Message

From: Konkus, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=555471B2BAA6419E8E141696F4577062-KONKUS, JOH]
Sent: 7/2/2018 2:46:02 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Wilcox, Jahan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=88fd588e97d3405d869bcae98d391984-Wilcox, Jah]
Subject: FOR REVIEW/APPROVAL FW: Story re: EPA aides testimony

"EPA has not spoken with Mr. Jackson or Ms. Dravis about their testimony."

"Mr. Brown's request for EPA ethics officials to help the new Administrator seems like a normal and reasonable request, that's what EPA ethics officials are here to do."

On background: We suggest reaching out to Mr. Brown to understand his reason for making that request.

"EPA cannot speak to a personal conversation between Administrator Pruitt and Justice Wyrick."

From: Dennis, Brady [mailto:Brady.Dennis@washpost.com]
Sent: Monday, July 2, 2018 10:02 AM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Press <Press@epa.gov>
Cc: Eilperin, Juliet <Juliet.Eilperin@washpost.com>
Subject: Story re: EPA aides testimony

Hi all,

Hope you're staying cool in the swelter. We wanted to touch base with you about a story that likely will post sometime later today, as far as we know, and run in print tomorrow. It primarily deals with some of the testimony that Samantha Dravis and Ryan Jackson gave to House Oversight staffers late last week.

Among the things we understand they told interviewers:

--They maintained that the administrator pressed to travel first-class or via private jet

--Dravis said that Mr. Pruitt asked his subordinates to do non-official work for him

--Dravis told investigators that the administrator wanted his spouse to find a post with an annual salary of more than $200,000. (To be clear, we don't say this actually happened. And we also make clear that Cleta Mitchell has said she was the point person in helping with the job search).

-- Dravis described how Mr. Pruitt asked her and another former top aide, Sarah Greenwalt, to provide pro bono legal advice by reviewing a rental agreement he wanted out of early. The Pruitts lived briefly in Washington's U St. corridor before relocating, a move that forced them to pay a penalty.

--Jackson told interviewers that he had helped connect Pruitt with a fellow Oklahoman, lobbyist J. Steven Hart, to reach a housing deal in early 2017. The initial arrangement--under which Pruitt agreed to pay $50 a night only on the days when he stayed in the condo owned by Hart's wife, Vicki--was supposed to last six weeks, Jackson told House staffers.

--In addition, Jackson said he and Dravis had raised concerns about the administrator's decision to begin routinely traveling first class.

(FYI, we got this email from Ryan: "Committee counsel explicitly asked me at the beginning of the morning not to reveal what the Committee asked me about. I don't know if there's an obligation to follow that, but I intend to follow that request.")

In addition, the story includes a mention of how Reginald Brown, who handled the administrator's financial disclosure documents in early 2017, took the unusual step of asking an EPA ethics official to help make sure that the incoming EPA administrator abided by federal rules around travel and political activity. Also, we understand that Oklahoma State Supreme Court Justice Patrick Wyrich, who worked as the state's solicitor general while Pruitt served as attorney general, cautioned Pruitt before and after he had taken over at EPA that excessive spending could lead to ethics problems.

As always, feel free to reach either of us by phone or email. I'm in transit at the moment but should be at the office soon. Juliet is on the road today and will be reachable on and off.

Many thanks,

Brady

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Brady Dennis

Staff Writer

The Washington Post

202-334-7745

brady.dennis@washpost.com

OIG Audit of EPA's Adherence to Policies, Procedures and Oversight Controls Pertaining to the Administrator's Travel
Project No. OA-FY17-0382
Audit Objective 1

OBJECTIVE:

Determine the frequency, cost and extent of the Administrator's official travel through December 31, 2017.

SUMMARY:

The OIG identified $987,339 in travel costs associated with the Administrator's official travel for the period March 6 to December 31, 2017. This amount covered 40 completed and canceled trips and included costs incurred by the Administrator, ~~his~~ the Protective Service Detail (PSD) and other staff throughout the Agency. Of the 40 trips, 16 trips included travel to, or stops in, Tulsa, Oklahoma—the location of the Administrator's permanent residence. The 40 trips included six canceled trips.

Cost and Extent of Travel

Travel costs associated with the Administrator's official travel totaled $987,339, including $878,534 for trips taken and $108,805 for trips canceled. Based on the EPA's accounting system—Compass Data Warehouse (CDW)—the Administrator's first trip at the EPA was on March 6, 2017. From that date through December 31, 2017, the Administrator took a total of 34 trips consisting of 32 domestic and two international trips. The trip costs included all travel costs incurred by the Administrator, ~~his~~ the Travel and Advance staff, ~~his~~ the PSD, the Office of International and Tribal Affairs[1] (OITA), and other EPA offices.[2] The travel costs also included military and charter flights paid outside of the EPA's travel management system.

The Administrator canceled six trips that included domestic and international travel.- Two trips were cancelled due to a Government shut down and Hurricane Harvey. While the trips were cancelled due to circumstances outside of EPA's control the ~~Although trips were canceled, the~~ travelers incurred costs resulting from cancellation fees, no-show hotel charges and service fees. In some instances, the Administrator's advance staff and PSD were in travel status prior to the trip cancellation, resulting in lodging, per diem, transportation and other miscellaneous travel costs. Canceled trips represent approximately 11 percent of the total costs incurred ($108,805 of $987,339).

Commented [WH1]: Edit – The PSD is not his but rather an Detail within OCEFT.

Commented [WH2]: Note: There were other offices that travelled with the Administrator outside of AO and participated in the 32 domestic or international trips. The Travel and Advance can provide the OIG with the names of the participants. If needed.

Commented [WH3]: Response – If we are going to mention the cancellation OIG should be clear about what caused the cancellations, that of the six cancellations two were international and the vast amount of the costs, and the remaining four trips were outside of the control of the EPA.

[1] OITA staff are part of the advance team for international trips, helping with all aspects of the coordination and logistics because of their expertise on international travel.
[2] Examples of other EPA offices that traveled with the Administrator include the Office of Public Affairs, Office of Multimedia, Office of Public Engagement, Office of Congressional and Intergovernmental Relations, and Office of Policy.

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Table 1 provides a breakdown of costs incurred for all travel. Additional details on travel costs associated with the completed and canceled trips are in Attachments 1 through 3.

Table 1: Total travel costs incurred

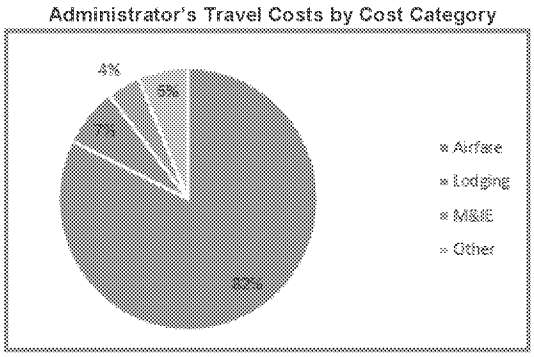
Trip type	No. of trips	Administrator	Staff	PSD	OITA	Other	Totals
Trips Taken:							
Domestic	32	$91,329	$205,071	$294,869		$65,720	$656,989
International	2	26,629	70,572	67,304	$20,973	36,069	221,547
Subtotal	**34**	**$117,958**	**$275,643**	**$362,173**	**$20,973**	**$101,789**	**$878,536**
Canceled:							
Domestic	4	$731	$3,633	$6,283	-	-	$10,647
International	2	1,995	34,871	54,889	$6,402	-	98,157
Subtotal	**6**	**$2,726**	**$38,504**	**$61,172**	**$6,402**	**-**	**$108,804**
% of Total		**2%**	**12%**	**14%**	**23%**		**11%**
Total	**40**	**$120,684**	**$314,147**	**$423,345**	**$27,374**	**$101,789**	***$987,339***
% of Total		**12%**	**32%**	**43%**	**3%**	**10%**	**100%**

Source: OIG analysis of travel data from the EPA's CDW accounting system.

Note: Number in italics at bottom right slightly off due to rounding.

The majority of the Administrator's travel costs—approximately 82 percent—was for airfare. However, this included 16 trips with travel to, or stops in, Oklahoma, during which the Administrator ~~generally~~ did not incur meals and incidental expenses (M&IE) or lodging costs every day. The pie chart below shows a breakdown of his travel costs by category. A detailed schedule of the Administrator's travel costs by cost category is in Attachment 2. We did not analyze the costs incurred by cost category for PSD and staff from the Office of the Administrator, OITA and other EPA offices.

Commented [WH4]: Comment – this is not accurate. According to the information I have the 16 trips with travel to or stops in, OK, where there was **not** official business the m&ie was zeroed out. See Attachment



The Administrator's travel most often included PSD staff, a a ~~personal~~ Travel and Aadvance team member(s), senior advisors, a communications specialist, and a photographer. On occasion, the Chief of Staff traveled with the Administrator. Based on our analysis, the Administrator's advance team for domestic travel averaged one to two people each from his staff and from PSD for a 1-to-2-day advance period. For international travel, the advance team averaged two to three

people each from his staff and from PSD for a 5-to-7-day period. Based on discussions with the Administrator's office, the ~~personal~~ advance team varied based on complexity of the trip (different locations, number of meetings, etc.). The advance team ~~checked~~ coordinated their travel planning with the Associate Administrator of Public Engagement, other Program Offices that would be travelling as a result of the specific topics discussed, and other Senior Leadership. The Travel and Advance team also considered everything the Administrator would be doing while in travel status, such as contacts, venues (site walk-through of every place, including where the Administrator will eat), PSD, etc.

Commented [WH5]: OIG spoke to the Director of Travel and Advance but did not speak to any others to my knowledge. On June 15th AO provided additional information regarding the purpose of the team.

