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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) 225–3641

June 29, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Administrator Pruitt and Attorney General Sessions:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees on Energy and Commerce and the Judiciary are continuing their oversight of the Environmental Protection Agency (EPA) and the Department of Justice's process for negotiating and concluding settlements of litigation that may lead to new rulemaking by the agency.[1] During the previous administration, EPA entered numerous settlements or consent decrees, a practice known as "sue and settle," committing the agency to undertake significant new rulemakings subject to timelines or schedules. This process too often circumvents legitimate oversight by Congress and the Office of Management and Budget's Office of Information and Regulatory Affairs. It also frequently prevents affected stakeholders and the public from participating as fully in the rule-making process as otherwise would be possible.

According to media reports, Administrator Pruitt recently announced at an environmental policy conference that he "sent out a directive across the agency" to curtail EPA's "sue and

[1] *See* letter from Fred Upton, et. al., Chairman, H. Comm. on Energy & Comm., to Gene Dodaro, Comptroller General, GAO, June 27, 2013, *available at* https://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/letters/20130627GAO.pdf

settle" policy.[2] Pruitt further stated that "the consent decree should not be used to engage in rulemaking. Because that subverts the process that Congress has set up."[3] We appreciate this change in policy, hope that Attorney General Sessions shares Administrator Pruitt's views, and urge EPA and the Justice Department to develop conforming written guidelines as soon as possible.

To assist us in understanding the scope of the recent directive, we request that EPA and DOJ staff provide Committee staff with a briefing on the matter. Please make arrangements to schedule this briefing no later than July 11, 2017.

Your assistance is greatly appreciated. If you have any questions, please contact Lamar Echols of the Energy and Commerce Committee's staff at 202-225-6371 and Dan Huff of the Judiciary Committee's staff at 202-226-7680. Thank you for your attention to this matter.

Sincerely,

Greg Walden
Chairman
Committee on Energy and Commerce

Bob Goodlatte
Chairman
Committee on the Judiciary

John Shimkus
Chairman
Committee on Energy and Commerce
Subcommittee on Environment

Tom Marino
Chairman
Committee on the Judiciary
Subcommittee on Regulatory Reform, Commercial and Antitrust Law

[2] David LaRoss & Doug Obey, *Pruitt Moves to Curtail EPA Use of 'Sue and Settle' As GOP Pushes Bills*, INSIDE EPA, May 26, 2017, *available at* https://insideepa.com/daily-news/pruitt-moves-curtail-epa-use-sue-and-settle-gop-pushes-bills.

[3] David LaRoss & Doug Obey, *Pruitt Moves to Curtail EPA Use of 'Sue and Settle' As GOP Pushes Bills*, INSIDE EPA, May 26, 2017, *available at* https://insideepa.com/daily-news/pruitt-moves-curtail-epa-use-sue-and-settle-gop-pushes-bills.

Tim Murphy

Tim Murphy
Chairman
Committee on Energy and Commerce
Subcommittee on Oversight
and Investigations

cc: The Honorable Frank Pallone, Jr., Ranking Member
Committee on Energy and Commerce

The Honorable Diana DeGette, Ranking Member
Energy and Commerce Subcommittee on Oversight and Investigations

The Honorable John Conyers, Jr., Ranking Member
Committee on the Judiciary