2016. EPA also indicated that as part of Phase One it would review additional provisions to determine whether proposals to revise or amend some of these could be included in this initial phase. A number of the proposed changes that EPA intends to include in its proposal are associated with the Water Infrastructure Improvements for the Nation (WIIN) Act which provided States the ability to develop and submit to EPA for approval CCR permit programs. These permit programs must be no less protective than the federal CCR rule, but can provide for site-specific, risk based factors to be taken into consideration.

EPA also stated in the November status report to the court that it plans to complete review of all remaining matters not covered in the phase one proposal and determine whether to propose revisions to the provisions. EPA currently expects that if further revisions are determined to be warranted it intends to complete its reconsideration and take final action no later than December 2019.

2. As you know, a federal district court ordered EPA in January this year to begin to implement section 321 of the clean air act. This provision from the late 1970s provides that the administrator "shall conduct continuing evaluation of potential loss or shifts in employment..."
  - a. What are your plans for implementing this provision? What can you tell us about your timeline?

**Response:** EPA understands the importance of considering the cumulative impact of its regulations on the American public. EPA will conduct these evaluations consistent with the Clean Air Act.

- b. Will you work with me to identify whether statutory changes will help make for a more useful and transparent section 321 program?

**Response:** Yes. EPA is open to working on efforts to strengthen this provision

3. Small refineries have an inherent hardship in complying with the renewable fuel standards. These refineries do not have the ability to pass the rin cost on to their customers. It would put them at a competitive disadvantage to do so.

Congress has clearly stated its intent regarding this.

- a. What is the agency doing to address streamlining and improving the hardship petition process?

**Response:** The EPA understands the importance of the RFS program to multiple stakeholders, including small refineries. As directed by Congress, the EPA consults with DOE in evaluating these petitions—we consider DOE’s recommendations, along with other input and information, for each petitioning refinery and we aim to respond to each petition within 90 days of receiving all of the information necessary to conduct the evaluation. The EPA will continue to seek to improve its processes as it administers environmental regulations as Congress intended, and will work with stakeholders in achieving that goal.

4. Mr. Administrator – we understand that one of your objectives at EPA is a revised federalism, including providing the states with a greater partnership role with EPA in administering and implementing environmental laws in the respective states. Congress’ recent enactment of the WIIN act – which allows the states to implement the federal coal combustion residual – or “coal ash” – rules in lieu of the federal rule – is a perfect example of this philosophy and provides your administration with the opportunity to put this goal into action.

Unfortunately, however, we have heard from some of the states that EPA has been slow in reviewing and approving state program applications to operate the CCR rule in lieu of EPA. Indeed, we understand that not a *single* state application has been deemed complete by EPA, which is necessary to allow for the formal review process to begin.

- a. Can we get some assurances from you that the agency will accelerate this process?

**Response:** EPA understands the need to move expeditiously to review state programs and we are working closely with our state partners through this process. In a number of instances, states have determined that they need to revise their regulations before they can submit an application to EPA for program approval. In those instances, many states are consulting with EPA early in their process to help ensure that potential delays in reviewing and approving their final program will be minimized.

To date, EPA has received two applications for CCR permit program approval, one from the State of Georgia and the other from the State of Oklahoma. Georgia has asked that EPA not process their application further at this time as they are in the process of modifying some of their regulations. EPA determined Oklahoma’s application to be complete in December 2017, and on January 16, 2018, published a Federal Register notice announcing the agency’s intent to approve the Oklahoma CCR permit program. EPA is seeking public comment on this until March 2, 2018. Once the comment period ends, EPA will move expeditiously to review and address any comments received.

EPA is committed to working with our state partners on their CCR programs in a timely manner and will continue to do so.

5. The EPA's Air Enforcement Division sent an October 17 letter to the Ozone Transport Commission stating it "agrees that the 1986 [aftermarket catalytic converter emissions] policy is outdated." We encourage you to look into this issue. U.S. manufacturing jobs are threatened and U.S. consumers are already being harmed by this outdated policy.

Are you aware of how U.S. manufacturers of aftermarket catalytic converters are being severely impacted by an outdated EPA policy guidance that guides the industry?"

**Response:** EPA has met with the major U.S. catalyst manufacturers through their two primary trade associations. We understand these manufacturers are, in general, strongly supportive of an update to the policy.

**The Honorable Marsha Blackburn**

1. An Obama-EPA rule from 2016 would have required glider kit vehicles – which are made with *old* engines, and are not new vehicles – to comply with Phase 2 EPA greenhouse gas emission standards that were targeted solely for *new* vehicles and engines. This rule would have had a devastating impact on the state of Tennessee, resulting in a loss of \$512 million-dollars in economic output and a loss of 947 jobs. The rule would have been particularly harmful for small businesses that create and sell refurbished trucks using glider kits, providing an alternative in the medium and heavy-duty truck market that is 25% less expensive than buying a new truck. Mr. Pruitt, I want to thank you on behalf of the hundreds of Tennesseans who still have their jobs because of your common-sense action to reverse the previous administration's meritless and radical position.
  - a. Following up on that, do you agree that the needs of small business job creators should be taken into account when setting regulations that impact industries dominated by small businesses?
  - b. What can we do as a legislative body to ensure future abuses such as these do not take place again?
  - c. Can you discuss some of your efforts to reconsider regulations that pose an undue burden on small businesses?

**Response:** Yes. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires EPA to consider impacts of its rulemakings on small businesses. On March 24, 2017, the Administrator issued an agency-wide memorandum on implementation of the President's Executive Order 13777, directing EPA program offices to seek public input on existing regulations that may be appropriate for repeal, replacement, or modification and report findings to our Regulatory Reform Task Force. As a part of this effort, EPA offices conducted public outreach – including a meeting held by the Office of Small and Disadvantaged Business Utilization on April 25, 2017 to gain insight from small businesses on impacts of EPA's rules. EPA will continue to seek to improve its processes as we administer environmental regulations as Congress intended, and will work with all partners and stakeholders, including small businesses, in achieving that goal.

2. In accordance with the President's Executive Order 13777, your Agency began a process of reviewing EPA regulations in need of reform because they eliminate or inhibit job creation, are outdated, ineffective, or unnecessary, impose costs that exceed benefits, or create legal inconsistencies.

- a. What is the status of this review?

**Response:** Pursuant to Executive Order 13777, this review at EPA is ongoing. EPA recently released its Semiannual Agenda of Regulatory and Deregulatory Actions and Regulatory Plan that contains 101 active actions, including 54 deregulatory actions.

- b. What are your planned next steps?

**Response:** EPA plans to continue its work in reviewing regulations in accordance with E.O. 13777. EPA's latest work on regulatory reform can be found on its website: <https://www.epa.gov/laws-regulations/regulatory-reform>.

- c. What timeline do you envision for implementing the recommendations?

**Response:** While EPA continues to review the over 460,000 comments in response to EO 13777, it has started implementation of some of the recommendations and will continue this process as set forth in the Executive Order and related OMB guidance.

3. On November 30, 2017, EPA finalized volume requirements under the Renewable Fuel Standard (RFS) program for 2018 for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel, and biomass-based diesel for 2019. The 2007 law shaping the RFS required EPA to study and report to Congress on whether the RFS will adversely impact air quality. To date, EPA has never completed that study. EPA was also required to report to Congress on the RFS' impacts to the environment and resource conservation every three years. To date, EPA has issued only one report – in December 2011. Administrator Pruitt, when can Congress expect the EPA to comply with the law and provide the necessary studies?

**Response:** EPA is currently evaluating how quickly we can complete the study about air quality impacts (the "anti-backsliding" study required under Section 211(v) of the Clean Air Act). The Agency is currently working to complete in the spring of 2018 the report to Congress that addresses impacts to the environment and resource conservation (required under section 204 of the 2007 Energy Independence and Security Act).

#### **The Honorable Gregg Harper**

1. Mississippi is home to a significant forest products industry. The EPA, under the Obama Administration, drafted and imposed a wood products procurement regulation that allows only for Forest Stewardship Council – or FSC – certified products to be purchased by the government, which bars the purchase of products certified by other credible forest certification standards, such as the American Tree Farm System (ATFS) or Sustainable Forestry Initiative. This regulation, which is now under review, excludes a significant

number of family forest owners in the United States with homegrown products certified by other reputable standards. 1) Could you please provide a status update on the current review process? 2) What potential changes can be made to improve this policy that currently puts American forest owners at a disadvantage?

**Response:** EPA's previous action on this issue was carried out under a Recovered Materials Advisory Notice which is not an agency regulation. Based on stakeholder concerns and interagency discussions, the EPA recommendation for the lumber/wood product category was removed in December 2016 and put on hold. Before further action on this product category, EPA will ensure coordination with the USDA Forest Service and USDA Natural Resources Conservation Service, Department of Energy, OMB, and CEQ to determine how forestry standards should best be evaluated. Once the federal agencies have had time to come to consensus, EPA would engage stakeholders to refine the Guidelines pertinent to evaluating the lumber/wood recommendation. This process is intended to provide a transparent, fair, and consistent approach to updating the EPA Recommendation of forestry certifications and assessing other commodities' extraction/harvesting related environmental impacts.

2. In the 113<sup>th</sup> Congress, EPA was provided discretion over the allocation of approximately \$12.7 million in annually appropriated EPA technical assistance funding. The EPA used the discretion to eliminate the two full-time circuit rider technical assistance positions in Mississippi and other states. In response to concern raised by my rural and small community water constituents, I introduced legislation to reauthorize and direct the technical assistance funding to where it is most helpful. Senator Wicker's companion bill was signed into law in 2015. I appreciate EPA's July 25, 2017, response to a June 9, 2017, Senate letter in which EPA committed to following the intent of the Grassroots Rural and Small Community Water Systems Assistance Act (PL 114-98). 1) Could you please provide an update on implementation of the law and the possibility of the two-full time circuit rider technical assistance positions being re-established in Mississippi?

**Response:** EPA recently published a Request for Applications for the national Training and Technical Assistance for Small Systems Grant, which follows the intent of the Grassroots Rural and Small Community Water Systems Assistance Act (PL 114-98). The application period closed in December 2017, and the agency is currently reviewing applications. The grant awardees will be selected by early spring of this year.

#### **The Honorable Bill Johnson**

1. As is true in a lot of areas around the country, job creators in my district are having a difficult time obtaining New Source Review air permits in order to build or upgrade manufacturing facilities or power plants, which is hurting our local economy and employment opportunities. And, as the recent DOE report on electricity markets and grid reliability further emphasizes, "NSR creates an unnecessary burden that discourages... investments in efficiency because of the additional expenditures and delays associated with the permitting process".



- a. Do you agree that issuing New Source Review permits takes too long and is unnecessarily complex?
- b. What is EPA doing to assess the impact of current NSR review requirements on decisions to modernize facilities and power plants?
- c. What reforms may EPA make administratively to improve the New Source Review permitting program so that we can continue to improve air quality and achieve economic growth?