Our analysis showed that for most trips the personal advance team's travel extended through the end of the Administrator's travel. We were unable to determine from the travel documents the purpose of the advance staff once the Administrator arrived. The travel documents only cited as a purpose to advance the Administrator. We found no operating procedures that outline the required actions and responsibilities of the Administrator's ~~personal~~ advance team. According to the advance team, the staff are busy the entire trip. Once the Administrator arrives, one person would go on to his next meeting place to make sure everything was ready while the other staff would stay behind to make sure the Administrator was getting what he needed and everything was proceeding smoothly.

Commented [WH6]: On June 15th AO provided OIG with the following information:

1. Purpose of the EPA Advance and Travel Team
2. Draft Interim operating procedures, which includes sample travel invitations.
3. Copies of the team's PD's that outlines the roles and responsibilities.

Frequency of Travel to Tulsa, Oklahoma

OIG analysis of travel data in the EPA's CDW accounting system showed that of the 34 trips the Administrator took from March through December 2017, the Administrator made 16 trips to, or stops in, Tulsa~~, the location of his permanent residence~~. These trips represent 47 percent of his total trips. Details are in Table 2.

Table 2: Trips to, or stops in, Tulsa, Oklahoma

	Administrator's travel period[3] trips	Days of the week	Destination	Purpose of trip
1	03/06/17-03/07/17	Mon - Tue	Scottsdale, AZ Tulsa, OK*	Speaking
2	03/08/17-03/12/17	Wed - Sun	Houston, TX Tulsa, OK*	Speaking
3	03/23/17-03/27/17	Fri - Tue	Oklahoma City, OK Tulsa, OK*	Speaking
4	04/12/17-04/25/17	Thu - Wed	New York, NY Pittsburgh, PA Tulsa, OK Chicago, IL Columbia, MO Dallas, TX Naples, FL	Tour/speaking/meeting
5	05/04/17-05/08/17	Thu - Mon	Tulsa, OK	Meeting
6	05/11/17-05/15/17	Thu - Mon	Colorado Springs, CO Tulsa, OK*	Speaking
7	05/19/17-05/22/17	Fri - Mon	Tulsa, OK	Facility tour
8	05/25/17-05/29/17	Thu - Mon	Tulsa, OK	Site tour

Commented [WH7]: Response – The Travel documents have descriptions (see attachments). Furthermore, we have invitations in response to Table 2 trips (see attachments).

[3] Travel period for the Administrator's advance staff and security detail varied.

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	Administrator's travel period[3] trips	Days of the week	Destination	Purpose of trip
9	06/22/17-06/26/17	Thu - Mon	Tulsa, OK	Facility tour/meeting
10	07/26/17-07/30/17	Wed - Sun	Tulsa, OK Oklahoma City, OK Guymon, OK	Meetings
11	08/02/17-08/10/17	Wed - Thu	Indianapolis, IN Denver, CO Tulsa, OK* Des Moines, IA Grand Forks, ND	Meetings
12	08/30/17-09/05/17	Wed - Tue	Corpus Christi, TX Tulsa, OK*	Meetings
13	09/14/17-09/19/17	Thu - Tue	Houston, TX Tulsa, OK* New York, NY	Tour/meeting/media event
14	10/04/17-10/09/17	Wed - Mon	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK* Lexington, KY	Speaking/meeting
15	10/27/17-10/30/17	Fri - Mon	New Orleans, LA Tulsa, OK*	Speaking
16	11/30/17-12/04/17	Thu - Mon	Louisville, KY Des Moines, IA Tulsa, OK*	Speaking/meetings

Source: OIG analysis of travel data downloaded from the EPA's CDW accounting system.

*Trips to Tulsa for personal reasons, not for official business.

Commented [WH7]: Response – The Travel documents have descriptions (see attachments). Furthermore, we have invitations in response to Table 2 trips (see attachments).

The travel period represents all dates covered by travel vouchers, including weekends and holidays. As shown in Table 2, the Administrator's travel pattern was to travel mostly on Wednesday, Thursday or Friday from Washington, D.C., and other locations to Tulsa, and to return to Washington on Monday or Tuesday of the following week. The Administrator was often accompanied by EPA staff, some of whom also stayed over the weekend in Tulsa.

Commented [WH8]: Note – Checking with AO Traveler.

The purpose of Administrator's trips to Tulsa/Oklahoma City from Washington (six out of the 34 trips taken) included such purposes as a meeting and/or facility tour. We were unable to determine from the information provided by the Administrator's office as to whether all of the meetings and/or facility tours were self-initiated or requested by external parties. Based on the Administrator's calendar, the trips usually included one meeting and/or a facility tour. The trips with stops in Tulsa (10 out of the 34 trips taken) were made as part of longer trips and the stops were primarily self-initiated for weekends at the Administrator's permanent residence in Tulsa. We identified no official weekend business associated with most of these weekends.

Commented [AS9]: AO provided the needed information.

We identified no specific criteria that would limit the Administrator's travel to, or stops in, Tulsa ~~for the weekend or otherwise~~. However, for alternative travel, EPA policy requires a cost comparison for determining the most advantageous method of travel. Reimbursement is limited to the cost of travel via direct or uninterrupted route.

Commented [WH10]: Response: On June 15th AO provided the cost comparisons for the trips identified.

Although the Administrator's travel authorizations included some cost comparisons for his self-initiated weekend stops in Tulsa, the comparisons did not contain the detail to support the alternative travel required under EPA policy. As a result, we were unable to determine whether the costs associated with the Administrator's trips with stops in Tulsa included the most advantageous method of travel. This issue is further discussed under Objective 2, Finding No. 7.

Commented [WH11]: Response: The travel preparer did conduct a cost comparison analysis. AO understood that the use of the worksheet, which is recommended in the EPA Travel policy, was not required.

The frequency and duration of the Administrator's and his staff's trips to, and stops in, Tulsa can potentially:

Commented [WH12]: Response: As stated in previous comments, the frequency was initiated by official business. The duration of the trips that involved traveling to residence were zeroed out in M
&IE and the Administrator took personal days. Lastly, there were instances where the Administrator paid for travel. Thus, I would ask OIG to reconsider its conclusions in the first two bullets.

- ~~Give the appearance that trips are being planned for the benefit of travel home.~~
- ~~Call into question the necessity of the trip~~.
- Result in additional travel time for his PSDs and increased costs.

CONCLUSION:

The information presented in Audit Objective 1 is intended for information purposes to address the frequency, cost and extent of the Administrator's official travel. Audit issues and recommendations pertaining to the Administrator's travel are detailed in Audit Objectives 2 and 3, Findings 1 through 9.

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Attachment 1

Cost Details for Trips Taken by the Administrator

	Administrator's travel period[4]	Destinations	Administrator costs	Staff costs	PSD costs[5]	Other costs[6]	Total
1	03/06/17-03/07/17	Scottsdale, AZ Tulsa, OK*	$739	$1,343	$7,773	-	$9,855
2	03/08/17-03/12/17	Houston, TX Tulsa, OK*	1,039	4,791	8,092	-	***13,923***
3	03/15/17-03/15/17	Detroit, MI Nashville, TN	-	36	1281	$45,000[7]	46,317
4	03/23/17-03/27/17	Oklahoma City, OK Tulsa, OK*	615	1,901	5,588	-	8,104
5	04/12/17-04/25/17	New York, NY Pittsburgh, PA Tulsa, OK Chicago, IL Columbia, MO Dallas, TX Naples, FL	4,182	22,272	30,997	-	***57,452***
6	05/04/17-05/08/17	Tulsa, OK	1,043	1,017	3,285	-	5,345
7	05/11/17-05/15/17	Colorado Springs, CO Tulsa, OK*	3,582	2,336	8,515	-	14,433
8	05/16/17-05/17/17	New York, NY	2,055	3,910	4,937	-	***10,903***
9	05/19/17-05/22/17	Tulsa, OK	2,123	849	2,567	-	***5,538***
10	05/25/17-05/29/17	Tulsa, OK	2,997	2,135	8,964	-	14,096
11	06/05/17-06/06/17	New York, NY	2,201	2,564	369	-	5,134
12	06/07/17-06/11/17	Cincinnati, OH Rome, Italy Bologna, Italy	8,998	35,225	38,863	50,256[8]	133,342
13	06/22/17-06/26/17	Tulsa, OK	2,799	857	4,747	-	8,403
14	06/30/17-06/30/17	Manhattan, NY	823	1,701	2,535	-	5,059
15	07/06/17-07/06/17	Birmingham/ Wilsonville, AL	2,623	5,795	3,069	-	11,487
16	07/07/17-07/07/17	Cochran, GA	1,963	613	1,953	-	***4,528***
17	07/17/17-07/20/17	Salt Lake City, UT Minneapolis, MN Little Rock, AK	5,769	20,419	15,888	-	42,076
18	07/24/17-07/14/17	Charleston, SC	1,644	4,637	1,233	-	7,514
19	07/26/17-07/30/17	Tulsa, OK Oklahoma City, OK Guymon, OK	2,933	6,731	9,258	15,000[9]	33,922

Commented [WH13]: Response – the Administrator paid for the Tulsa portion out of pocket.

Commented [WH14]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH15]: Response - the Administrator paid for the Tulsa portion out of pocket.

Note: Numbers in ***bold and italic*** are slightly off due to rounding
*Trips to Tulsa for personal reasons, not for official business.
[4] Travel period for the Administrator's advance staff and security detail will vary.
[5] Some of the PSD vouchers cover more than one of the Administrator's trips, and we were unable to separate the costs by trip. As a result, we captured the costs under one of the trips—usually the trip with the most activities.
[6] Includes OITA staff and military and charter flight costs.
[7] Military flight with President of the United States.
[8] Consists of $14,187 travel costs for OITA staff and $36,069 for the Administrator, his staff and PSD to a travel military flight from Cincinnati (meeting with President) to JFK Airport (New York) to catch flight to Rome, Italy.
[9] Charter flight from Tulsa to Guymon, OK, return to Oklahoma City.

