CAROLYN B. MALONEY
CHAIRWOMAN

ONE HUNDRED SIXTEENTH CONGRESS

JIM JORDAN, OHIO
RANKING MINORITY MEMBER

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143
MAJORITY (202) 225–5051
MINORITY (202) 225–5074
http://oversight.house.gov

January 17, 2020

The Honorable Andrew R. Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Wheeler:

We are writing to follow up on serious concerns raised by documents produced by the Environmental Protection Agency (EPA) in response to the Committee's May 16, 2019, letter requesting ethics waivers and authorizations provided to EPA employees. These documents indicate that EPA allowed senior agency officials to avoid or delay completing required ethics forms and that EPA was missing forms entirely for some officials.

The Committee identified multiple instances in which EPA officials failed to complete required ethics documents or sign ethics pledges required by Executive Order 13770. EPA also allowed officials to delay the finalization of critical ethics agreements for significant periods of time after joining the agency. In one egregious case, EPA allowed William L. Wehrum, the former Assistant Administrator for the Office of Air and Radiation, to work on official business for more than 300 days before finalizing a recusal statement. Mr. Wehrum had extensive conflicts of interest due to his prior employment as a lobbyist and lawyer for the oil, gas and coal industries.[1] While serving without a finalized recusal statement, Mr. Wehrum worked on topics that directly impact the oil and gas industry, such as rolling back fuel economy standards.[2]

The Committee's review also identified the following problems:

- EPA was unable to provide signed ethics pledges, as required by Executive Order 13770, for at least five political appointees;

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[1] *Bill Wehrum, an Architect of E.P.A. Rollbacks, Faces New Ethics Inquiry*, New York Times (July 22, 2019) (online at www.nytimes.com/2019/07/22/climate/william-wehrum-epa-inquiry.html).

[2] *White House Proposal Rolls Back Fuel Economy Standards, No Exception For California*, National Public Radio (Aug. 2, 2018) (online at www.npr.org/2018/08/02/631986713/white-house-proposal-rolls-back-fuel-economy-standards-no-exception-for-californ).

- Eight EPA political appointees failed to sign their ethics pledges in a timely manner, with an average of 49 days elapsing between the time they assumed official positions and when they signed ethics pledges; and

- EPA failed to prepare recusal statements in a timely manner, with 26 appointees taking more than 20 days to prepare recusal statements and an average of 151 days elapsing between the time appointees assumed official positions and finalizing required recusal statements.

The Committee's investigation confirmed issues first identified by the Office of Government Ethics (OGE) in a review of EPA's ethics program conducted in 2017. OGE identified multiple lapses in EPA's compliance with ethics requirements and raised concerns about how EPA administers its ethics program. OGE reported that new entrant confidential reports were not filed in a timely manner and were not certified in a timely manner. OGE also raised significant concerns regarding EPA's staffing of its ethics program. Specifically, OGE reported that the Ethics office of the Office of the General Counsel "may be insufficiently staffed to ensure the long-term effectiveness of EPA's ethics program" and that its staffing "may be insufficient to provide … continuous oversight and necessary guidance and training."[3]

The Committee requested ethics documents last year in order to follow up on OGE's 2017 data call. It is concerning that EPA has continued to experience problems in its compliance with ethics requirements.

The Government Accountability Office (GAO) also recently raised concerns about EPA's ethics program. GAO found that EPA did not periodically review its ethics program to evaluate the quality of financial disclosure reviews. EPA also did not consistently ensure that members appointed to its advisory committees met federal ethics requirements.[4]

In the absence of a functioning ethics program, EPA cannot reasonably assure that political appointees are making unbiased decisions when carrying out the governmental responsibilities entrusted to them by the American people. Executive Branch ethics programs are intended to establish a foundation on which to build and sustain an ethical culture in the executive branch, including among political appointees who constitute top agency management.[5]

For these reasons, the Committee requests a staff briefing from Matthew Leopold, General Counsel of EPA, and David Cozad, the Designated Agency Ethics Official, by January 30, 2020. At the briefing, they should be prepared to discuss the overall state of EPA's ethics program, including how EPA ensures political appointees are remaining compliant with all ethics

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[3] Office of Government Ethics, *Ethics Program Review—U.S. Environmental Protection Agency* (Mar. 8, 2017) (online at https://oge.gov/web/oge.nsf/Program%20Review%20Reports/0DCD9CBB33D65DFE852580DD004C50EE/$FILE/2017%20Environmental%20Protection%20Agency%20%20Final%20Report.pdf?open).

[4] Government Accountability Office, *EPA Advisory Committees: Improvements Needed for the Member Appointment Process* (July 8, 2019) (online at www.gao.gov/assets/710/700171.pdf).

[5] 5 C.F.R. § 2638.101.

laws and standards, the Committee's preliminary findings identified above, and what steps, if any, you are taking to address the concerns raised by OGE and GAO.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Thank you for your attention to this matter.

Sincerely,

Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform

Harley Rouda
Chairman
Subcommittee on Environment

Enclosure

cc: The Honorable Jim Jordan, Ranking Member
Committee on Oversight and Reform

The Honorable James Comer, Ranking Member
Subcommittee on Environment