**Response:** Under the current Administration, as directed by a Presidential Memorandum and Executive Orders, the EPA has solicited and received stakeholder input on streamlining its regulatory programs and reducing burden on manufacturing and other industry sectors. Stakeholders have specifically identified the NSR permitting programs as an area of concern and have recommended specific reforms. EPA identified the NSR program as one of the policy areas for review under EO 13783 to further the goal of reducing unnecessary burdens on the development and use of domestic energy. In addition, Assistant Administrator Bill Wehrum has spoken publicly about his priorities for the Office of Air and Radiation, which include a number of targeted improvements to the NSR programs. EPA has also already taken action related to NSR permitting including issuing memorandums to Regional Administrators related to determining major modification applicability ([https://www.epa.gov/sites/production/files/2017-12/documents/nsr\\_policy\\_memo.12.7.17.pdf](https://www.epa.gov/sites/production/files/2017-12/documents/nsr_policy_memo.12.7.17.pdf)) In the meantime, EPA will continue to provide assistance to regulated sources and state and local permitting authorities to resolve case-specific NSR permitting issues, as needed. EPA stands ready to assist state permitting authorities implementing the NSR permitting programs and address any issues that are impeding or delaying permit approvals across the nation, including those in your District. In addition to the NSR program improvements mentioned above, the EPA has established a Kaizen team that is tasked with applying lean tools to improve the efficiency of the EPA's permit issuance process and address the concern regarding the NSR permitting process and timeframes.

**The Honorable Kevin Cramer**

1. After 2022, EPA is required to set volumes for total renewable fuel, advanced biofuel, cellulosic biofuel, and biomass based diesel. The assumption is the total renewable fuel volume would contain some amount of conventional biofuel. The statute, however, does not set a minimum amount for conventional biofuel because it does not specify a minimum volume for the total renewable fuel. Thus, EPA could set the total renewable fuel volume as the same as the advanced biofuel volume.
  - a. Does the current statute have a specific requirements for corn-based ethanol until 2022?
  - b. Does the statute require a minimum volume of total renewable fuel for each year following 2022?
  - c. Is it your belief that after 2022, the RFS gives significant preference to advanced biofuels over conventional corn-based ethanol?

**Response:** The statute does not have a specific requirement for corn-based ethanol before (or after) 2022. The statute also does not specify a minimum volume of total renewable fuel after 2022. The CAA sets forth an extensive list of factors to be considered in setting standards after 2022. We have not yet evaluated how consideration of those factors may relate to various types of renewable fuels.

2. The implied mandate for corn-based ethanol is set at 15 billion gallons until 2022. As the statute is written today, do you view this 15 billion gallons as a ceiling or a floor?
  - a. If floor: What in the statute leads you to believe the RFS will require more than 15 billion gallons of corn-based ethanol?

**Response:** The 15 billion gallon implied mandate, commonly referred to as the “conventional renewable fuel” mandate, is not specific to ethanol. The majority of that implied mandate, however, is historically met by corn-based ethanol. That volume is not a ceiling, since the standards under the RFS program do not limit the amount of ethanol that can be used. If there is demand for more than 15 billion gallons of ethanol and the market can supply it, more than 15 billion gallons can be used.

However, neither is the 15 billion gallon mandate for conventional renewable fuel a floor. If use falls below 15 billion gallons, the shortfall can be met with other non-ethanol conventional or advanced renewable fuels, such as biodiesel and renewable diesel.

Nothing in the statute requires more than 15 billion gallons of conventional renewable fuel. Indeed, there is no specific requirement in the statute for any particular volume of ethanol.

3. The prior Administration proposed the Renewable Enhancement and Growth Support (REGS) Rule in 2016 and took comment on the potential for capturing RINS from renewable electricity used to charge electric vehicles.
  - a. Where does this proposal currently stand?
  - b. Is the EPA planning to continue to finalize the REGS Rule?

**Response:** Since the REGS proposed rule comment period closed, OAR staff have been going through the many comments received, evaluating the various implementation options raised by the comments, and exploring options for resolving the complex issues associated with implementing the electric pathway. We continue to work towards a final decision on these important issues.

4. A number of ethanol producers in my state have talked to me at length about the benefits of high-octane fuels which are said to provide substantial engine efficiency benefits. They indicated a wealth of information has been provided to the EPA in support of such a fuel with 30 percent ethanol.
  - a. Can automakers now certify their engines on these fuels?
  - b. If not, why not? If so, what is the process?

**Response:** Although E30 is not currently an approved test fuel for certification purposes, EPA regulations allow vehicle manufacturers to request permission to use test fuels other than those specified by EPA, and provide that EPA will generally allow use of an alternative test fuel if the manufacturer can satisfy certain factors to ensure that the proposed test fuel reasonably reflects the fuel on which the vehicle will operate in the real-world.

**The Honorable Tim Walberg**

1. Administrator Pruitt, one of the priorities of this Subcommittee has long been to, where appropriate, give more authority to the states and it has been suggested that there are aspects of the Superfund program that would be better handled by the states.
  - a. What are your thoughts on delegating portions of the CERCLA cleanup authority to states that can demonstrate the ability to conduct certain superfund cleanups?

**Response:** It is not necessary at this time to change the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to add additional delegation of authority to the states. The partnership between EPA and the states is an existing cornerstone principle under CERCLA and the National Contingency Plan. CERCLA includes key roles for states in the federal Superfund remedial program, and where appropriate, enables states to be designated as the lead agency for remedial action. In addition, EPA's policy calls for state concurrence in listing sites on the National Priorities List (NPL) and consults with the states on cleanup decisions. Through cooperative agreements, EPA provides states with funding to conduct work under the Superfund program including, but not limited to, site assessment, site characterization, review of remedy decision documents, remedy implementation and enforcement actions. In FY 2017, EPA provided approximately \$58 million to states to conduct activities at NPL sites, and to support state Superfund programs. Cost recovery authority is available to states under CERCLA.

Separately, state cleanup programs already address a wide variety and large number of contaminated sites that do not make it on the NPL. EPA will continue to seek and expand opportunities afforded by the existing statute to work closely with states to efficiently leverage our respective cleanup resources.

2. At present, there are no standard EPA methods for analyzing PFAS in environmental media, but EPA officials have stated the agency will have draft methods for water and solids by fall 2017. For the purpose of Michigan's continued engagement on this critical issue, as well as the betterment of EPA's developing approach to addressing PFAS nationwide, when do you expect these methodologies will be complete?

**Response:** EPA has developed a widely used technique for PFASs in drinking water. The method addresses PFOA, PFOS and 4 other PFASs measured during the third cycle of the Unregulated Contaminant Monitoring Rule (UCMR 3), as well as 8 additional PFASs. EPA is aware of the urgency and need for methods to measure multiple PFAS in multiple media. EPA is working to develop additional validated sampling protocols and laboratory methods for measuring and detecting more than 20 PFAS in ground water, surface water, waste water, and solids in 2018. The methods will include appropriate QA/QC measures that give us confidence in the accuracy, precision, and sensitivity of the method.

3. The EPA issued a drinking water health advisory for PFAS in May 2016, however, the advisory is non-enforceable and non-regulatory. Do you foresee changes to EPA's role in regulating PFAS contamination at the national level?

**Response:** EPA is currently conducting the scientific data collection and analysis called for under the Safe Drinking Water Act to evaluate PFOA and PFOS. EPA included PFOA and PFOS on the fourth Contaminant Candidate List (CCL) published in 2016. The CCL is a list of contaminants that are known or anticipated to occur in drinking water that may require regulation. Additionally, approximately 5,000 public water systems monitored drinking water for PFOA and PFOS as part of the third cycle of the Unregulated Contaminant Monitoring Rule (UCMR 3). UCMR represents the Agency's current effort to characterize the levels at which particular unregulated contaminants are occurring in drinking water and measure the frequency of that occurrence on a national basis. EPA will consider occurrence data along with health effects information to determine whether to initiate the process to develop a National Primary Drinking Water Regulation (NPDWR) under Regulatory Determination 4. EPA anticipates completing the next Regulatory Determinations in 2021.

4. In the Motor Fuels Act of 1988 Congress established a variety of alternate fuel incentives to be used by NHTSA in the administration of the CAFE fuel economy regulations. EPA originally used the same statutory incentives as NHTSA therefore vehicle emissions and fuel economy incentives were harmonized. But in 2012, under the previous administration, EPA diverged from this harmonization by favoring electric vehicles over other alternative fuel vehicles thereby nullifying Congressional intent. Do you think it would be good policy for EPA to return to its previous approach and harmonizing its emissions incentives with NHTSA's fuel economy incentives?

**Response:** EPA received a variety of comments during our recent public comment period regarding harmonization with CAFE and the treatment of alternative fuel vehicles in EPA's GHG standards program, including natural gas, ethanol, and electric vehicles. We will continue to consider those comments, along with other best available information, as we move forward with the Mid-term Evaluation reconsideration.

#### **The Honorable Buddy Carter**

1. The EPA issued a review of the Phase 2 Greenhouse Gas Rule for Medium and Heavy-Duty Trucks and in November the EPA issued a statement on the review of glider kits. However, we haven't seen any announcements about progress with truck trailers. Are you currently reviewing trailers as part of the rule and if so, what is the status? Please provide an update on the rulemaking process and any progress that has been made.

**Response:** EPA is currently conducting a legal and policy review of the trailer provisions of the Phase 2 Rule for Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles.

2. Which recommendations from the Super Fund Task Force have been implemented?

**Response:** To date, EPA has completed the initial steps for implementing several recommendations, including the development and release of the Administrator's Emphasis List (<https://www.epa.gov/superfund/superfund-sites-targeted-immediate-intense-action>), the Redevelopment Focus List (<https://www.epa.gov/superfund-redevelopment-initiative/superfund-redevelopment-focus-list>), and the FY 2017 Deletion and Partial Deletions List. We recently released the Human Exposure Not Under Control Measure Dashboard (<https://www.epa.gov/superfund/superfund-human-exposure-dashboard>) which will track progress of sites where human exposure pathways continue to exist. While substantive portions of several of the recommendations have been completed, implementation of many of the recommendations will commence in calendar year 2018. The Agency has created a Superfund Task Force website for the public (<https://www.epa.gov/superfund/superfund-task-force>) that includes quarterly updates on the progress made addressing the recommendations as well as information about opportunities for the public to participate.

3. The EPA recently announced the full or partial removal of Superfund sites from the National Priorities List. How many cleanups will the EPA pursue in 2018 and what will those be?

**Response:** The number of sites to be deleted in 2018 will depend on the number of sites that the agency determines no further response is appropriate and one of the following criteria consistent with existing EPA guidance (<https://www.epa.gov/superfund/superfund-npl-deletion-guidance-and-policy>) has been met:

- EPA, in conjunction with the state, has determined that responsible or other parties have implemented all appropriate response action required;
- EPA, in consultation with the state, has determined that all appropriate Superfund-financed responses under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) have been implemented and that no further response by responsible parties is appropriate;
- A remedial investigation/feasibility study has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Thus far in FY 2018, the agency has deleted one site (Nutting Truck & Caster Co. in Minnesota), and announced the intent to delete three additional sites (Vancouver Water Station #1 and Vancouver Water Station #4 in Washington, and C & D Recycling in Pennsylvania). EPA has also announced the intent to delete a portion of the Pacific Coast Pipe Lines site in California. The agency will be making a final decision on these four pending deletion activities after reviewing public comments.

Pursuant to the Superfund Task Force recommendations and Administrator Pruitt's stated priorities, EPA will closely monitor other potential sites that may meet the relevant statutory criteria in an effort to maximize deletions and partial deletions in 2018. As many as 27 sites are currently being reviewed for potential deletion or partial deletion. However, at this point in time, because many steps must occur to achieve a deletion, EPA is anticipating approximately ten full or partial deletions in FY 2018 as a conservative estimate.

4. In June, the EPA announced an interim remedy for the Superfund site located at Terry Creek in my district. What is the status of that effort?