	Administrator's travel period[4]	Destinations	Administrator costs	Staff costs	PSD costs[5]	Other costs[6]	Total
20	08/02/17-08/10/17	Indianapolis, IN Denver, CO Tulsa, OK* Des Moines, IA Grand Forks, ND	12,872	41,728	65,542	5,720[10]	125,862
21	08/30/17-09/05/17	Corpus Christi, TX Tulsa, OK*	3,931	83	11,146	-	***15,161***
22	09/09/17-09/10/17	Thurmont, MD	-	498	-	-	498
23	09/14/17-09/19/17	Houston, TX Tulsa, OK* New York, NY	4,407	9,441	14,342	-	***28,189***
24	09/27/17-09/28/17	New York, NY	2,672	4,868	6,495	-	14,035
25	10/04/17-10/09/17	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK* Lexington, KY	5,706	20,726	22,734	-	***49,167***
26	10/11/17-10/12/17	Jackson, MS	3,273	6,572	5,015	-	14,860
27	10/19/17-10/20/17	Houston, TX Omaha, NE	3,979	11,221	9,510	-	24,710
28	10/23/17-10/23/17	Nashville, TN	2,877	2,198	2,084	-	7,159
29	10/27/17-10/30/17	New Orleans, LA Tulsa, OK*	2,303	4,396	10,321	-	17,020
30	11/08/17-11/0817	Chicago, IL	1,317	1,903	5,918	-	9,138
31	11/09/17-11/09/17	Kiawah Island, SC	3,155	3,716	2,794	-	9,665
32	11/27/17-11/27/17	Orlando, FL	2,221	3,253	5,149	-	10,623
33	11/30/17-12/04/17	Louisville, KY Des Moines, IA Tulsa, OK*	3,486	10,559	12,766	-	26,811
34	12/09/17-12/13/17	Rabat, Morocco Marrakech, Morocco	17,631	35,347	28,440	6,785[11]	***88,204***
		Total	**$117,958**	***$275,642***	***$362,173***	**$122,761**	**$878,534**

*Trips to Tulsa for personal reasons, not for official business.

Commented [WH16]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH17]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH18]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH19]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH20]: Response - the Administrator paid for the Tulsa portion out of pocket.

[10] Charter flight from Denver to Durango, CO.
[11] Represents OITA travel costs.

Attachment 2

Administrator's Travel Costs by Cost Category

	Travel Period	Destination	Airfare[12]	Lodging[13]	M&IE	Other[14]	Total
1	03/06/17-03/07/17	Scottsdale, AZ Tulsa, OK*	$594.40		$88.50	$56.04	$738.94
2	03/08/17-03/12/17	Houston, TX Tulsa, OK*	575.60	$284.00	82.50	97.33	1,039.43
*3	03/15/17-03/15/17	Detroit, MI Nashville, TN					
4	03/23/17-03/27/17	Oklahoma City, OK Tulsa, OK*	449.6		53.5	112.28	615.38
5	04/12/17-04/25/17	New York, NY Pittsburgh, PA Tulsa, OK Chicago, IL Columbia, MO Dallas, TX Naples, FL	2,480.10	554.10	664.50	483.53	4,182.23
6	04/27/17-04/28/17	New York, NY		252.00	111.00	108.67	471.67
7	05/04/17-05/08/17	Tulsa, OK	847.60		127.50	67.99	1,043.09
8	05/11/17-05/15/17	Colorado Springs, CO Tulsa, OK*	2,690.60		133.50	227.71	3,051.81
9	05/16/17-05/17/17	New York, NY	1,316.45	450.00	111.00	177.98	2,055.43
10	05/19/17-05/22/17	Tulsa, OK	1,927.10		127.50	67.99	2,122.59
11	05/25/17-05/29/17	Tulsa, OK	2,627.60	145.00	137.25	86.87	2,996.72
12	06/05/17-06/06/17	New York, NY	1,588.29	340.00	111.00	161.76	2,201.05
13	06/07/17-06/11/17	Cincinnati, OH Rome, Italy Bologna, Italy	6,687.76	1,339.08	603.00	367.99	8,997.83
14	06/15/17-06/19/17	Tulsa, OK				67.99	67.99
15	06/21/17-06/21/17	Manhattan, NY				123.23	123.23
16	06/22/17-06/26/17	Tulsa, OK	2,603.60		127.50	67.99	2,799.09
17	06/30/17-06/30/17	Manhattan, NY	646.00		55.50	121.23	822.73
18	07/06/17-07/06/17	Birmingham/ Wilsonville, AL	2,437.58		44.25	141.13	2,622.96
19	07/07/17-07/07/17	Cochran, GA	1,846.53		38.25	77.94	1,962.72
20	07/17/17-07/20/17	Salt Lake City, UT Minneapolis, MN Little Rock, AK	4,626.80	693.00	211.50	273.19	5,768.49
21	07/24/17-07/14/17	Charleston, SC	1,603.50	269.10	103.50	137.99	2,114.09
22	07/26/17-07/30/17	Tulsa, OK Oklahoma City, OK Guymon, OK	2,603.60		178.50	151.13	2,933.23

*The Administrator did not incur costs related to these trips but costs were incurred by other associated travelers.
[12] Starting mid-April 2017, most of the Administrator's flights were premium class (first or business).
[13] Lodging and M&IE are a low percentage of the total travel costs because the Administrator generally did not claim lodging or M&IE for his trips to, and stops in, Tulsa; he generally stayed at his residence in Tulsa.
[14] Other costs included travel agent services fees, voucher fees and miscellaneous travel costs.

	Travel Period	Destination	Airfare[12]	Lodging[13]	M&IE	Other[14]	Total
23	08/02/17-08/10/17	Indianapolis, IN Denver, CO Tulsa, OK* Des Moines, IA Grand Forks, ND	10,671.08	1,376.00	393.75	431.50	12,872.33
24	08/21/17-08/21/17	Mexico City, Mexico				67.99	67.99
25	08/23/17-08/24/17	Lincoln, NE				67.99	67.99
26	08/30/17-09/05/17	Corpus Christi, TX Tulsa, OK*	3,703.40			227.71	3,931.11
27	08/31/17-09/06/17	Sydney, Australia				1,926.93	1,926.93
*28	09/09/17-09/10/17	Thurmont, MD					
29	09/14/17-09/19/17	Houston, TX Tulsa, OK* New York, NY	3,329.70	804.00	193.50	79.44	4,406.64
30	09/27/17-09/28/17	New York, NY	1,791.40	595.00	111.00	174.47	2,671.87
31	10/04/17-10/09/17	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK* Lexington, KY	4,812.82	468.00	197.75	227.83	5,706.40
32	10/11/17-10/12/17	Jackson, MS	2,977.80	93.00	64.50	137.16	3,272.46
33	10/19/17-10/20/17	Houston, TX Omaha, NE	3,610.30	107.00	96.00	165.52	3,978.82
34	10/23/17-10/23/17	Nashville, TN	2,744.40		44.25	87.89	2,876.54
35	10/27/17-10/30/17	New Orleans, LA Tulsa, OK*	2,075.60		38.25	189.42	2,303.27
36	11/08/17-11/08/17	Chicago, IL	1,172.00		55.50	89.94	1,317.44
37	11/09/17-11/09/17	Kiawah Island, SC	2,865.90		51.75	237.61	3,155.26
38	11/27/17-11/27/17	Orlando, FL	2,055.60		44.25	121.23	2,221.08
39	11/30/17-12/04/17	Louisville, KY Des Moines, IA Tulsa, OK*	3,197.30	109.00	88.50	91.02	3,485.82
40	12/09/17-12/13/17	Rabat, Morocco	16,163.76	862.95	528.50	76.12	17,631.33
		Total	**$99,323.77**	**$8,741.23**	**$5,017.25**	**$7,541.73**	**$120,623.98**
		Percent of Total	**82.3%**	**7.2%**	**4.2%**	**6.3%**	**100%**

*Trips to Tulsa for personal reasons, not for official business.

Attachment 3

Cost Details for the Administrator's Canceled Trips

	Administrator's travel period[15]	Destination	Administrator costs	Staff costs	PSD costs[16]	OITA	Total
	Domestic						
1	04/27/17-04/28/17	New York, NY	$472	$1,143	$2,055		$3,670
2	06/15/17-06/19/17	Tulsa, OK	68	49	2,199		2,316
3	06/21/17-06/21/17	Manhattan, NY	123	2,115	2,029		4,267
4	08/23/17-08/24/17	Lincoln, NE	68	326			394
		Domestic subtotal	**$731**	**$3,633**	**$6,283**		**$10,647**
	International						
5	08/21/17-08/21/17	Mexico City, Mexico	$68	$177	$203		$448
6	08/31/17-09/06/17	Sydney, Australia	1,927	34,694	54,687	$6,402	97,710
		International subtotal	**$1,995**	**$34,871**	**$54,889**	**$6,402**	**$98,710**
		Total	**$2,726**	**$38,504**	**$61,173**	**$6,402**	**$108,805**

[15] Travel period for the Administrator's advance staff and security detail will vary.
[16] Some of the PSD vouchers cover more than one of the Administrator's trips, and we were unable to separate the costs by trip. As a result, we captured the costs under one of the trips—usually the trip with the most activities.