**Response:** On June 19, 2017, EPA signed an Interim Record of Decision (IROD) for Operable Unit 1: Outfall Ditch. The State of Georgia Environmental Protection Division (GAEPD) concurred with the IROD for Operable Unit 1. The major components of the remedy include:

- Re-routing the existing stormwater ditch into a newly constructed concrete-lined ditch;
- Excavation and offsite disposal of impacted sediment near Glynn Avenue to construct the new concrete-lined ditch;
- Removal of the existing weir across the Outfall Ditch;
- Placement of geo-textile fabric over existing sediment in the Outfall Ditch;
- Backfilling the Outfall Ditch with compacted clean soil;
- Armoring the backfill slope at the confluence with Dupree Creek;
- Development of a long term monitoring plan to ensure effectiveness of the interim remedy; and
- Implementation of institutional controls such as an environmental covenant prescribing land use and activity restrictions to prevent unauthorized disturbance of the soil cover and other interim remedy components.

On September 29, 2017, EPA sent Hercules, the Potentially Responsible Party, a special notice letter to begin the negotiations relating to the Consent Decree for Operable Unit 1: Outfall Ditch. Hercules responded to EPA with a good faith offer on January 3, 2018. This offer is currently being reviewed by EPA and the Department of Justice.

EPA will continue to work with Hercules during the consent decree negotiation process. After the consent decree has been finalized remedial design for the implementation of the remedy at Operable Unit 1 will begin.

5. This committee has been looking to make sensible reforms to the program. Are there any legislative actions that this committee would need to take to aid in reforming the program?

**Response:** At this time, EPA does not have any suggested legislative actions to reform the Superfund program. However, EPA can provide technical assistance for any proposed legislative actions that the Committee develops.

**The Honorable Michael Burgess**

1. In my State of Texas, we have become too familiar with the EPA making examples of a few people to scare everyone else into compliance. Could you explain why you are intentionally moving away from heavy handed regulatory treatment and moving more toward building partnerships with States and industry to improve the environment?

**Response:** EPA's FY2018-2022 Strategic Plan, discusses EPA's priorities for strengthening working relationships with states and industry to create tangible environmental results for the American people. The plan also discusses the reasons why these partnerships are necessary.

- Goal 2, "Cooperative federalism – the relationship between states, tribes and EPA – is not just about who makes decisions, but about how decisions are made and a sense of

shared accountability to provide positive environmental results. EPA understands that improvements to protecting human health and the environment cannot be achieved by any actor operating alone, but only when the states, tribes, and EPA, in conjunction with affected communities, work together in a spirit of trust, collaboration, and partnership.” (FY 2018-2022 EPA Strategic Plan: February 12, 2018, p.21)

- Goal 3, “Rule of Law and Process,” discusses how EPA, “[o]ver the next five years, EPA will reinvigorate its approach to regulatory development and prioritize meeting its statutory deadlines to ensure that expectations for the regulated community and the public are clear and comprehensive and that Agency actions are defensible and consistent with its authorities. The Agency will use new approaches and flexible tools to minimize regulatory uncertainty and will communicate more comprehensively to realize more consistent and better environmental outcomes, while centering work on statutory and regulatory obligations. EPA will strengthen working relationships with industry sectors to better understand their needs and challenges in implementing Agency requirements and with communities to understand their concerns. This knowledge will enable the Agency to develop better policies and regulations to protect human health and the environment in line with the authorities given to EPA by Congress.” (FY 2018-2022 EPA Strategic Plan: February 12, 2018, p. 33)
2. Some of your critics view the EPA as if it’s a factory; where success is measured by the quantity of rules issued, grants passed out, or enforcement cases brought. Rarely do people size up EPA by compliance achieved or improvements in the environment. What goals, budgetary or otherwise, are you setting for individual programs and what metrics are being used to measure progress or success of an office or program?

**Response:** EPA is currently setting up a process to evaluate management practices and measure agency outcomes, including measuring permitting decisions, and the monitoring of air and water quality. The goal of this monitoring is to identify areas within the agency that need to be strengthened, and to streamline how the agency operates by reducing/eliminating wasteful processes. EPA’s offices plan to periodically measure progress.

3. I’d also like to touch on the spill at the Gold King Mine. Shortly after the spill occurred there, I visited the mine to observe the impact myself and was shocked by the severe the damage was at that time. Could you please provide me an update on the situation there and the status of the claims brought by the victims?

**Response:** EPA continues to treat all water flowing from the mine, about 600 gallons per minute. In 2017, a flow control structure was installed near the entrance to the mine to help meter the flow of water. In 2018, we will continue to treat all water from the Gold King Mine. The Gold King Mine is one of 46 mine features and two study areas identified in the Bonita Peak Mining District which was included on the National Priorities List in September 2016. We are currently undertaking the Remedial Investigation for the mining district.

EPA is reviewing the tort claims that were submitted to EPA and denied by the previous Administration that Administrator Pruitt committed to reconsider, as well as additional claims submitted to EPA in 2017 that have not been acted upon. For the previously denied claims, EPA

contacted each of the claimants in July 2017, to inform them of the new review and provided an additional three months for them to provide additional information they thought relevant.

EPA's Office of General Counsel has established a team of attorneys who are undertaking a thorough review of each of the claims, which involves an analysis of the facts, the relevant federal and state law (which varies depending on the nature of the claim, the state, and underlying facts), and the supporting material provided by the claimants. EPA anticipates completing its review of all the claims in the coming months and will announce its decisions on individual claims once the review is completed.

4. EPA's authority to use the Title 42 hiring authority derives from an appropriations rider and not legislation originating from either the House Energy & Commerce or Senate Environment & Public Works Committees. Does the EPA intend to continue to use Title 42 to hire and pay new and existing employees under this authority?

**Response:** EPA uses all of its available mechanisms to attract and retain highly skilled science and engineering staff in EPA's research and development programs, including special hiring authorities, like Title 42. EPA has used this special hiring authority since 2006 with positive results and achievements. EPA has made changes recommended by the National Academy of Sciences to improve the Title 42 program for future Title 42 hires.

- a. Does EPA intend to formally ask the authorizing committees for special hiring authority or will it continue to base its authority on the appropriations rider?

**Response:** EPA has met with both the House Energy and Commerce and the House Space, Science, and Technology committees about its use and need for a special hiring authority. The Title 42 authority is critical to the Agency's ability to compete for the best and brightest researchers in academia, private industry to ensure it has the critical outstanding scientific experts to meet the Agency's strategic goals. In order to ensure EPA does not lose existing Title 42 staff or miss opportunities to hire excellent staff under the authority, EPA continues to request the use of current authority in the FY2019 Budget.

- b. Has EPA ever formally or informally requested such authority from the authorizing committees? If so, when?

**Response:** EPA has briefed its authorizing committees on the need for special hiring authority several times. This includes meetings in 2010, 2011, 2012, and 2014. In addition, Section 2 of Reorganization Plan No. 3 of 1970 delegates to the EPA Administrator the functions vested in the Secretary of Health, Education, and Welfare ("HEW", now Health and Human Services) including those under 42 U.S.C. 209.

- c. Has the EPA ever proposed language similar to the Title 42 hiring authority be included in any of its authorizing legislation?

**Response:** EPA has worked with its authorizing committees to discuss the importance of Title 42 authority to the Agency's ability to fulfill its mission. EPA would gladly work with its authorizing



committees on language that would continue to provide the Agency with this critical workforce tool.

- d. Does EPA intend to continue to request that the Appropriations Committee include this rider in future appropriations legislation?

**Response:** Yes, Title 42 provides EPA with an important tool to make critical workforce investments needed to accomplish its mission. Without the authority ORD would have trouble competing for pre-eminent talent, would likely lose essential scientific experts to other organizations, and would lose the flexibility in our workforce needed to quickly address the nation's most pressing environmental concerns.

- e. Does EPA intend to ask the Appropriations Committee for any increase to the currently allowed number of employees it may pay under Title 42?

**Response:** No. The FY 2019 Budget does not request an increase in the number of Title 42 employees.

#### **The Honorable Frank Pallone**

##### **Superfund:**

During the hearing, you suggested that you proposed cutting the budget for Superfund cleanups because more money is not needed. You also said that there are very few orphan sites, meaning sites that will require public cleanup funds. However, in 2015, the Government Accountability Office found that as federal funding for cleanups has declined, the number of construction completions and remedial action completion declined while the number of National Priority List sites remained constant. In other words, less money buys fewer needed cleanups.

1. How many sites, exactly, on the National Priority List require public cleanup funds?

**Response:** As of the end of FY 2017, there were 245 remedial action projects to construct and/or operate remedies at 198 Superfund sites using appropriated funds. In addition, as of the end of FY 2017, there were 18 unfunded construction projects requiring appropriated funding. Appropriated funds are currently paying for 253 remedial investigation/feasibility study (RI/FS) projects at 204 sites and 135 remedial design projects at 100 sites.

##### **Environmental Justice:**

Since the issuance of Executive Order 12898 in 1994, EPA has been required to incorporate the goal of environmental justice into its mission. As part of that executive order, and in keeping with Title VI of the Civil Rights Act of 1964, EPA is required to ensure all of its activities that affect human health and the environment do not directly or indirectly discriminate on the basis of race, color, or national origin.

2. What are you doing to ensure that EPA's response and recovery efforts in Puerto Rico and the U.S. Virgin Islands comply with the Executive Order on environmental justice and the Civil Rights Act?

**Response:** EPA is very mindful that many of the communities hardest hit by Hurricanes Irma and Maria are underserved communities that face economic challenges every day. In general, the agency's work comes through mission assignments given by FEMA that are based on identified needs from the U.S. Virgin Islands and Puerto Rico governments, as well as local governments. Understanding the limitations of these governments and communities, EPA has taken extra steps to work closely with government officials from Puerto Rico and the U.S. Virgin Islands, as well as from municipalities in Puerto Rico, to help them identify needs and prepare requests for federal help. We have also worked to connect the Puerto Rico and U.S. Virgin Islands governments to other sources of help, where needed. Region 2 also has deployed community involvement coordinators across Puerto Rico and the U.S. Virgin Islands. An important part of their role is to ensure that community concerns are promptly addressed.

Just a few days after taking office, EPA's Regional Administrator for Region 2 visited both Puerto Rico and the U.S. Virgin Islands to observe the situation on the ground and ascertain where there might be unmet needs. There are many examples of EPA responding to these needs, which include the EPA working closely with FEMA and NGOs to provide food, water and supplies where we encountered communities that had not yet been visited by other responders. In addition, the EPA worked with NGOs to bring solar power and other alternative energy sources to help re-activate small drinking water systems that are not run by the Puerto Rico Aqueduct and Sewer Authority. In addition, Regional Administrator Lopez met with community leaders, including in the hard-hit Martin Pena Canal community to reinforce our commitment to help them get the help they needed. In that case, we worked with the U.S. Corps of Engineers to obtain technical guidance and funding for dredging the canal.

3. What have you been doing to ensure that EPA's response and recovery efforts in Texas comply with the Executive Order on environmental justice and the Civil Rights Act?

**Response:** During the Hurricane Harvey response, many of the communities impacted by the Harvey were poor or minority communities next to industrial facilities. EPA and the Texas Commission on Environmental Quality gave priority attention to community complaints of possible releases and spills of hazardous materials and oil throughout the response to the hurricane. For example, EPA deployed the Trace Atmosphere Gas Analyzer (TAGA) bus to provide real-time air quality data in the Manchester area of Houston following complaints of volatile organic compound odors. Inspections and tests were conducted at large oil and chemical facilities, drinking water and waste water facilities, pipelines, refineries, Risk Management Plan facilities and oil storage facilities.

EPA also deployed Community Liaisons to work with county Emergency Operation Centers in the more than 30 counties to provide information on reentry, disposal of household hazardous waste, recycling white goods, indoor mold remediation, debris removal, and water well disinfection of individuals dealing with potential hazards in damaged or lost homes.

4. What direction, if any, have you given to your Regional Administrators and other regional staff with regard to ensuring environmental justice in EPA's hurricane response? Please provide any memoranda or email correspondence you or your staff have sent to regional staff on the subject of environmental justice and hurricane response.

**Response:** In EPA Region 2, Regional Administrator Pete Lopez has directed staff to make every effort to help communities across the U.S. Virgin Islands and Puerto Rico, particularly those communities that are underserved. He has also focused on building local capacity where there are gaps and is the EPA's representative on a high-level recovery workgroup that is focuses on leveraging resources to provide the assistance needed not just respond to the hurricanes, but to recover from their impacts and prepare for the impacts of future storms.

Regional Administrator Lopez leads a call (which was daily and now is three times a week) with a wide range of EPA response staff, to raise and discuss issues that the government of Puerto Rico or the U.S. Virgin Islands or a local community may be having and to find ways in which the EPA can help or point them to the appropriate federal partner if it falls outside of our mission. EPA is paying particular attention to underserved, rural communities.

As noted above, in the early months of the response, EPA responders were often the first people into some less accessible areas of Puerto Rico. In those instances, we worked with FEMA and NGOs to bring in food, water and supplies to these communities. The EPA continued its work in many of these communities alongside the non-governmental organizations Water Mission, Samaritan's Purse, Project Hope, and RCAP Solutions to assist the estimated 76,000 Puerto Rico residents in over 200 communities across the island that rely on drinking water sources from pumps and wells and surface water that are not supplied by the Puerto Rico Aqueduct and Sewer Authority (PRASA).

In EPA Region 6, EPA staff used long-standing local Environmental Justice networks to learn what further needs existed and reported that information to operation centers in Port Arthur/Beaumont, Corpus Christi, and Houston. The Region also established a dedicated Environmental Justice email address where constituents could submit specific concerns directly to Region 6 where those concerns channeled to the appropriate area for response and then the constituents were contacted about the resolution of their concerns. An EJ Harvey Network was also established of EJ Advocates in the impacted areas. Weekly calls were held to update the community on activities that had/were occurring in response to the hurricane, listen to concerns and elevate appropriate issues to the Region. Guidelines for working with Environmental Justice were issued to response staff and improving EPA response to Environmental Justice issues is included in the Region's review of performance.

5. Who on your staff is tasked with coordinating response efforts across the regions to ensure equal treatment for the people of Puerto Rico and the U.S. Virgin Islands?

**Response:** Every single person involved within the EPA's response is tasked with ensuring equal treatment for the people of Puerto Rico and the U.S. Virgin Islands. This ethic is at the core of EPA's mission to protect people's health and the environment and is embraced by EPA staff across the country. This is reinforced throughout the entire incident response structure, including by the Regional Administrator and senior managers.

Since assuming your position as Administrator, you have delayed or abandoned numerous rules and regulations that would have protected vulnerable communities.

6. Do you believe that your decision to abandon EPA's proposed ban of the dangerous pesticide chlorpyrifos complies with the Executive Order on environmental justice and the Civil Rights Act?

**Response:** EPA's actions on chlorpyrifos complied with applicable Executive Orders and statutory obligations.

7. Do you believe that your decision to delay the important amendments to the Risk Management Planning program complies with the Executive Order on environmental justice and the Civil Rights Act?

**Response:** EPA's actions on the Amendments to the Risk Management Plan Rule complied with applicable Executive Orders and statutory obligations.

8. Do you believe that your actions delaying notifying communities that are out of attainment with the 2015 ozone National Ambient Air Quality Standard complies with the Executive Order on environmental justice and the Civil Rights Act?

**Response:** EPA's actions regarding the 2015 ozone NAAQS have complied with applicable Executive Orders and statutory obligations.

9. Do you believe that your decision to repeal the Clean Power Plan complies with the Executive Order on environmental justice and the Civil Rights Act?

**Response:** EPA has solicited comment on a proposal to repeal the Clean Power Plan and an advanced notice of proposed rulemaking regarding a potential new rule. In doing so, it will comply with applicable Executive Orders and statutory obligations.

10. Do you believe that your decision to delay revisions to the Lead and Copper Rule complies with the Executive Order on environmental justice and the Civil Rights Act?

**Response:** The Lead and Copper Rule was promulgated in 1991 and has not been significantly updated since that time. EPA has announced that it will undertake efforts to update the rule to strengthen drinking water protections in accordance with applicable Executive Orders and statutory obligations.

#### **Management of Toxic Pesticides:**

11. Documents reveal that Monsanto employees may have ghostwritten scientific papers on glyphosate, including papers published in the journal Regulatory Toxicology and Pharmacology, which has an editorial board populated by industry scientists, lawyers and

consultants with clear financial ties to the chemical industry. Has EPA relied on those studies in its evaluation of glyphosate?

**Response:** The Agency has used two articles from Regulatory Toxicology and Pharmacology journal for the evaluation of glyphosate (Mink et al., 2012; Williams et al., 2000). Both of these are considered to be review articles. Review articles survey the literature to identify previously published journal articles relevant to a specific topic, summarize and/or analyze the data of those studies, and in some cases make overall conclusions regarding the findings. Review articles can serve as a source for finding original journal articles on a particular topic. Glyphosate has been the subject of multiple review articles in addition to these two. The Agency performed its own independent review of the original journal articles. The Agency did not rely on the interpretation of data by the authors of the Mink et al (2012) and Williams et al (2000) articles.

12. Did EPA rely on studies from that journal in its decision to deny the petition to ban chlorpyrifos?

**Response:** EPA considers and performs its own independent review of studies in multiple journals, including Regulatory Toxicology and Pharmacology. The reference section of the pesticide registration review assessments and supporting documents lists the studies considered. Studies from the journal Regulatory Toxicology and Pharmacology are referenced in the 2014 revised Human Health Risk Assessment, and in the materials prepared for a meeting of the 2016 FIFRA Scientific Advisory Panel. No studies from the journal were utilized in forming the basis for the Agency's March 2017 decision to deny the chlorpyrifos petition.

13. In 2015, the Food and Drug Administration (FDA) agreed with recommendations from GAO<sup>1</sup> that glyphosate monitoring should be done, but subsequently suspended its efforts to conduct that monitoring.<sup>2</sup> Documents suggest that this decision may have been made under pressure from an EPA employee working with Monsanto. Please provide any email or other correspondence between EPA employees and FDA employees regarding glyphosate monitoring.

**Response:** Multiple federal government agencies share responsibility for the regulation of pesticide residues in or on food. While the EPA registers the use of pesticides and establishes the residue limits, i.e. tolerances, for the amount of pesticides that may remain in or on food, the FDA is responsible for enforcing the tolerances. According to FDA's website (<https://www.fda.gov/Food/FoodborneIllnessContaminants/Pesticides/ucm583711.htm>), its regulatory pesticide residue monitoring program selectively tests a broad range of imported and domestic commodities for approximately 700 pesticide residues. Due to the shared regulatory responsibility between EPA and FDA for pesticide residues in or on food, the two agencies correspond from time-to-time on specific pesticides including glyphosate.

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<sup>1</sup> U.S. Government Accountability Office, "Food Safety: FDA and USDA Should Strengthen Pesticide Residue Monitoring Programs and Further Disclose Monitoring Limitations" (Nov. 6, 2014).

<sup>2</sup> Gillam, C. *FDA Suspends Testing for Glyphosate Residues in Food* (Nov. 11, 2016) ([http://www.huffingtonpost.com/carey-gillam/fda-suspends-glyphosate-r\\_b\\_12913458.html](http://www.huffingtonpost.com/carey-gillam/fda-suspends-glyphosate-r_b_12913458.html))

Due to the amount of time required for a comprehensive search and review process I encourage you to reach out to my staff regarding your request for communications between the EPA and the FDA and we would be happy to discuss how to accommodate this request

14. EPA's March 30 decision on chlorpyrifos will allow continued use of this dangerous pesticide on golf courses. Did trade associations representing the Trump Organization golf courses, or lobbyists who represent the Trump Organization, communicate with EPA, the White House, or the Trump transition team regarding the March 30 decision or chlorpyrifos in general?

**Response:** Subsequent to the arrival of the new administration in January 2017 and prior to the March 2017 announcement, EPA's Office of Pesticide Programs did not have any engagement with the above-referenced organizations regarding the March 30, 2017, decision.

**Transparency:**

Nearly thirty-five years ago, in his landmark "Fishbowl Memo," Administrator Ruckelshaus announced that he would release his appointment calendar on a weekly basis, and he directed the Deputy Administrator and all Assistant Administrators, Associate Administrators, Regional Administrators, and Staff Office Directors to do the same. Administrator Ruckelshaus emphasized that "EPA will not accord privileged status to any special interest group" and that the public should be "fully aware of [top officials'] contacts with interested persons." In the intervening decades, Administrators serving under both Democratic and Republican Administrations have upheld this practice. But your senior management team has yet to release its calendars, undermining agency transparency and raising questions about who may be accessing and influencing top EPA officials. EPA has recently provided the public with a "summary" of your calendar, and provided some heavily redacted records of your calendar through March 31. But the agency still has not released the actual records of your daily calendars since March, despite numerous FOIA requests for them.

15. Will you commit to making your schedule public on a regular basis, so that Congress, the press, and ordinary Americans can see who you are meeting with?

**Response:** My calendar is publically available at: <https://www.epa.gov/senior-leaders-calendars/calendar-scott-pruitt-administrator>

16. Will you commit to directing your senior officials to release their calendars on a regular basis?

**Response:** Calendars for senior officials are publically available at: <https://www.epa.gov/senior-leaders-calendars>.

We are also concerned about delays in EPA's response to FOIA requests under your administration. EPA's failure to meet the deadlines specified in the Freedom of Information Act results in legal violations, which then subject EPA to repeated lawsuits.

17. Given the legal expenses and waste of resources caused by EPA's failure to comply with FOIA deadlines, do you agree that EPA should streamline the review process for release of documents to eliminate any unnecessary steps, such as multiple levels of document review?

**Response:** EPA is committed to processing FOIA requests in a timely and accurate manner and to enhancing its FOIA processes to be as efficient as possible, as indicated in EPA's Draft FY 2018 – FY 2022 EPA Strategic Plan (<https://www.regulations.gov/docket?D=EPA-HQ-OA-2017-0533>). EPA will conduct a lean event in the second quarter of FY 2018 to identify ways to streamline the Agency's FOIA processes. Implementation of the outcomes of this lean event is expected to begin in the fourth quarter of FY 2018. EPA has also proposed a reorganization of its National FOIA Program to increase the effectiveness, accountability, and visibility of the program by placing all FOIA-related program and legal responsibilities in offices under the Office of General Counsel.

18. Do you think it is appropriate for political appointees and advisors to hold up the release of document for further review, even when documents have already been determined to be public documents not subject to FOIA exemptions by FOIA officers and FOIA attorney advisors?

**Response:** As part of the Agency's Strategic Plan, EPA is committed to reducing its backlog and meeting statutory deadlines for responding to FOIA requests. In conformity with the EPA FOIA Policy ([https://www.epa.gov/sites/production/files/2015-03/documents/cio\\_2157.1.pdf](https://www.epa.gov/sites/production/files/2015-03/documents/cio_2157.1.pdf)), all responses to FOIA requests must be reviewed by two knowledgeable individuals before a request is released to the public. These individuals may be subject matter experts and must include one manager.