OIG Audit of EPA's Adherence to Policies, Procedures and Oversight Controls Pertaining to the Administrator's Travel
Project No. OA-FY17-0382
Audit Objectives 2 and 3

OBJECTIVES:

Determine:

2. Whether applicable EPA travel policies and procedures were followed for the Administrator's travel, as well as other staff and security personnel traveling with or in advance of the Administrator.
3. Whether applicable EPA travel policies and procedures are sufficiently designed to prevent fraud, waste and abuse with the Administrator's travel.

CONCLUSION:

The Office of Inspector General (OIG) found that not all applicable EPA travel policies and procedures were followed and additional actions are needed to strengthen the EPA's internal controls over the Administrator's travel. Although our focus was on the Administrator's travel, we also noted issues related to the Administrator's staff and the Office of Criminal Enforcement and Forensic Training (OCEFT)'s Protective Security Detail (PSD) traveling with or in advance of him. We noted the following issues that are discussed in Findings 1 through 8:

1. No formal delegation was authorized for approval of the Administrator's travel.
2. First/business-class exceptions were awarded for the Administrator and ~~his~~ PSD agents without sufficient justification.
3. An employee's use of business-class accommodations was approved without the required analysis.
4. First/business-class flights and air carriers were selected without justifications.
5. An employee used a foreign air carrier without the required justification and certification.
6. Lodging costs claimed by Administrator in excess of 150 percent of per diem were not approved in advance.
7. Cost comparisons for trips with stops in Tulsa did not contain required detailed support.
8. International trip reports were inaccurate and incomplete.

We found that the Administrator's use of military/chartered flights were properly documented and approvals were obtained in accordance with EPA policy and federal requirements. This matter is discussed in Finding 9.

Further, we found that the EPA's travel policies and procedures are sufficiently designed to prevent fraud, waste and abuse, and are consistent with the Federal Travel Regulations (FTR). However, based on the issues presented above, additional controls over travel, as recommended in Findings 1 through 8, would further strengthen the EPA's policies and procedures and provide additional controls to aid in the prevention of fraud, waste and abuse.

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Finding 1
No Formal Delegation Was Authorized for Administrator's Travel

Condition

The Administrator's travel authorizations and vouchers were prepared by his Travel Coordinator, in consultation with the scheduling team and the Chief of Staff, and were approved by the Deputy Chief of Staff. However, the agency has no formal document that authorizes this delegation or further delegation, if needed. The decision for the Deputy Chief of Staff to approve the travel authorizations and vouchers was verbal and informal, and may vary for each administration. According to an agency official, the Chief of Staff, rather than the Deputy Chief of Staff, approved the prior Administrator's travel authorizations and vouchers.

Commented [WH1]: Response – recommend that this finding be deleted. The authority was fully delegated to the Deputy Chief of Staff pursuant to Delegations 1-7A and 1-7B. I would recommend that OIG speak with OGC for additional details.

Criteria

The EPA's Resource Management Directives System (RMDS) 2550B, *Official Travel,* Section V, states that all travel requires approval from proper travel-authorizing officials or designees prior to employees conducting official travel or incurring any costs associated with travel.

On April 24, 2014, the EPA issued a memorandum to Senior Resource Officials, *Implementing Internal Controls Related to Time and Attendance, Travel, Payroll, and Parking and Transit Subsidies*, which requires all EPA organizations to use the Executive Approval Framework for executive travel; the framework clarifies the appropriate level of approval for EPA executives.

Cause

Although the EPA's RMDS for travel defines the delegation authority for approving specific sensitive items—such as the use of premium-class accommodation, lodging in excess of per diem, and the use of military and chartered aircrafts—neither the RMDS nor the *Executive Approval Framework* include delegations for the approval of travel authorizations and vouchers at the Administrator level.

Effect

The lack of a formal authorized delegate and backup at an appropriate level could result in inappropriate approval and lead to potential fraud, waste and abuse with the Administrator's travel.

Recommendation

We recommend that the Chief Financial Officer:

1. Update the *Executive Approval Framework* or other EPA policy in Resource Management Directives System 2550B to include a formal authorized delegate and backup for approval of travel at the Administrator's level.

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Finding 2
First/Business-Class Exception Awarded Without Sufficient Justification

Condition

Agency officials requested and granted a first/business-class exception to the Administrator and the PSD agents who accompanied him without sufficient justification. On June 1, 2017, the Deputy Chief of Staff sent a memo to the Office of the Chief Financial Officer stating that, as the Senior Resource Officer, he concurred with the requested requirement that the Administrator be allowed to travel first/business class in accordance with the security exception in the FTR. The memo stated that the determination was made based on the prevailing security assessments provided by the Administrator's PSD and the high volume of potential threat information obtained from the EPA Office of Inspector General (OIG). On June 2, 2017, the acting Controller in the Office of the Chief Financial Officer approved the exception request, with a retroactive effective date of May 15, 2017. The approval memo stated that based on a review of the "related documentation received," it was determined that the request complied with criteria in the EPA's RMDS 2550B. On June 5, 2017, the acting Controller[1] approved the same exception for ~~the~~ OCEFT's PSD special agents who accompany the Administrator on official travel.

We requested the "related documentation" mentioned in the approval memo from the agency. On October 18, 2017, we received a response from the acting Deputy Chief of Staff saying that all he had was a "threat assessment" that was forwarded to him from the PSD and that PSD had used these assessments from very early in this administration. Our review showed that the referenced "threat assessment" document was a memorandum from OIG's Office of Investigations that was provided to PSD in response to a request by the acting Special Agent in Charge for information regarding threat investigations that PSD could use as part of its "threat assessment." The memorandum was dated August 16, 2017, with the subject title *Summary of Pending and Recent Threat Investigations*. The memorandum included sections that addressed:

Commented [WH2]: Response: I would recommend that we defer this to OCEFT/OECA. Also, please note that Acting Deputy Chief of Staff whom you spoke with is no longer in that position. Lastly, the AO would like the opportunity to provide related documentation and we believe that OECA will also be providing additional information in response to your questions.

- Summary and threats statistics.
- Threats directed against Administrator Scott Pruitt and/or his family.
- Threats directed against former Administrator Gina McCarthy.
- Threats directed against other EPA employees.

The section pertaining to threats against the Administrator included threatening messages received through mail, phone calls, social media, etc. These cases did not involve physical threats to the Administrator or his family and the memorandum did not include conclusions about the potential threats to the Administrator or recommend security action relating to the Administrator or his use of first/business-class travel. The August 16, 2018, memorandum is the only instance where the OIG has provided the PSD information regarding its threat investigations. As such, the

Commented [WN3]: Finding mentions 8/16/17 memo and 8/16/18 memo. OIG needs to verify the 2018 date is correct.

[1] The acting Controller became the Controller on July 12, 2017.

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information provided by the OIG would not have been available at the time the first/business-class waiver was discussed, requested or approved.

Based on interviews with agency officials, we learned that the discussion over security and the need for first/business-class travel originated in the Administrator's office in April 2017. The Office of the Chief of Staff called meetings with the PSD, ~~Office of the Chief Financial Officer~~ and legal counsel regarding the use of first/business-class travel prior to the Deputy Chief of Staff's June 1, 2017, request for a waiver. We were advised that although the PSD said there were security concerns and that putting the Administrator in first/business class was necessary to protect him, the specific security issues were not discussed at the meetings, as most of the meeting attendees did not have the security clearance to be privy of the security data. Following that meeting, t~~T~~he EPA Counsel advised officials ~~at that time~~ that the FTR does allow first/business-class exceptions and would need the PSD to provide written justification to support the security concerns. The EPA Counsel also advised that blanket authorizations are prohibited under the FTR, so any determination would have to be on a trip-by-trip basis.

Commented [WH4]: Response: AO believes this meeting did not occur as described in this paragraph. AO asks that OIG please provide the details of the April 2017 events so that we can cross check the Chief of Staff's calendar.

Commented [PE5]: Again, if this was the 4/27 meeting the issue of security clearance did not come up. The specific security issues were within the purview of the PSD, not the others at the meeting.

It is unclear from the exception approval memo whether the waivers for the Administrator and the PSD who traveled with him was for a blanket authorization or was meant to be on a trip-by-trip basis. The memo did not include an expiration date or mention of a specific trip. The approving official has since stated that the waiver was intended to be on a trip-by-trip basis. However, the Administrator and the PSD front agents used the waiver as the basis for justifying first/business-class travel for each trip taken since the May 15, 2017—the effective date of the approval. There was no evidence of a trip-by-trip analysis or separate approval by the Controller for each trip.

The PSD provided no documentation to the OIG supporting the concerns addressed in these meetings, nor did the PSD provide documentation to support that it conducted a "threat assessment" to justify the exceptional security circumstances requiring other than coach-class accommodations under the FTR. As such, the OIG does not consider the security reasons discussed in these meetings and the request and subsequent approval as satisfying the intent of the FTR. Also, the agency's legal counsel advised that a blanket approval is a violation of the FTR.

Commented [WH6]: Response: AO would recommend that OIG please contact OECA's senior leadership.

Prior to the first/business-class exception, the Administrator had flown economy class, except for two trips in early May 2017. The first trip included an upgrade to first class on a return flight segment with no justification provided for the upgrade. The second trip was booked as a roundtrip first-class accommodation and included only the justification provided by the PSD. The justification—an unsigned memorandum dated May 1, 2017, from the PSD acting Special Agent in Charge to the Administrator's Travel Coordinator—requested that the Administrator be strategically seated in business or first class for official travel. The request stated that the PSD had previously observed a "lashing out" from passengers while the Administrator was seated in coach and the PSD was not easily accessible to the Administrator due to uncontrolled full flights. However, neither the PSD nor the Administrator's Travel Coordinator had the authority to approve first-class exceptions for these flights.

Commented [WH7]: Checking with AO Travel Coordinator.