19. Why would it be necessary for the documents to undergo a political review if they are public documents under the law?

**Response:** A record processed under the FOIA does not become public until it has been reviewed for any applicable exemptions, and until it is approved for release by an authorized official. In some circumstances, it may be appropriate for senior Agency officials – both career and politically appointed -- to be made aware of pending document productions. EPA is working to streamline its FOIA process to ensure that timely and accurate processing is achieved.

20. It appears that EPA has now adopted a policy of responding to FOIA requests based only or primarily on the date of the request, regardless of the type of information requested, the simplicity of the request, or the relevance of the information to the public. Is that correct?

**Response:** EPA, consistent with the FOIA and the Agency's regulations, generally works to process FOIA requests on a first-in/first-out basis. EPA currently has a decentralized FOIA process, in which requests are processed in each of the 12 EPA Headquarter offices and each of the 10 regional offices. Most EPA offices have two processing tracks: simple and complex. If expedited processing has been granted for a specific request, that request may be processed ahead of other non-expedited requests.

21. If not, please describe in detail the criteria that EPA is now using to prioritize processing FOIA requests?

**Response:** EPA, consistent with the FOIA and the Agency's regulations, generally works to process FOIA requests on a first-in/first-out basis.

22. Given EPA's large backlog, under your current approach, how long will it be before you respond to a substantial number of requests regarding your tenure and release documents generated during your tenure (besides those documents that EPA releases when a lawsuit is filed)? Please provide an estimate in weeks, months, or years.

**Response:** The table below provides information on FOIA requests the Agency has received and closed in recent months:

Month	Received	Closed as of January 26, 2018 *
January 2017	957	897
February 2017	897	818
March 2017	1180	1040
April 2017	1036	901
May 2017	1165	1007
June 2017	1101	936
July 2017	962	795
August 2017	988	795
September 2017	850	641
October 2017	1147	863
November 2017	923	699
December 2017	724	444

\* The table shows how many FOIAs have been received each month, and how many of those FOIAs have been closed as of January 26, 2018.

23. Will you establish a policy of responding to new FOIA requests on an ongoing basis, rather than relegating them to the back of the line and without waiting to be sued on each request?

**Response:** EPA's FOIA Policy, described above, provides that EPA process FOIA requests "in accordance with the FOIA, applicable Presidential Orders and memoranda, EPA's FOIA



regulations, applicable guidance issued by the Department of Justice and the National Archives and Records Administration and applicable EPA FOIA guidance and procedures.” See EPA FOIA Policy at [https://www.epa.gov/sites/production/files/2015-03/documents/cio\\_2157.1.pdf](https://www.epa.gov/sites/production/files/2015-03/documents/cio_2157.1.pdf).

It has been reported that you and other political appointees have directed staff to avoid creating public records that could be subject to FOIA requests, such as directing staff to provide internal policy decisions orally instead of by electronic mail or directing staff not to take notes in meetings.

24. Do you agree that EPA is required to create and maintain records that document the formulation of the agency's decisions, and the people and matters dealt with by the agency, so that proper scrutiny by Congress and other agencies is possible?

**Response:** In accordance with NARA Regulations at 36 CFR Chapter 12, Subchapter B and the Federal Records Act at 44 U.S.C. Chapter 31, all EPA employees are responsible for creating records containing “adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency,” 44 U.S.C. 3101, and filing those records for safe storage and efficient retrieval. EPA employees are also responsible for disposing of records according to Agency Records Retention Schedules and safeguarding against the removal or loss of records.

25. Have you or other political employees provided any direction to staff that could discourage them from creating such records?

**Response:** All employees are instructed to follow EPA and NARA requirements for the creation, maintenance and disposition of federal records in required annual records management training. The training is updated annually with any new relevant guidance from the NARA. In addition, records management briefings are given to new Senior Officials and Political Appointees when they come onboard with the Agency.

#### **Contract with Definers Public Affairs:**

On the day you testified before Energy and Commerce, EPA entered into a no-bid contract with Definers Public Affairs to provide “news analysis and brief service focusing on EPA work and other topics of interest to EPA.”<sup>3</sup> The awarding of this contract without full and open competition to a company with no apparent experience in providing these services to a Federal agency is concerning, as are the political lobbying activities of the firm. Though Definers recently terminated the contract with EPA, we have outstanding questions regarding EPA’s selection of Definers and whether the Contract was an appropriate use of taxpayer dollars.

26. What was your role in selecting Definers for this award? In addition to yourself, which EPA political appointees were involved in selecting Definers? Please provide all communications between yourself and all other EPA political appointees and any Definers representative between February 17, 2017 and December 7, 2017.

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<sup>3</sup> EPA Award Number EP18H000025 to Definers Corps. (Dec. 7, 2017)

**Response:** I had no role in selecting Definers for this award. No political appointees were involved, beyond indicating that they knew that Definers provided a specific media monitoring product.

27. Were you or other EPA political appointees aware of the FOIA requests filed by Definers employees against individual agency employees before the contract was awarded? Were those FOIA requests considered in the identification of Definers as a potential candidate for the Contract, or a factor in ultimately awarding the Contract?

**Response:** Per FOIAonline, we have had 10 requests from Definers, all submitted during the period from 5/8/2017 – 7/11/2017. Two of those requests were included in a summary of select incoming FOIA requests distributed weekly to senior Agency officials.

28. Was Definers, AmericaRising, or any of their agents involved in creating or funding the website ConfirmPruitt.com?

**Response:** See answer to Question 30.

29. Were you, any of your agents, or any current EPA employees involved in generating or reviewing the content of the website ConfirmPruitt.com, or providing or raising funds for the site? Did any representative of Definers, America Rising, or America Rising Squared generate or review content for the website?

**Response:** See Answer to Question 30.

30. What work did Definers perform for EPA pursuant to the contract? Please provide a list of all services performed by Definers for EPA during the duration of the contract, including the date, the service provided, time required, the itemized cost, and the name of the Definers employee who performed the work. What was the total amount of taxpayer funds EPA paid Definers during the duration of the contract? Please provide copies of all communications between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network during calendar year 2017.

**Response:** Definers did not provide any work pursuant to the contract as the contract was cancelled prior to any work beginning. No taxpayer funds were paid to Definers as the contract was cancelled.

31. On December 10, the New York Times published an article identifying an alarming decrease in enforcement actions brought by the EPA during your administration.<sup>4</sup> EPA issued an unusual press release in response, which has since been removed from the agency website but continues to be cited by conservative media sources. What role did Definers play in the agency's response to the December 10<sup>th</sup> article? Provide any correspondence between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network regarding the December 10<sup>th</sup> article.

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<sup>4</sup> Eric Lipton and Danielle Ivory, *Under Trump, EPA has Slowed Actions Against Polluters, and Put Limits on Enforcement Officers*, New York Times, (Dec. 10, 2017), <https://www.nytimes.com/2017/12/10/us/politics/pollution-epa-regulations.html>

**Response:** To my knowledge, Definers did not play any role in the agency's response to the December 10<sup>th</sup> article.

32. What firewalls were in place in the contract with Definers Corp to ensure that Definers firewalled the media monitoring services provided under the Contract from its services that would violate the Publicity or Propoganda Prohibition and Anti-Lobbying provisions?

**Response:** As the Definers contract was cancelled prior to any work being performed, firewalls were not an issue.

33. Please provide a copy of the contract between EPA and Definers Corp. including any statement of work.

**Response:** See answer to question 30.

**Enforcement:**

As noted above, on December 10, the New York Times published an article identifying an alarming decrease in enforcement actions during your administration. Specifically, their analysis shows your EPA has brought one quarter fewer cases than President George W. Bush's EPA and one-third fewer cases than President Barack Obama's EPA over comparable periods. The analysis also shows that you have sought significantly smaller amounts in civil penalties.

34. Can you explain why EPA has pursued fewer enforcement cases under your leadership?

**Response:** There is no reduction in the agency's commitment or our efforts to ensure compliance with environmental laws. We are focusing more on maximizing compliance results, rather than the number of individual actions. In FY 2017, we saw a renewed focus on expediting site cleanup, deterring non-compliance, and returning facilities to compliance with the law, while respecting the cooperative federalism structure of our nation's environmental laws.

The results of our FY2017 enforcement data shows a decrease in the overall number of actions. But, there was an **increase** in the dollar value of cleanup commitments at Superfund sites and an **increase** in the volume of contaminated soil and contaminated water that will be cleaned up. We also are focusing on high impact criminal cases, so the years of incarceration as a result of those cases has also **increased**. Finally, civil and criminal penalties and the value of injunctive relief **all increased** in 2017, despite a decrease in the number of cases.

35. Please describe any complaints you have received from communities/others who have been seeking, but apparently failing to receive relief from EPA from polluters?

**Response:** EPA is focused on punishing bad actors. In FY 2018, the agency will focus its resources on our direct implementation responsibilities, emphasizing violations with the most significant public health and environmental impacts, while assisting states and tribes in addressing noncompliance when they lack the capability, resources, or the will to do so on their own.

To further address the needs of communities burdened by pollution, EPA is developing new measures to help focus the enforcement program on returning facilities to compliance by setting goals to reduce the time between the identification of an environmental law violation and its correction and to increase environmental law compliance rates. EPA also is developing measures to fully capture all the enforcement and compliance assistance work that the agency undertakes by tracking informal, as well as formal, enforcement and compliance actions and support to states.

36. Have you been asked by anyone in industry to change EPA's enforcement policies?

**Response:** See response to question 37.

37. If so, please describe those conversations.

**Response:** Members of the regulated community have shared their views with me on a number of policy subjects, including their thoughts on how EPA can appropriately perform its enforcement and compliance assurance functions. I welcome the opportunity to engage in thoughtful dialogue with all stakeholders about ensuring protection of public health and the environment.

38. Can you explain any changes you have made to testing procedures and policies (e.g. requests for information) permitted by your regional offices, enforcement officers or other EPA staff, why those changes were made and what effect they have had on enforcement?

**Response:** On May 31, 2017, EPA issued an internal memorandum establishing interim procedures for agency review of certain information requests before they are issued by enforcement staff, Interim Procedures for Issuing Information Requests Pursuant to the Clean Air Act §114, Clean Water Act §308, and RCRA §3007. Prior to May 2017, EPA did not collect data on a national basis regarding "Requests for Information" sent by the agency for enforcement purposes. Since the memorandum was issued, 36 information request letters have been sent to EPA headquarters for review as of January 18, 2018; none have been disapproved.

#### **Co-Benefits of Air Rules:**

You have questioned EPA's prior evaluations of public health protections that have included "co-benefits" of deadly particulate matter.

39. Do you agree there is judicial precedent upholding EPA's approach to consider co-benefit pollution reductions?

40. Why or why not?

41. Are you planning to seek legal review of this matter?

42. Are you planning to try to change the way co-benefits, like PM<sub>2.5</sub>, are counted or considered in EPA rulemakings?

43. If so, why and what evidence do you have to support such a change?

**Response:** The question of how EPA evaluates the public health protections of its rules is of great importance, and as you note, I take a keen interest in it. I want to ensure that the public can have full confidence that the methodologies and approaches the Agency uses in assessing the benefits of its rules. OMB guidance directs EPA and other federal agencies to quantify the benefits and costs of regulations to the extent feasible using the best available science and analytical techniques. The EPA is committed to continue its open and transparent process of evaluating both the benefits and the costs of regulatory actions.