Criteria

The EPA's RMDS 2550B, *Official Travel*, Section V, Travel Accommodations, states that EPA employees must use coach-class accommodations for official travel unless delegated officials

grant an exception for a higher class. A request for a waiver to use other than coach-class (first or business) accommodations requires a memorandum from an employee's Office Director or equivalent to the Chief Financial Officer or designee for such approval. The Chief Financial Officer and Deputy Chief Financial Officer are delegated the authority to approve other than coach-class (first or business) accommodations for the Administrator under EPA Delegation 1-17-A, *Domestic Travel*. This authority was re-delegated in writing to the Director of the Office of Financial Management (now the Controller)[2] on March 1, 2012.

FTR, Chapter 301, Temporary Duty (TDY) Travel Allowances, Subchapter B, Allowable Travel Expense, §301-10.123, provides the circumstances that would allow the use of other than coach-class accommodation if the agency specifically authorizes/approves such use. One of the circumstances is if the use of coach-class accommodation would endanger life or government property. The FTR's term "other than coach-class" refers to first- or business-class accommodations for airplane, train or ship in lieu of coach-class.

According to the Secret Service, as cited a Government Accountability Office report, titled *Standardization Issues Regarding Protection of Executive Branch Officials*, issued July 2000, a threat assessment is "the process of gathering and assessing information about persons who may have the interest, motive, intention, and capability of mounting attacks against public officials and figures." The Government Accountability Office, based on a review of seven agencies that had prepared detailed threat assessments, stated that federal agencies' threat assessments generally contain "discussions of the officials' backgrounds, their visibility to the public, potential threats to the officials posed by individuals and groups, current events affecting the agencies, and other data. Some agencies also rated the levels of threat against their official in low, medium, or high categories, both overall, and for specific trips that the protected officials planned to take."

Commented [WH8]: Response: AO recommends that OIG reach out to OECA Senior Leadership.

Commented [PE9]: Not a legal issue, a programmatic issue of what constitutes a threat assessment.

Cause

The request for first/business-class accommodation was not based on an actual "threat assessment." When pressed for a justification, the agency provided an OIG informational threat investigation summary that was provided to the agency to conduct its "threat assessment." This shows a lack of understanding of what constitutes a "threat assessment" and the necessity for conducting such an assessment. The PSD is an organization within the Office of Criminal Enforcement, Forensics and Training under the EPA's Office of Enforcement and Compliance Assurance and is responsible for the threat assessment.

The agency's acting Controller (now the Controller) and legal counsel also believed that, because they do not have the proper security clearance, they should not discuss security concerns with the PSD. They relied on the PSD's recommendation without obtaining any details.

Commented [PE10]: Speaking for OGC, we believed that we had no expertise concerning security and relied on the subject matter experts, the PSD, to determine what did or did not constitute a sufficiently significant security concern.

The approval for the first/business-class travel was unclear, giving the appearance that the approval was open-ended, effective May 15, 2017, rather than on a trip-by-trip basis.

Effect

[2] In March 2016, the Office of Financial Management and the Office of Financial Services merged into a new Office of the Controller, headed by the Controller. The merger eliminated the Director of Financial Management position. Therefore, the further delegation is currently to the Controller per the written re-delegation.

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Without a proper "threat assessment" to support that the Administrator's life was endangered when flying coach-class, as well as a trip-by-trip justification, the Administrator's first/business-class travel, along with his accompanying PSD agents also flying first/business-class, was in violation of the FTR. By the Administrator and his accompanying PSD agents flying first/business class, they incurred more travel costs than necessary or appropriate.

Recommendation

We recommend that the Chief Financial Officer:

2. Implement controls to verify that the use of other than coach-class accommodations is properly justified and documented.

Commented [PE11]: Not sure how CFO can do that other than the documentation. Need to rely on subject matter experts to determine whether it is properly justified.

Commented [WN12]: The agency's travel policy has outlined the necessary steps to ensure first/business-class accommodations are in accordance with the FTR. Since 2014, OCFO has been performing internal control reviews on a biannual basis for travel controls. In addition, a monthly quality review is performed on travel vouchers.

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Finding 3
An Employee's Use of Business-Class Accommodations Was Approved Without Required Analysis

Condition

The acting Deputy Chief of Staff approved the use of business-class accommodations for an employee traveling with the Administrator on an international trip without the required analysis. The use of business class pertained to the international segment of the return flight and cost close to $3,000 more than the economy-class fare. The approval was based solely on the fact that the flight time—including the stopover—exceeded 14 hours. The approval did not include an analysis of the "constructive" costs or the urgency of the business, as required under the FTR and/or EPA policy under the EPA's RMDS 2550B.

Commented [WH13]: The employee is Samantha Dravis and the approving official was the Acting DCOS (Helena Wooden-Aguilar). On June 15th I sent a response to OIG documenting the analysis for the approval. The documentation will show that I considered an analysis of the "constructive" costs or the urgency of the business, as required under the FTR and/or EPA policy under the EPA's RMDS 2550B.

Therefore, I would recommend that this finding be deleted.

Criteria

FTR §301-10.123(b)(6) and §301-10.125(a) allow the use of business class if/when: the origin and/or destination are OCONUS; the scheduled flight time—including non-overnight stopovers and change of planes—is in excess of 14 hours; and the traveler is required to report to duty the following day or sooner.

Per the EPA's RMDS 2550B, *Official Travel*, Section V, Travel Accommodations, EPA employees must use coach-class accommodations for official travel unless delegated officials grant an exception for a higher travel class. A request for a waiver to use other than coach-class (first/business-class) accommodations requires a memorandum from the employee's Office Director or equivalent to the Chief Financial Officer or designee for such approval.

When the scheduled flight time—including non-overnight airport stopovers and plane changes—exceeds 14 hours, the FTR allows for either a rest stop of no more than 24 hours or business-class accommodations to be authorized. However, the EPA's RMDS states that the duration of a flight alone does not justify authorizing premium-class travel. The approving officials should consider the "constructive" costs and the purpose and urgency of the trip. Constructive costs include the cost of business-class accommodations versus the cost of coach-class accommodations plus the cost of reimbursements in conjunction with a rest stop. The purpose and urgency of the trip considers whether the travel is so urgent or unexpected that it cannot be delayed or postponed, and the traveler is unable to schedule a rest stop or an earlier flight that would allow for a rest period before having to report for duty.

Cause

The employee's upgrade to business-class accommodations was supported by the Office of Policy's Chief of Staff and approved by the acting Deputy Chief of Staff for the Office of the Administrator without meeting the requirement of EPA policy. This shows the lack of understanding of the requirements of the EPA policy on the use of first/business-class accommodations.

Commented [WN14]: The FTR and the agency's travel policy states travelers are allowed a rest stop or can upgrade to business-class accommodations for travel exceeding 14 hours. If the SRO approved the business-class travel, the costs were allowable.

Commented [WH15R14]: The SRO did approve and the justification and analysis was submitted to OIG on June 15th.

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Effect

Approving business-class accommodations without analyzing the constructive costs and justifying the urgency of mission is a violation of ~~the FTR and~~ EPA policy. The employee may have incurred close to $3,000 more in travel costs than necessary for taking a business-class accommodation that was not justified.

Commented [SA16]: This would only be a violation of the FTR if it didn't meet the 3-part test above. The FTR's 14-hour rule section doesn't appear to require an analysis of constructive costs and urgency; that analysis is a requirement set forth in EPA's policy.

Recommendation

We recommend that the Chief Financial Officer:

3. Implement controls to verify that the use of premium-class accommodations complies with the requirements of the Federal Travel Regulations and EPA policy in Resource Management Directives System 2550B.

Commented [WN17]: The agency's travel policy has outlined the necessary steps to ensure first/business-class accommodations are in accordance with the FTR. Since 2014, OCFO has been performing internal control reviews on a biannual basis for travel controls. In addition, a monthly quality review is performed on travel vouchers.

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Finding 4
First/Business-Class Flights and Air Carriers Were Selected Without Justification

Condition

Between May and December 2017, the Administrator traveled mostly on first-class accommodations without justification to support that the accommodations were the least expensive to meet agency needs, as required under FTR §301-10.123. Also, the Administrator did not provide any evidence to show that the carriers and flights selected were the most advantageous to the government, as required under FTR §301-10.112. The travel authorizations and vouchers showed that a noncontract fare was used, and the justification comments stated that the noncontract fare was used because the Administrator was authorized to use first-class accommodations. The travel authorizations and vouchers do not provide a justification as to why first-class accommodations were necessary or provide any cost or schedule information to justify the carrier and airfare selection.

Commented [WN18]: Although justification for not using a contract carrier should be provided, language in FTR §301-10.123 does not necessarily require an analysis or justification to show that first-class accommodations are the least costly method of first-class accommodations to the government. The language does require approval for use of first-class accommodations, but only states what the requirements are for approval, not the requirement to show it is the least costly method of first-class travel. In the event none of the exceptions are met, travel should be booked in accordance with the FTR's and agency's "coach-class" accommodations requirements.

Commented [WN19]: FTR §301-10.112, written justification is not required to show the flights selected were most advantageous to the government.

Commented [WH20]: On June 15th AO provided OIG additional information regarding the schedule information to justify carrier selection. So while not required AO did conduct an analysis for a mostly all of the trips.

As discussed in Finding 2, the Administrator was approved to use business/first-class accommodation based on security concerns. We found that between May and December 2017, 76.8 percent of the traveled flight segments for the Administrator were on first class, with only 11.6 percent each for business and economy/premium economy, as shown in Table 1. Prior to May 2017, all 23 segments flown were economy or premium economy.