**Ozone:**

For the 2015 Ozone rule, the Clean Air Act required all states and Tribes to submit attainment designation recommendations by October 1, 2016, and EPA was required to finalize area designations a year after. On November 6, the agency issued attainment designations for those areas that meet the 2015 standard, however EPA failed to release any nonattainment designations. In response to questions about EPA missing deadlines associated with the 2015 Ozone rule, you said the delay was due to “information that has not been provided by the states.”

44. Please provide a list of all states or Tribes who have not submitted designation recommendations to EPA for the 2015 Ozone standard. What information is still outstanding from these states or Tribes?

**Response:** In 2016 EPA received designation recommendations from all 50 states and 6 tribes. Tribes are not required to submit recommendations. In 2017, several states have provided additional information relevant to the EPA's analysis of designations, including substantive revisions to their initial recommendations. In addition, EPA is awaiting additional information from Texas regarding the designations recommendations for the 8 counties in the San Antonio area, which should be submitted to EPA by February 28, 2018.

45. To date, has EPA notified any states or Tribes that it intends to modify any of their recommended designations? Please provide the Committee with a list of these states or Tribes, and copies of the notice provided by EPA.

**Response:** On December 22, 2017, EPA responded to state and tribal recommendations by indicating the anticipated area designations for the portions of the country not already designated for the 2015 ozone standards. Below are the states and tribes EPA notified that we intend to modify (wholly or partially) their recommendations for one or more areas in their jurisdictions:

- Alaska (Anchorage)
- Delaware (Philadelphia)
- Florida (Jacksonville)
- Indiana (Chicago, Louisville, Cincinnati)
- Kentucky (Louisville)
- New Jersey (NYC, Philadelphia)
- Nevada (Las Vegas)
- Oregon (Salem)
- Pennsylvania (Harrisburg and Reading)

- Utah (Uintah Basin)
- Wisconsin (Door Co, Manitowoc Co, Sheboygan, Milwaukee, Chicago)
- Ute Tribe (Uintah Basin)
- Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation. (Los Angeles-South Coast)

All correspondence from EPA to states and tribes regarding designations for the 2015 ozone standards may be accessed on the EPA's website at <https://www.epa.gov/ozone-designations/epa-responds-recommendations-2015-ozone-standards> and in the public docket for this action at [www.regulations.gov](http://www.regulations.gov) Docket ID No. EPA-HQ-OAR-2017-0548.

46. Have you been in contact with any industry representatives or states about delaying the implementation of the 2015 Ozone standard as it relates to finalizing the remaining designations? If so, please describe the nature of your meetings and communications.

**Response:** I regularly meet with stakeholders interested in the agency's regulatory decisions, including the regulated community such as manufacturers and our nation's power generators, as well as the states. Improvement of the review and implementation of the National Ambient Air Quality Standards (NAAQS) is a priority and States, as co-regulators responsible for development of State Implementation Plans to ensure compliance with the NAAQS, have an especially important role. As such, discussions surrounding the NAAQS program and the 2015 Ozone standard regularly come up primarily in the form of a state, a regulated entity or other interested stakeholder providing their perspective. As referenced above, the agency has also communicated through a host of federal register notices and letters, which can be found at on the EPA's website at <https://www.epa.gov/ozone-designations/epa-responds-recommendations-2015-ozone-standards> and in the public docket for this action at [www.regulations.gov](http://www.regulations.gov) Docket ID No. EPA-HQ-OAR-2017-0548.

47. The Unified Regulatory Agenda included a reference to using "additional time afforded by the designations extension to finalize necessary guidance" related to the 2015 Ozone standards. However, after legal challenges from states and others, you walked back your effort to delay implementation of these standards.

- a. Can you clarify what "extension" this refers to in the Unified Agenda?

**Response:** This language in the Unified Regulatory Agenda is an error. The Agenda is prepared in advance and did not reflect EPA's decision to withdraw the designations extension and to proceed with finalizing designations. EPA has since corrected the Agenda to remove the inaccurate references to the withdrawn extension.

- b. Why would EPA need an extension to issue remaining designations?

**Response:** EPA withdrew its previously announced extension on August 2, 2017.

48. When can we expect EPA to issue the remaining designations?

**Response:** EPA intends to complete designations for the 2015 ozone NAAQS for most areas of the country by April 30, 2018. Additional time is needed to finalize designations for the eight counties

in the San Antonio area because the State has indicated it has additional information to submit, and EPA is waiting to take the next steps in the designation process for this area pending submission and analysis of that information. EPA will complete the designations for these eight counties no later than August 10, 2018.

49. Who is on the Ozone Compliance Task Force, and what is its roll in implementing the 2015 Ozone standard? Please provide the Committee with a list of participants, schedule, meetings, materials, and communications.

**Response:** The ozone compliance task force is composed of only internal EPA staff with specialized expertise in the NAAQS setting and implementation process. Involved offices primarily include the Office of Air and Radiation, including the Office of Air Quality Planning and Standards team, and the Office of General Counsel. The purpose of the task force is to ensure the agency is responsive to state and state agency implementation concerns by facilitating a productive dialogue to set states up for successful compliance outcomes.

**Climate Change:**

50. Federal courts have held that the quantity of emission reductions to be achieved is an important consideration in determining the “best system of emission reduction” for sources under section 111 of the Clean Air Act. What weight will you give to achieving significant emission reductions in considering a replacement for the Clean Power Plan?

**Response:** EPA issued an Advance Notice of Proposed Rulemaking (ANPRM) to solicit information from the public about a potential future rulemaking to limit greenhouse gas (GHG) emissions from existing electric utility generating units (EGUs), commonly called power plants. The agency is considering proposing under which states would submit plans to limit GHGs from existing power plants and is soliciting information on the proper respective roles of the state and federal governments in that process, as well as information on systems of emission reduction that are applicable at or to a power plant, information on compliance measures, and information on state planning requirements under the Clean Air Act. The agency has made no decisions in the context of this potential rulemaking about how to weigh various criteria to consider as part of Best System of Emission Reductions (BSER), including the quantity of emission reductions. In response to both the ANPRM and any eventual proposal, we anticipate receiving a range of comments on the issue of BSER. We intend to fully consider those comments when finalizing any rule.

At the hearing you questioned the integrity of the rulemaking that led up to EPA’s December 2009 science-based finding that greenhouse gas pollution endangers public health and welfare. As you know, EPA received over 380,000 comments on the Endangerment Finding, responded to 10 petitions for reconsideration, and explained its determination in almost one thousand pages of documentation in the Federal Register and supporting technical documents. A three-judge panel of the D.C. Circuit unanimously upheld that finding in 2012 against a barrage of legal challenges, finding that it was supported by ample evidence and that EPA had appropriately relied on authoritative analyses by the Intergovernmental Panel on Climate Change, the U.S. government and other sources.

51. Please explain why you continue to question the process that led to the Endangerment Finding in light of this history and the D.C. Circuit's decision?

**Response:** The agency has received reconsideration petitions from a range of interested stakeholders. Some of those petitions raise concerns regarding the over-reliance of scientific work done by United Nation's Intergovernmental Panel on Climate Change (IPCC), as well as concerns regarding EPA's decision to forego submitting the 2009 endangerment finding to peer review by EPA's Science Advisory Board (SAB). In general, other stakeholders have expressed concerns regarding a lack of opportunity to provide comment on the finding. For these reasons and others, the agency is assessing an appropriate process by which we can effectively respond.

You recently stated that you intend to move forward imminently with a so-called "red team" exercise in which you will convene rival panels of scientists to debate climate science, just weeks after the Administration's Global Change Research Program released a "Climate Science Special Report" confirming that human activities are "the dominant cause" of observed climate change, and that climate change is already having adverse impacts around the country. This report was authored by scientists from multiple Federal agencies, national laboratories, universities, and the private sector, and went through six stages of external review including review by the National Academies of Sciences, Engineering, and Medicine and an open public comment period.

52. Please explain why the "red team" exercise a good use of scarce Agency resources in light of the extraordinary research and review that the Administration invested in the CSSR?

**Response:** See response to question 51.

It was recently reported that officials at the Center for Disease Control and Prevention are being directed to not use seven words or phrases in official documents for the FY 2019 Budget. The forbidden words are "vulnerable," "entitlement," "diversity," "transgender," "fetus," "evidence-based" and "science-based."

53. Is EPA also barred from using "vulnerable," "entitlement," "diversity," "transgender," "fetus," "evidence-based" or "science-based," in official budget documents?

**Response:** EPA has no guidance or direction forbidding the use of any words in the FY 2019 budget. Specifically, EPA is not barred from using "vulnerable," "entitlement," "diversity," "transgender," "fetus," "evidence-based" or "science-based," in official budget documents.

54. Does EPA have a list of forbidden words or phrases for official budget documents? If so, please provide the Committee with such list.

**Response:** The EPA does not have a list of forbidden words or phrases for official budget documents.

55. EPA has been experiencing a workforce reduction, including through the use of buy-outs.



Please detail the status of workforce reductions conducted to-date, during this administration, including overall net personnel reductions?

**Response:** Please see details on the status of workforce reductions conducted to-date, during this administration, including net overall personnel reductions in the chart below. EPA did not conduct a reduction in force during the time period addressed in this request.

56. In what offices and programs have net reductions occurred?

**Response:** Please see details on net reductions in the chart below.

57. Please detail the categories in which workforce reductions have occurred in 2017, such as buy-outs, other voluntary separations, reductions-in-force, etc.

**Response:** Please see details on buy-outs and other voluntary separations in the chart below. EPA did not conduct a reduction in force during the time period addressed in this request.

Note: Experts and Consultants not included; data from 01/21/2017-01/26/2018

Office/ Region	VERA/VSIP 2017	*Total Attrition	FTE Beginning FY17	FTE End FY17
OA	11	38	365	327
OAR	3	94	1120	1026
OARM	25	66	690	624
OCFO	15	25	302	277
OCSPP	10	95	970	875
OECA	39	79	721	642
OEI	16	34	337	303
OGC	2	13	227	214
OIG	**	26	**	**
OITA	2	2	74	72
OLEM	15	29	491	462
ORD	29	125	1546	1421
OW	18	44	576	532
R01	20	51	547	496
R02	7	34	781	747
R03	41	61	808	747
R04	19	57	908	851
R05	28	70	1056	986
R06	29	54	733	679
R07	29	55	501	446
R08	2	29	513	484
R09	11	45	726	681
R10	5	43	542	499
<b>Grand Total</b>	<b>376</b>	<b>1169</b>	<b>14534</b>	<b>13391</b>

\*Total Attrition includes Voluntary Early Retirement (VERA)/Voluntary Separation Incentive Payment (VSIP) numbers

\*\*VERA/VSIP data from OIG not included

58. In 2018, what additional workforce reductions are planned, assuming funding is available to accomplish them?

**Response:** In conjunction with the actions identified in the agency Reform Plan which is included in the FY 2019 Congressional Justification, specifically the actions identified in the Near-Term Workforce Actions submission, the EPA will, if necessary, identify additional VERA/VSIP activities after FY2018 appropriations are finalized by Congress. This will allow the agency to focus on disinvestment areas and reshape the organization in line with the final FY 2018 appropriations and other Reform Plan activities.

59. In which programs and offices are reductions planned?

**Response:** As indicated in our response to question 58, decisions on workforce actions will be made based on the final FY2018 appropriations and Reform Plan actions.

60. What closures or other changes to the current EPA regional offices or labs are planned for 2018 or beyond?

**Response:** At this time the agency is not considering plans to close regional offices. Any future facilities changes will be evaluated based on the cost-effective use of agency space and how to best accomplish the agency mission.