Table 1: Summary of the Administrator's flight segments (airlines and accommodations class)

Travel period (2017)	Total segments flown	Delta	American	Others[3]		First class	Business class	Economy/ premium economy
March– April	23	12	10	1		0	0	23
% of Travel		52.2%	43.5%	4.3%				100%
May– December	112	91	16	5		86	13	13
% of Travel		81.3%	14.3%	4.4%		76.8%	11.6%	11.6%
Totals	**135**	**103**	**26**	**6**		**86**	**13**	**36**
		76.3%	**19.3%**	**4.4%**		**63.7%**	**9.6%**	**26.7%**

Source: OIG analysis of EPA travel data, and travel authorizations and vouchers from the Concur travel system.

In addition, the Administrator did not provide any evidence to show that the air carriers and flights selected were the most advantageous to the government, as required under FTR §301-10.112. FTR §301-10.106 requires federal employees to use contract city-pair fares unless one of the exceptions exists. However, since there are no first or business class fares in city pairs, FTR §301-10.112 requires the travelers to use the lowest cost for the same service unless the use of higher-cost service is more advantageous to the government. Therefore, even if the Administrator is justified in using business/first-class accommodations, he still needs to demonstrate that the

[3] "Others" includes the following airlines: Emirate, JetBlue, Southwest and United.

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selected carriers and flights were the most advantageous to the government within that class. We found no justification for the selected carriers or flights for the Administrator's premium-class accommodations.

Based on OIG analysis of the Administrator's travel authorizations and vouchers, Delta was the most frequently used airline (76.3 percent of the flights, or 103 of the 135 segments traveled), followed by American (19.3 percent of the flights, or 26 of the 135 segments traveled), as shown in Table 1. Between May and December 2017, when the Administrator used first- and business-class accommodations, Delta usage jumped to 81.3 percent from 52.3 percent in March and April 2017. Travel records indicate that the Administrator was a frequent flyer member on Delta, American and other airlines.

Commented [WH21]: Response: We would ask that OIG note that when the Administrator's flights were selected AO selected flights that were cost effective and that would meet the mission. To assume that the rationale was not cost and mission seems to overlook that AO did do cost comparisons for flights that were with non-contract carriers. Alternatively, if the contract carrier was Delta then AO would follow all EPA Travel Policies.

Criteria

The EPA's RMDS 2550B, *Official Travel*, Section V, Use of the City Pair Program, states that the EPA is a mandatory user of the General Services Administration's "City-Pair" contract. Employees on official business must use the contract carrier when one is available unless a specific FTR exception (§301-10.107) applies.

FTR, Chapter 301—Temporary Duty (TDY) Travel Allowances, Part 301-10 Transportation Expenses, §301-10.107, states:

> Yes, your agency may authorize use of a fare other-than a contract city-pair fare when—
>
> (a) Space on a scheduled contract flight is not available in time to accomplish the purpose of your travel, or use of contract service would require you to incur unnecessary overnight lodging costs which would increase the total cost of the trip;
> (b) The contractor's flight schedule is inconsistent with explicit policies of your Federal department or agency with regard to scheduling travel during normal working hours;
> (c) A noncontract carrier offers a lower fare to the general public that, if used, will result in a lower total trip cost to the Government (the combined costs of transportation, lodging, meals, and related expenses considered).

A note to paragraph (c) indicates this exception does not apply if the contract carrier offers the same or lower fare and has seats available at that fare, or if the fare offered by the noncontract carrier is restricted to government and military travelers performing official business and may be purchased only with a contractor-issued charge card, centrally billed account, or Government Transportation Request.

Under FTR §301-10.105, one of the basic requirements for using common carrier transportation is to use contract carrier, when available, and if the traveler's agency is a mandatory user of GSA's city-pair contracts for air passenger transportation services, unless the traveler has an approved exception. FTR §301-10.106 further clarifies that the traveler must always use a contract city-pair fare unless one of the exceptions in §301-10.107 above exists.

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FTR §301-10.112 states:

> When there is no contract fare, and common carriers furnish the same service at different fares between the same points for the same type of accommodations, you must use the lowest cost service unless your agency determines that the use of higher cost service is more advantageous to the Government.

FTR §301-10.123 states:

> Government travelers are required to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business when making official travel arrangements, and therefore, should consider the least expensive class of travel that meets their needs. You may use the lowest other than coach-class airline accommodations only when your agency specifically authorizes/approves such use….

Cause

The EPA's travel policy does not specify what documentation is needed to support air carrier and airfare selection when there are no contract rates in city pairs. Agency official said that this was the first time an EPA official was approved to use first/business-class accommodations. The agency had no experience dealing with such accommodations.

Effect

The OIG could not determine whether the carriers and/or flights and fares selected were the most advantageous to the government because the Administrator mostly used first- and business-class travel that did not have published contract fares, and the Administrator did not provide any justification for the selections. Unnecessary costs may have been incurred for using first-class accommodations when business class might have met the agency's needs. Personal preference for a certain airline could result in the use of carriers/flights/fares that were not necessarily the most advantages for the government. In addition, all individuals traveling with the Administrator may have incurred additional costs to accompany him on the same flight.

Recommendations

We recommend the Chief Financial Officer:

4. Clarify EPA policy in Resource Management Directives System 2550B on the requirements for justifying and documenting carrier/flight/airfare selection when there are no contract fares in city pairs.

Commented [WN22]: The agency's travel policy is clear on the requirements for the use of GSA City-Pair contract airfare.

The agency's travel policy applies to all EPA offices.

5. Implement controls within the Office of the Administrator to include adequate justification to support the use of first- and business-class accommodations and for carrier/flight/airfare selection when there are no contract rates in city pairs.

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Finding 5
An Employee Used a Foreign Air Carrier Without Required Justification and Certification

Commented [NK23]: Segments in question were originated and end in a foreign location (foreign-to-foreign). When booking with the travel agent, use of US flag carriers is always prioritized, so the resulting fare, must have been the one that most aligned with the traveler's schedule. Similarly, code share agreements and the Open Skies Agreement with European Union would have made travel on the sited airlines compliant with the Fly America Act. The travel would have been approved by the SRO or delegate.

Condition

One of the Administrator's PSD agents used a foreign air carrier for an international trip without providing justification and certification as required by the FTR. The employee, on approved leave at the time, flew from Zagreb (Croatia) to London (England) on British Airways and then to Rabat (Morocco) on Air France for PSD activities in connection with the Administrator's trip to Morocco. The return flight was on Delta with the rest of the associated travelers. A cost comparison prepared by the employee showed that it was more advantageous to the government to pay for the employee to fly from Zagreb to Rabat rather than return home and fly from the employee's official duty station in Washington, D.C. However, unexpected cancellation occurred that resulted in additional rebooking fees. The employee's final round trip airfare of $3,736 was approximately the same price as the original estimate from Washington, which is within the price range of $3,717 and $4,533 paid by the associated travelers whose trip originated in Washington.

The FTR requires anyone whose air travel is financed by federal funds to "Fly American" (i.e., use a U.S. flag air carrier) unless one of the FTR exceptions applies. A foreign carrier may not be used solely based on the cost of the ticket or for the convenience of the agency. If a foreign carrier is used, the traveler is required to provide a certification; the agency cannot pay the foreign air carrier fare without the required certification. In this instance, the employee provided no justification or certification for use of the foreign carriers and was reimbursed for the $714 paid the foreign carriers.

Criteria

The following guidance is provided by the FTR:

- FTR §301-10.135 requires anyone whose air travel is financed by federal funds to "Fly American" (i.e., use an U.S. flag air carrier) unless one of the following exceptions applies:
  - (a) Use of a foreign air carrier is determined to be a matter of necessity.
  - (b) The transportation is provided under a bilateral or multilateral air transportation agreement between the U.S. government and a foreign government.
  - (c) The traveler is an officer or employee of one of the special agencies (the EPA is not one of them) and the travel is paid with funding from those agencies.
  - (d) When no U.S. flag air carrier provides services on a particular leg of the route, foreign carriers may be used to or from the nearest interchange point to connect with a U.S. flag air carrier.
  - (e) A U.S. flag air carrier involuntarily reroutes the traveler to a foreign air carrier.
  - (f) Service on a foreign air carrier would be 3 hours or less and use of the U.S. flag air carrier would at least double the traveler's en route travel time.

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(g) When the costs of transportation are reimbursed in full by a third party.

- FTR §301-10.137 requires for travel solely outside the United States that the traveler "must always use a U.S. flag carrier" unless, when compared to using a foreign air carrier, such use would:
  a) Increase the number of aircraft changes one must make en route by 2 or more, or
  b) Extend one's travel time by 6 hours or more, or
  c) Require a connecting time of 4 hours or more at an overseas interchange point.

- FTR §301-10.139 to .140 states the traveler may not use a foreign carrier solely based on the cost of the ticket or for convenience of the agency.

- FTR §301-10.141 to .142 states that if a foreign carrier is used the traveler needs to provide a certification. The agency cannot pay the foreign air carrier fare without the required certification, which must include:
  - The traveler's name.
  - The dates traveled.
  - The origin and the destination of the travel.
  - A detailed itinerary of the travel, name of the air carrier, and flight number for each leg of the trip.
  - A statement explaining why the traveler met one of the FTR exceptions, or a copy of the agency's written approval that foreign air carrier service was deemed a matter of necessity in accordance with the FTR.

Cause

Convenience appears to be the primary reason for the use of the foreign carriers, as the employee was on leave in Croatia. The employee's use of a foreign carrier and subsequent approval by approving officials show a lack of understanding of the FTR requirement for justification and certification.

Effect

Using a foreign carrier without proper justification and certification is a violation of the FTR.