#### **The Honorable Paul Tonko**

##### **1. Travel to Morocco**

On December 12, EPA issued a press release, “Administrator Pruitt Promotes Environmental Cooperation with U.S. Partners in Morocco.” While no members of the press accompanied you on this trip, it was reported that the purpose of the trip was to promote U.S. natural gas exports.

- a. Please provide an itinerary of your trip along with total estimated costs to U.S. taxpayers for you and any accompanying staff, including security details.

**Response:** I met with Moroccan leaders to convey our priorities and best environmental practices, as well as identify opportunities for continued cooperation, as our two countries further talks around the Environmental Work Plan established under the US-Morocco Free Trade Agreement. A schedule of my trip can be found at <https://www.epa.gov/senior-leaders-calendars/calendar-scott-pruitt-administrator>. I traveled with EPA career and political staff.

- b. How does promoting U.S. LNG exports fit into your “Back to Basics” agenda?

**Response:** The purpose of the trip to Morocco was to further talks surrounding the renegotiation of the Environmental Work Plan under the U.S.-Morocco Free Trade Agreement. The fact that the topic of exportation of U.S. technology and innovation abroad—including but not limited to LNG –

was raised only serves to emphasize the importance this Administration has placed on promoting U.S. businesses.

- c. What authority does EPA have related to the exportation, sale, or promotion of U.S. LNG?

**Response:** As I stated, the purpose of the trip to Morocco was to further talks surrounding the renegotiation of the Environmental Work Plan under the U.S.-Morocco Free Trade Agreement. The fact that the topic of exportation of U.S. technology and innovation abroad—including but not limited to LNG – was raised only serves to emphasize the importance this Administration has placed on promoting U.S. businesses.

- d. Please provide a list of companies, trade associations, or natural gas industry representatives that you or your staff have been in contact with regarding U.S. LNG exports. Please provide all records, communications, emails, meeting attendance or materials for any of these interactions.

**Response:** My daily schedule is publically available at: <https://www.epa.gov/senior-leaders-calendars/calendar-scott-pruitt-administrator>

- e. This trip was not publicly announced until EPA issued a press release once you had already arrived in Morocco. Moving forward, will you commit to publicly announcing all foreign and domestic trips prior to traveling?

**Response:** Due to security concerns, EPA does not comment on the Administrator's upcoming schedule.

## 2. Science at EPA

In the draft FY 2018-2022 EPA Strategic Plan, you have promised to “prioritize robust science.” Under Objective 3.3 of the draft plan, you say that “EPA will identify, assess, conduct, and apply the best available science to address current and future environmental hazards, develop new approaches, and improve the scientific foundation for environmental protection decisions.”

- a. Do you commit to ensuring that the EPA's actions and policies are guided by the latest climate science, as reflected in Volume 1 of the Fourth National Climate Assessment (also known as the Climate Science Special Report or CSSR), and as described in statements and reports from the National Academy of Sciences?

**Response:** EPA will continue to conduct a range of economic, scientific, and technical analyses for Clean Air Act (CAA) regulatory actions, technical input, and policy support. Within the statutory boundaries, there are a number of factors to consider in federal actions, including costs, implementation issues, and the appropriate balance between state and federal authority.

- b. Do you agree with the CSSR's conclusion that “it is *extremely likely* that human influence has been the dominant cause of the observed warming since the mid-20th

century... For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence”?”

**Response:** EPA recognizes the challenges that communities face in adapting to a changing climate. EPA works with state, local and tribal governments to improve infrastructure to protect against the consequences of climate change and natural disasters. EPA also promotes science that helps inform states, municipalities, and tribes on how to plan for and respond to extreme events and environmental emergencies. Moving forward, EPA will continue to advance its climate adaptation efforts, and have reconvened the cross-EPA Adaptation Working Group in support of those efforts. Human activity impacts our changing climate in some manner. The ability to measure with precision the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue.

- c. Do you commit to making information about climate change prominently available on the EPA’s website, alongside information about other critical issues related to human health and the environment?

**Response:** This information is publicly available on EPA’s website. EPA will continue to provide information concerning issues related to human health and the environment on our website.

- d. Regarding the October 31 Science Advisory Board directive, can you please provide specific examples of when an EPA grant recipient on an advisory committee provided conflicted advice?

**Response:** The October 31 directive is not an ethics policy intended to address conflicts of but rather is an exercise of the Administrator's discretion, intended to ensure that the agency's advisory committees provide an appropriate range of independent and diverse perspectives. The Science Advisory Board Staff Office is not aware of any instances of when an EPA grant recipient on an advisory committee provided conflicted advice.

- e. On October 22, the New York Times reported, “E.P.A. Cancels Talk on Climate Change by Agency Scientists.” Why were EPA scientists prohibited from speaking at a Rhode Island conference on climate change?

**Response:** Procedures have been put in place to prevent such an occurrence in the future. I have assured Office of Research and Development (ORD) political and career senior leadership that they have the authority to make decisions about event participation going forward. This has been communicated to all ORD staff throughout the country, and ORD will continue to conduct research outlined in our Strategic Research Action Plans reflecting Congressional appropriations. As always, ORD scientists are asked to speak directly to the science in their presentations, leaving policy statements to the relevant EPA programs. Additionally, I am committed to upholding EPA’s Scientific Integrity Policy, which ensures that the Agency’s scientific work is of the highest quality, is presented openly and with integrity, and is free from political interference.

- f. Moving forward, will EPA scientists have the opportunity to communicate publicly about their research.

**Response:** I have assured Office of Research and Development (ORD) political and career senior leadership that they have the authority to make decisions about event participation going forward. This has been communicated to all ORD staff throughout the country, and ORD will continue to conduct research outlined in our Strategic Research Action Plans reflecting Congressional appropriations. As always, ORD scientists are asked to speak directly to the science in their presentations, leaving policy statements to the relevant EPA programs. Additionally, I am committed to upholding EPA's Scientific Integrity Policy, which ensures that the Agency's scientific work is of the highest quality, is presented openly and with integrity, and is free from political interference.

### 3. Advisors to the Administrator

On December 13, it was reported that Dr. Michael Dourson withdrew his name to serve as Assistant Administrator for the Office of Chemical Safety and Pollution Prevention.

- a. In October, it was reported that Dr. Dourson was already working at the agency as an Adviser to the Administrator. Can you confirm whether Dr. Dourson has left the agency?

**Response:** Dr. Michael Dourson is no longer employed at EPA.

- b. If not, what are the roles and responsibilities of Dr. Dourson?

**Response:** See above. Dr. Dourson has no roles or responsibilities at EPA.

- c. What ethics or conflict of interest agreements apply or applied to Dr. Dourson in his role as Advisor to the Administrator?

**Response:** As a federal employee who was appointed to a non-career SES position, Dr. Dourson was subject to the federal conflict of interest statutes codified in Title 18 of the United States Code; the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635; the Hatch Act 5 U.S.C. §§ 7321-7326; and Executive Order 13770.

- d. You testified that the October 31 Science Advisory Board directive was driven by a concern that "a perception or an appearance of a lack of independence in advising the Agency." Did any EPA leadership have a conversation or express concerns about the perception of conflict of interest from Dr. Nancy Beck's involvement in revising the TSCA framework rules after leaving a position with the American Chemistry Council?

**Response:** No. Unlike Dr. Dourson, Dr. Beck is not a political appointee but rather an Administratively Determined appointee. She is therefore not required to abide by Executive Order 13770 nor required to sign the Trump Ethics Pledge. She is subject to the federal impartiality standards set forth at 5 C.F.R. Part 2635, Subpart E, but those rules do not generally preclude participation in particular matters of general applicability. Dr. Beck has consistently sought advice from OGC/Ethics. See the attached impartiality determinations and signed recusal statement.

### 4. Enforcement Actions and Monitoring

On December 10, the New York Times reported that EPA regional staff must seek authorization from HQ before asking companies to track their emissions. Monitoring is critical to ensure that the environmental and health gains that have been made in recent decades are not undone. Power generating facilities in the Midwest emit sulfur dioxide and nitrogen oxides, which are the major precursors of acid rain which has caused the acidification of many Adirondack lakes and ponds.

- a. The Adirondack Lake Survey Corporation receives EPA funding for long-term monitoring of water quality recovery from acid rain. Do you support continuation of this long-term monitoring funding?

**Response:** We recognize that the Adirondack ecosystems are among the most sensitive areas to acidification in North America. Despite the impressive reductions in acid-causing emissions and deposition, our monitoring shows that some Adirondack lakes are slow to show recovery. Consequently, continued monitoring of water quality in Adirondack lakes is critical to our assessment of the effectiveness of emissions controls.

#### 5. Hudson River Superfund Site

The State of New York has stated that the Hudson River PCB cleanup has not met the goals of the program, and that additional action is needed. Federal Natural Resource Trustees have also expressed concerns. The EPA Region II office does not appear to acknowledge the scientific basis of the state's and Trustee's analysis.

- a. Will EPA reconsider the recommendations of the Second Five-Year Review Report in light of the analysis done by the State and Trustee agencies?

**Response:** Yes, the EPA is continuing to review and consider the input that it received on the proposed Five-Year Review Report, including input from the Trustees.

#### 6. OIG

The Office of Inspector General (OIG) Semiannual Report: April 1, 2017 - September 30, 2017 raised a number of issues about interference with the OIG's independence. From that report: "A second budget impediment occurred when the OIG submitted an FY 2019 request for \$62 million to the agency for inclusion in the President's budget. Without seeking input from the OIG, the agency provided us with a request of \$42 million. The agency informed the OIG that the Office of Management and Budget mandated budget requests Semiannual Report to Congress April 1, 2017—September 30, 2017 13 could not be more than a certain percentage above the President's FY 2018 budget. The EPA also informed the OIG that the \$42 million request would not change. The OIG submitted a memorandum to the Office of Management and Budget stating the OIG's original budget request, and explaining that the EPA's submitted budget did not reflect the OIG's desired funding levels and would have significant negative impacts on OIG operations."

- a. Do you believe a fully funded, independent Inspector General is necessary for EPA to run as an efficient and accountable agency?

**Response:** The Inspector General Act of 1978, as amended, 5 USC Appendix, established an Office of the Inspector General at EPA as an independent office that would, among other things, promote the economy, efficiency, and effectiveness of EPA programs and operations. EPA is committed to acting consistently with the Inspector General Act and ensuring that its purpose is upheld.

#### 7. IRIS

- a. How do you view the role of IRIS relative to ensuring full implementation of the TSCA program?

**Response:** IRIS assessments are the top tier source of toxicity information used by EPA and other health agencies to inform national standards, clean-up levels at local sites, and set advisory levels. IRIS assessments inform decisions under the CAA, CWA, SDWA, CERCLA/Superfund, and TSCA.

In addition, IRIS is providing scientific products and support required for TSCA implementation to the Agency's Chemical Safety and Pollution Prevention program. This will include support for risk evaluations of the first 10 TSCA chemicals (Designation of Ten Chemical Substances for Initial Risk Evaluations Under the Toxic Substances Control Act, 81 FR 91927), through to completion in FY 2019, as well as any additional chemicals identified for the pipeline of TSCA risk evaluations [TSCA section 6(b)(2)]. IRIS will continue its efforts to maintain and improve support of TSCA implementation.

- b. Will you commit to fully supporting the IRIS program?