Recommendation

We recommend that the Chief Financial Officer:

6. Implement controls to enforce that travelers must "Fly American" and the use of a foreign carrier must be approved in advance and only when in compliance with Federal Travel Regulations.

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Finding 6
Lodging Costs Claimed by Administrator in Excess of 150 Percent of Per Diem Not Always Approved in Advance

Condition

The Administrator incurred lodging expenses in excess of 150 percent of per diem on numerous occasions with minimal justification and after-the-fact second-line supervisor approval. EPA policy requires specific notation on the travel authorization for lodging in excess of per diem. If the expense exceeds 150 percent of per diem, the policy also requires second-line supervisor approval prior to occurrence of travel. When travel-authorizing officials approve expenses after the completion of the trip, an amendment to the travel authorization is required.

Justifications for the Administrator's lodging expenses in excess of 150 percent of per diem and second-line supervisor approval were received after the fact for all but one of the 34 trips taken. Some of the justifications were very minimal, such as "due to high season." There were a few occasions that completely lacked justification and/or second-line supervisor approval. There were also instances where the actual lodging expenses in the vouchers exceeded 150 percent of per diem but the travel authorization was not amended to reflect the approval of the higher rate.

As shown in Table 2, we identified 10 trips (or 29 percent of the 34 trips taken) where the Administrator's lodging costs exceeded 150 percent of per diem.

Table 2: Administrator's lodging over 150 percent of per diem

	Travel date	Destination	Hotel	Per diem	150% of per diem	Lodging claimed	Justification
1	03/08/17	Houston, TX	Hilton Americas	$135	$203	$284	None
2	04/19/17	Columbia, MO	Double Tree	91	137	159	None
3	05/16/17	New York, NY	The Michelangelo	267	401	450	High season – no government rate
4	06/09/17	Bologna & Rome, Italy	Savoia Hotel Regency & Baglioni Hotel Regina	359	539	629	Charged for 2 hotels due to security sweep
5	07/17/17	Salt Lake City, UT	The Monaco	115	173	199	None
	07/18/17	Minneapolis, MN	Le Meridien	145	218	299	None
	07/19/17	Little Rock, AK	Capital Hotel	94	141	195	None
6	07/24/17	Charleston, SC	The Spectator	178	267	269	High season
7	08/02-08/03/17	Denver, CO	The Oxford	178	267	380	High season
8	09/18/17	New York, NY	Cassa	301	452	669	High season-sold out
9	09/27/17	New York, NY	The Knickerbocker	301	452	595	High season-sold out
10	10/05/17	Phoenix, AZ	Kimpton Hotel Palomar	124	186	269	High season-sold out
	10/08/17	Lexington, KY	21c Museum	109	164	199	None

Source: OIG analysis of EPA travel data and travel authorizations and vouchers from the Concur travel system.

Commented [WH24]: 150% was not completed.

Commented [WH25]: 150% was completed See attachment sent to OIG on June 15th.

Commented [WH26]: 150% was not completed for this segment of the trip.

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Although not included in the table, the Administrator's staff and PSD had also incurred lodging in excess of per diem. We did not analyze all authorizations and vouchers for the staff and PSD who accompanied the Administrator. Based on the limited vouchers analyzed, the Administrator's PSD agents mostly stayed in ~~adjacent rooms to~~ the Administrator due to security protocols and incurred approximately the same lodging rates as the Administrator. The remaining staff usually—though not always—stayed in the same hotel and may or may not have incurred the same lodging rates. Sometimes staff other than PSD agents who accompanied the Administrator and stayed in the same hotel might have paid lower lodging rates than the Administrator.

Commented [AS27]: This statement addresses protection personnel located in adjacent hotel rooms, and publicizing that info might actually have a negative impact on security. (per OECA)

Criteria

- RMDS 2550B, *Official Travel*, Actual Expenses, requires specific notation on the travel authorization for lodging in excess of per diem. Travel requests with per diem above 150 percent of established rate for the TDY location require second-line approval prior to occurrence of travel in the travel system. After-the-fact approvals require an amendment to the authorization.

- FTR, Chapter 301—Temporary Duty (TDY) Travel Allowances, Part 301-11, Per Diem Expenses, §301-11.30, states:
  (a) The traveler may request reimbursement on an actual expense basis, not to exceed 300 percent of the maximum per diem allowance.
  (b) Request for authorization for reimbursement under actual expense should be made in advance of travel. However, subject to the policy of the traveler's agency, after-the-fact approval may be granted when supported by an explanation acceptable to the agency.

Cause

The OIG could not determine a specific cause for the scheduling staff not including the actual lodging rate in the Administrator's travel authorization, thus requiring after-the-fact approval. However, the examples discussed show a general lack of understanding of the EPA's travel policy by staff and management responsible for the Administrator's travel.

Effect

Exceedance of 150 percent of per diem without sufficient justification and second-line supervisor approval violates the EPA's travel policy. Although after-the-fact approval is acceptable under EPA policy, it is intended for special circumstances and not for routine use, as the FTR notes authorization should be obtained in advance. Exceeding per diem rates without proper approval may result in unnecessary costs and contribute to the potential for waste and abuse of taxpayer monies.

Recommendations

We recommend the Chief Financial Officer:

7. Provide training on the EPA's travel policy in Resource Management Directives System 2550B and individual responsibilities to all staff associated with the Administrator's travel, including those who plan, prepare and approve travel authorizations and vouchers.

Commented [WN28]: Agency-wide travel policy training was held in 2016, 2017, and is also being provided in the 3rd quarter of FY 2018.

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8. Implement controls within the Office of the Administrator to obtain approvals before travel with adequate justification and prevent after-the-fact approvals.

Commented [WN29]: The agency's travel policy has outlined the necessary steps to ensure first/business-class accommodations are in accordance with the FTR. Since 2014, OCFO has been performing internal control reviews on a biannual basis for travel controls. In addition, a monthly quality review is performed on travel vouchers.

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Finding 7
Cost Comparisons for Trips With Stops in Tulsa Did Not Contain Required Detailed Support

Commented [NK30]: Through cost comparison documentation was lacking for some of the earlier trips, AO's office has improved and currently original estimates for flights are attached to the vouchers. This is sufficient for the payment office to make the comparison. CFC will continue to monitor to make sure the necessary documentation is there for future trips.

Condition

Documentation for the Administrator's trips to Tulsa for personal reasons while on business travel did not contain adequate cost comparisons, as required under EPA policy in RMDS 2550B. OIG analysis of travel data in the EPA's Compass Data Warehouse accounting system and vouchers and receipts in the agency's Concur travel system showed that the Administrator took 34 trips from March through December 2017. Of the 34 trips, six were exclusively to the Administrator's hometown of Tulsa for official business. An additional 10 trips were taken elsewhere but included self-initiated weekend stays in Tulsa where ~~no~~ official business was conducted. Additional details on these trips are in Objective 1, ***Frequency of Travel to Tulsa, Oklahoma*** section.

Commented [WH31]: On June 15th AO has provided cost comparisons to the OIG. AO also provided documentation that demonstrates the official business in Tulsa, OK. If the documentation is adequate I would recommend this finding be deleted or edited to reflect the information provided.

Commented [WH32]: Response – Recommend we delete and please refer to Objective 1 comments from AO.

Commented [WH33]: Response – same comment as above.

We identified no specific criteria that would limit the Administrator's travel to, or stops in, Tulsa for the weekend or otherwise. However, for alternative travel, EPA policy requires a cost comparison for determining the most advantageous method of travel. Reimbursement is limited to the cost of travel via direct or uninterrupted route. The cost comparison should calculate all constructive costs ~~in a worksheet~~ and be included or attached in Concur. The EPA policy also requires attaching a printed copy of flight information ~~to the worksheet~~ for documentation.

The trips with stops in Tulsa for personal convenience while on business travel would be considered alternative travel because they were not the direct uninterrupted route for the travel being taken. Although some of the trips included cost comparison information in the travel authorization, ~~there were no formal comparison worksheets, and the evidence~~ —such as the printed copy of the alternative flights—were not uploaded to Concur. In addition, the cost comparisons did not always consider all constructive costs. For example, for some of the Administrator's trips home for the weekend, the cost comparison/justification was that the Administrator paid his own way to Tulsa from his place of business. These comparisons did not address the airfare differences between flying back to Washington, D.C., from his original place of business versus flying through Tulsa prior to returning to Washington. On another trip, the cost comparison was done based on the prices for business class when in fact the Administrator flew first class, but a less expensive business fare does not guarantee a less expensive first-class fare. The travel costs of the PSD agents and other EPA employees who accompanied the Administrator were also not addressed.

Commented [WH34]: Constructive costs were always a consideration, including using contract carriers.

Criteria

The EPA's RMDS 2550B, *Official Travel*, provides guidance. Specifically:

Commented [SA35]: Just pointing out that combining personal and official travel is also addressed in the FTR at 301-10.7 and 10.8. It is also addressed in 2550B at pp. 22-23 (2018 manual).

- Section V requires employees to scan into Concur or fax to the travel office all documents used to justify claims for reimbursement, including cost comparisons.

- Section VIII, Cost Comparison Vouchers, states that if employees request an alternate method of travel, travel-authorizing officials should determine the method most advantageous to the federal government prior to approving the travel authorization. Reimbursement will be limited to the lesser of the cost for the alternative method of travel or travel via direct or uninterrupted route.

- Attachment E provides a sample cost comparison worksheet showing how constructive costs are calculated and requires attaching a printed copy of the screen with the flight information to the worksheet for documentation.

Cause

The OIG could not determine a specific cause for the lack of adequate cost comparison and supporting documents. However, the examples discussed show a general lack of understanding of cost comparison requirements in the EPA's travel policy by staff and management responsible for the Administrator's travel.