**Response:** We will continue supporting the IRIS program consistent with congressional appropriations.

#### The Honorable Diana DeGette

1. Methane is up to 34 times more potent a greenhouse gas than carbon dioxide and makes up approximately ten percent of annual greenhouse gas emissions in the United States. Despite the harm methane can cause, the EPA has proposed delaying rules that would have curbed methane emissions from oil and gas industry sources. The proposed delay of the 2016 methane rule published in the Federal Register on June 16, 2017, states "the EPA believes that the environmental health or safety risk addressed by this action may have a disproportionate effect on children."
  - a. Do you agree that children would be disproportionately affected by delaying methane emissions restrictions on the oil and gas industry?
  - b. What are the estimated costs of the health impact on children?



**Response:** EPA is assessing the environmental health and safety risks as part of its reconsideration process on the 2016 methane rule. The cost, benefits, and distributional impacts of regulations are one of the factors, along with others, that inform these proposed and final regulations.

2. During your testimony we discussed the decision on a final rule concerning methylene chloride use in paint stripper. You promised to review the status of the rule and provide an update soon after the hearing. Rules concerning N-methylpyrrolidone (NMP) and trichloroethylene (TCE) were proposed at the same time. Prohibitions against certain uses of NMP and methylene chloride were removed from the Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions.
  - a. The Fall Unified Agenda was released on December 14, one week after your testimony before the committee. At what point was the decision made to remove the NMP and methylene chloride rules from the Unified Agenda?

**Response:** Due to the agency timeline for developing the Unified Agenda, a decision was made to move these items to the inactive portion of the Unified Agenda. Under TSCA Section 6(a), regulation of certain uses of these chemicals was proposed in 2016. The agency is continuing to consider the comments received, including comments suggesting that these actions be harmonized with the risk evaluations under Lautenberg Act amendments to TSCA. EPA intends to continue engaging stakeholders while undergoing the extensive rulemaking process. Due to the complexity of the rulemaking this process could easily take a year and the status change on the regulatory agenda reflects that EPA does not anticipate a final action in 2018. It does not preclude our ongoing work on these proposals, moving the rule from inactive to active status in the regulatory agenda, nor does it pause the risk evaluations that must be concluded by 2019 per the statute.

- b. When will EPA finalize the rules for TCE, NMP, and methylene chloride under TSCA?

**Response:** Under TSCA Section 6(a), regulation of certain uses of these chemicals was proposed in 2016. The agency is currently considering the comments received, including comments suggesting that these actions be harmonized with the risk evaluations mentioned above. In 2018, EPA intends to work on these rulemakings. Due to the complexity of the rulemaking this analysis could easily take a year and EPA does not anticipate a final action in 2018. It does not preclude our ongoing work on these proposals, nor does it pause the risk evaluations that must be concluded by 2019 per the statute.

- c. What role did Michael Dourson have as an EPA adviser in determining the timeline for these rules?

**Response:** Michael Dourson, while serving as an advisor to the Administrator did not participate in determining timelines for these rules.

3. In response to the explosion at the West Fertilizer Plant in Texas in 2013, EPA developed updates (the “Chemical Disaster Rule”) to Risk Management Plans (RMP) requirements. This update would have included common sense reforms, including improved accident prevention provisions and enhancements to emergency response preparation. In June 2017,

the implementation of this rule was delayed. The rule had been in development for three years and was subject to more than 40,000 public comments.

- a. During Hurricane Harvey, the Arkema Chemical plant in Crosby, Texas, experience fires due to a failure of emergency generators and backup cooling systems. First responders have filed suit against Arkema alleging that Arkema misrepresented the threat posed by chemicals at the site. A situation like this, where first responders cannot adequately prepare to respond to emergencies at chemical production facilities, is the sort of circumstances that the Chemical Disaster Rule was designed to avoid. Have the events at the Arkema plant, where first responders were put at risk, caused you to reconsider the delay of the Chemical Disaster Rule?

**Response:** While EPA shares your concerns about potential harm to first responders due to hazardous chemical exposures, it is important to note that the extension of the effective date for the Risk Management Program Amendments from January 2017 to February 2019 had no effect on the major safety or emergency preparedness requirements that applied to the Arkema Crosby facility, and initial assessments conducted at the facility did not identify any catastrophic releases of RMP-regulated substances. EPA is currently reconsidering the RMP Amendments, and plans on issuing a proposed rule to address certain issues with the Amendments in 2018.

- b. The proposed EPA budget for fiscal year 2018 reduced funding for inspection of sites under the RMP by 35 percent, straining a program that only has 30 inspectors for 12,500 sites. In light of the number of facilities that need to be inspected, the low frequency of inspection, and the specter of climate change related extreme weather events like Hurricane Harvey, do you still feel the cuts to the inspection program are prudent?

**Response:** The Risk Management Program remains in effect and includes both federal and some state level delegated implementation. EPA will continue to implement this program and focus on improvements in efficiency and effectiveness. The agency prioritizes the highest risk facilities based upon their accident history, quantity of on-site dangerous chemicals stored, and proximity to large residential populations. EPA expects to conduct at least 175 inspections nationwide in fiscal year 2018. Also, 40 CFR Part 68 requires covered facilities to update and revalidate their process hazard analyses (PHA) at least once every five years to ensure the PHA addresses all relevant hazards (including extreme weather events).

4. The Climax Molybdenum Mining company in Colorado has asked the state of Colorado to relax limits on molybdenum allowed in runoff from the Climax mine in Summit County Colorado. Molybdenum is on the Contaminant Candidate List 4 (CCL-4). It was also on the CCL-3. Currently, states have minimal guidance from the EPA on the potential hazards of molybdenum in drinking water.
  - a. Is EPA currently collecting data on the health or environmental impacts of molybdenum in drinking water?
  - b. Will molybdenum be part of the Regulatory Determination 4 process going forward?

**Response:** EPA included molybdenum on the fourth Contaminant Candidate List, which is a list of contaminants which may require regulation. EPA collected data on the occurrence of molybdenum in drinking water as part of the third cycle of the Unregulated Contaminant Monitoring Rule (UCMR3) (submitted to EPA by July 2016). Data from UCMR 3 are available at <https://www.epa.gov/dwucmr/third-unregulated-contaminant-monitoring-rule>. EPA will consider occurrence data along with health effects information as part of the agency's regulatory determinations process to further evaluate the need for a National Primary Drinking Water Regulation (NPDWR). EPA anticipates completing the next Regulatory Determinations in 2021.

5. For more than two years, I have been focused on addressing the environmental damage caused by the August 2015 release of toxic mine water from Gold King mine in San Juan County, Colorado.
  - a. I was glad to see the Bonita Peak Mining District (which includes Gold King mine) was included on the list EPA released on December 8, 2017, of sites targeted for "immediate, intense action." Can you elaborate on the action EPA plans to take in the Bonita Peak Mining District and the expected timeline?

**Response:** The investigation and remediation of abandoned mine lands is important to this Administration. The Bonita Peak Mining District is large and complex, and it will take many years to investigate and remediate decades of the mining industry's impact to the environment. With immediate and intense action required for this project, the team has implemented several of Administrator Pruitt's Superfund Task Force recommendations. Highlights include:

- An adaptive management approach will be taken to accelerate our ability to take response actions to protect human health, stabilize mine features, and improve water quality as we continue a comprehensive investigation of the source areas identified when the site was added to the National Priorities List.
  - We have identified a number of early response actions to reduce the impact of mine waste on the environment. Following public comment this spring, we will initiate those response actions during the upcoming construction season.
  - EPA entered into an Administrative Order on Consent with a potentially responsible party to complete the investigation of four large tailing impoundments.
  - We continue to work collaboratively with our state and federal partners to make the most efficient use of our collective resources to investigate and cleanup the mining district. We also engage with a wide variety of stakeholders who rely on the Animas River and its headwaters.
  - Data has been collected to support human health and aquatic risk assessments which are scheduled for publication later this year.
  - Data gaps to develop an investigation of the Bonita Peak Groundwater System have been identified.
  - The Interim Water Treatment Plant continues to treat all mine-impacted water, about 600 gallons per minute, being discharged from the Gold King Mine.
- b. On December 17, 2017, the *Denver Post* reported on the success of cleanup efforts related to toxic Argentine Mine complex near Rico, Colorado. The article noted that the part of the success is that the private company legally responsible for cleaning up

the site has invested “tens of millions of dollars” in the cleanup compared to less than \$5 million the EPA has invested in the cleanup of Gold King. What additional funding will EPA invest in the Gold King cleanup?

**Response:** In an August 2017, press release, EPA estimated that the agency has spent more than \$29 million in responding to the Gold King Mine release:  
<https://www.epa.gov/newsreleases/administrator-pruitt-visits-gold-king-mine-anniversary-spill>.

Since the Bonita Peak Mining District was added to the National Priorities List in September 2016, we estimate that the EPA has spent between \$9 million and \$10 million on response activities at the site (not including the Gold King Mine emergency response). This estimate covers the time period of Sept. 16, 2016, through December 18, 2017, and includes data collection and analysis, preparation of human health and ecological risk assessments, detailed reconnaissance of the 48 source areas, and operation of the interim water treatment plant at Gladstone. Some of this funding has also supported the State of Colorado as EPA’s partner in the investigation and cleanup of the mining district. In addition, EPA entered into a Cooperative Agreement to allow San Juan County to provide technical assistance to EPA. EPA is overseeing the investigation of the Mayflower Mill tailing impoundments pursuant to an Administrative Order on Consent with Sunnyside Gold Corporation. Please note these are estimated figures and include both direct and indirect costs.

- c. On October 19, 2017, the *Denver Post* reported that there is uncertainty regarding the ongoing costs association with the water treatment plant EPA is operating to clean up water from Gold King Mine. The annual cost of operating the plant is \$1.2 million and it produces toxic sludge while purifying the runoff. What is the EPA’s long-term plan for the plant costs?

**Response:** EPA’s long range plans include evaluating alternatives to active water treatment and managing the large volume of sludge generated by such treatment. To evaluate alternatives, we must first have a good understanding of the Bonita Peak Groundwater System. We plan to begin that investigation this year. As we learn more about how water and contaminants move through the mining district, we can evaluate alternatives to manage and/or treat mine- impacted water. In the long term, a water treatment plant may or may not be included in a final remediation plan.

- d. What is the status of finding a permanent solution for the waste sludge from the plant?

**Response:** EPA continues to evaluate a number of potential sludge repository locations within the mining district. We will seek acceptance for the location of a repository from any property owners that may be impacted as well as San Juan County and the community of Silverton.

#### **The Honorable Jerry McNerney**

1. At the December 7<sup>th</sup> hearing, I stated that less than half of the U.S. population was included in the ozone designations laid out by the EPA. Though this statement was not made in the form of a question, Administrator Pruitt interjected, proclaiming that the lack of inclusion was due to missing information that needs to be submitted by states. However, on the EPA’s

website, there is a full list of state recommendations from 2015. Will the Administrator please explain his statement and what information is missing from which states?

**Response:** On December 22, 2017, EPA sent letters to state governors explaining EPA's intended decisions on designating the remaining areas of the U.S. for the 2015 ozone NAAQS. These letters are posted on EPA's website. We also initiated a 30-day public comment period on the intended designations. We have asked that if states have any additional information they would like EPA to consider, they provide that information to EPA by February 28, 2018. We will review the public comments and any additional information provided by states. EPA intends to complete designations for the 2015 ozone NAAQS for most areas of the country by April 30, 2018. Additional time is needed to finalize designations for the eight counties in the San Antonio area because the State has indicated it has additional information to submit, and EPA is waiting to take the next steps in the designation process for this area pending submission and analysis of that information. EPA will complete the designations for these eight counties no later than August 10, 2018.