Effect

Without proper cost comparisons, we were unable to determine whether the costs associated with the Administrator's trips to, and those with stops in, Tulsa were the most advantageous method of travel for the government. These stops in Tulsa may have incurred unnecessary costs to the government and may contribute to the potential for waste and abuse of taxpayer monies.

Recommendation

We recommend that the Chief Financial Officer:

9. Implement controls to confirm that adequate cost comparisons are provided before approving travel authorizations where an alternative travel method is used.

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Finding 8
International Trip Reports Were Inaccurate and Incomplete

Condition

International trip reports were inaccurate and incomplete. The EPA's travel policy requires EPA travelers to complete a trip report in the Fast International Approval of Travel database within 15 days of the final date of travel. The trip report provides an overview of the trip and should note any next steps expected on the part of the EPA or partner organizations. The policy also requires each National Program Manager and region to monitor, at least annually, the completion of international travel reports by its travelers. Upon completion of travel, employees should attach a trip report to their International Trip Plan.

The Administrator had planned four international trips: Mexico City, Mexico; Sydney, Australia; Rome, Italy; and Rabat, Morocco. The trip to Mexico City was canceled without travel and did not require an international trip report. The Sydney trip was canceled prior to the Administrator's departure date, but his advance teams had deployed and arrived 2 days before the trip was canceled, thus requiring a trip report. We obtained hard-copy reports from the Office of International and Tribal Affairs for two of the three trips requiring reports—Sydney and Rome. Our analysis of the reports found numerous errors, including that not all travelers' names were included in the reports. For example, the report for the Sydney trip showed that three employees reported that the "trip was completed successfully without incident." One of these employees did not even go on the trip because it was canceled before his planned trip start date. Also, for both trips, some of the travelers did not file a report and their names were not included in other people's reports. In addition, some of the travel dates in the reports did not match the travel vouchers.

Criteria

The EPA's RMDS 2550B, *Official Travel*, Section VII, Administrative Requirements for International Trip Report, requires EPA travelers to complete a trip report in the Fast International Approval of Travel database within 15 days of the final date of travel. The policy also requires each National Program Manager and region to monitor, at least annually, the completion of international travel reports by its travelers.

Cause

The errors in the international trip reports reflect either the employees' lack of understanding of the requirements or the need for an accurate report. The EPA policy has limited information on the international trip report requirements. Although the lack of an international trip report was raised in a prior OIG audit report,[4] the EPA's revised travel policy did not seem to provide clarifications about the requirement. Rather, the current policy provides less information about the requirement than the prior version. Additionally, although the policy requires employees to

[4] *EPA Needs Better Management Controls for Approval of Employee Travel*, Report No. 15-P-0294, issued September 22, 2015.

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file the trip report in the Fast International Approval of Travel database, it also seems to allow one person to prepare the report for all travelers without designating a responsible office for the report preparation.

Effect

The lack of trip report submissions affects proper monitoring of international engagements. The EPA's Office of International and Tribal Affairs and other EPA offices need trip reports to avoid unnecessary international trips. Without proper monitoring, the EPA cannot verify that international trips achieved expected results, are in the best interest of the taxpayer, and are not duplicative of other international trips.

Recommendations

We recommend that the Chief Financial Officer:

10. Update the EPA's travel policy in Resource Management Directives System 2550B to clarify the requirement and importance of trip reports for all international travel.

11. Implement controls to verify that international trip reports are accurate and complete.

Commented [WN36]: The agency's travel policy updated in April 2018, which clarifies the requirements for International Trip Plans.

Commented [AS37]: This recommendation should be assigned to OITA. Also, see their response to this recommendation.

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Finding 9
Use of Military and Charter Flights Justified and Met Federal Requirements

Condition

The Administrator's use of military and charter flights was justified and in compliance with the FTR. The Administrator incurred travel costs of $101,787 for three military and two charter flights. The purpose of each trip, along with dates and costs, are identified in Table 3.

Table 3: Use of military and charter flights

Travel date	Type	Destination	Purpose	Costs
03/15/17	Military	DC - Detroit - Nashville	Travel with President	$45,000
06/07/17	Military	DC - Cincinnati – JFK (New York)	Travel with President	36,068
09/09/17	Military	DC - Camp David	Cabinet meeting with President	n/c
			Total military flights	**$81,068**
07/27/17	Charter	Tulsa – Guymon – Oklahoma City	*Waters of the United States* State Action tour	$15,000
08/04/17	Charter	Denver - Durango	Gold King Mine meeting	5,719
			Total charter flights	**$20,719**
			Total military and charter flights	**$101,787**

Source: OIG analysis of EPA travel data and travel authorizations and vouchers from Concur travel system.

The Administrator's use of military flights pertained to travel with the President of the United States, except for travel from Cincinnati to the JFK airport in New York. The Administrator and his staff flew military aircraft from Cincinnati to JFK without the President to catch an evening flight to Rome, Italy. Federal travel regulations allow for the use of military flights to meet scheduling needs. For those flights involving the President, the FTR allows for the use of military flights to fulfill a mission requirement.

The Administrator's use of chartered flights included a planned flight to Guymon (Oklahoma) as part of the *Waters of the United States* State Action tour. The charter was necessary due to the remote location of the meeting site—commercial flights were not available. The use of the second charter was an unplanned flight from Denver to Durango (Colorado) for a meeting at the Gold King Mine, where a major spill had occurred. The use of the charter resulted from weather delays with a booked commercial flight. The charter was needed to meet the Administrator's schedule. Our audit found that the use of the charter flights was justified under the FTR, which allows for the use of charters to meet scheduling needs.

Criteria

The EPA's RDMS 2550B, *Official Travel*, Section V, Federal Government Aircraft, states that the EPA's use of a federal government aircraft—chartered or federal government-owned—must comply with Office of Management and Budget Circular A-126. The EPA must determine the service necessary to fulfill a mission requirement, including exceptional, scheduling,

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communication or security requirements; or if there is a substantial cost savings to the government. These guidelines are implemented in FTR §301-10.261 through §301-10.264.

Cause

The actions taken by agency staff demonstrate a knowledge of and adherence to travel requirements for booking and approving the use of military and charter flights.

Effect

The agency complied with applicable policy.

Recommendations

We make no recommendations on the Administrator's use of military or chartered flights.

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Message

From: Konkus, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=555471B2BAA6419E8E141696F4577062-KONKUS, JOH]
Sent: 7/2/2018 4:09:28 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Wilcox, Jahan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=88fd588e97d3405d869bcae98d391984-Wilcox, Jah]
Subject: RE: FOR REVIEW/APPROVAL FW: Story re: EPA aides testimony

Resending this for your review Ryan and Jahan:

"EPA has not spoken with Mr. Jackson or Ms. Dravis about their testimony."

"Mr. Brown's request for EPA ethics officials to help the new Administrator seems like a normal and reasonable request, that's what EPA ethics officials are here to do."

On background: We suggest reaching out to Mr. Brown to understand his reason for making that request.

"EPA cannot speak to a personal conversation between Administrator Pruitt and Justice Wyrick."

From: Konkus, John
Sent: Monday, July 2, 2018 10:46 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: FOR REVIEW/APPROVAL FW: Story re: EPA aides testimony

"EPA has not spoken with Mr. Jackson or Ms. Dravis about their testimony."

"Mr. Brown's request for EPA ethics officials to help the new Administrator seems like a normal and reasonable request, that's what EPA ethics officials are here to do."

On background: We suggest reaching out to Mr. Brown to understand his reason for making that request.

"EPA cannot speak to a personal conversation between Administrator Pruitt and Justice Wyrick."

From: Dennis, Brady [mailto:Brady.Dennis@washpost.com]
Sent: Monday, July 2, 2018 10:02 AM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Press <Press@epa.gov>
Cc: Eilperin, Juliet <Juliet.Eilperin@washpost.com>
Subject: Story re: EPA aides testimony

Hi all,

Hope you're staying cool in the swelter. We wanted to touch base with you about a story that likely will post sometime later today, as far as we know, and run in print tomorrow. It primarily deals with some of the testimony that Samantha Dravis and Ryan Jackson gave to House Oversight staffers late last week.

Among the things we understand they told interviewers:

--They maintained that the administrator pressed to travel first-class or via private jet

--Dravis said that Mr. Pruitt asked his subordinates to do non-official work for him

--Dravis told investigators that the administrator wanted his spouse to find a post with an annual salary of more than $200,000. (To be clear, we don't say this actually happened. And we also make clear that Cleta Mitchell has said she was the point person in helping with the job search).

-- Dravis described how Mr. Pruitt asked her and another former top aide, Sarah Greenwalt, to provide pro bono legal advice by reviewing a rental agreement he wanted out of early. The Pruitts lived briefly in Washington's U St. corridor before relocating, a move that forced them to pay a penalty.

--Jackson told interviewers that he had helped connect Pruitt with a fellow Oklahoman, lobbyist J. Steven Hart, to reach a housing deal in early 2017. The initial arrangement--under which Pruitt agreed to pay $50 a night only on the days when he stayed in the condo owned by Hart's wife, Vicki--was supposed to last six weeks, Jackson told House staffers.

--In addition, Jackson said he and Dravis had raised concerns about the administrator's decision to begin routinely traveling first class.

(FYI, we got this email from Ryan: "Committee counsel explicitly asked me at the beginning of the morning not to reveal what the Committee asked me about. I don't know if there's an obligation to follow that, but I intend to follow that request.")

In addition, the story includes a mention of how Reginald Brown, who handled the administrator's financial disclosure documents in early 2017, took the unusual step of asking an EPA ethics official to help make sure that the incoming EPA administrator abided by federal rules around travel and political activity. Also, we understand that Oklahoma State Supreme Court Justice Patrick Wyrich, who worked as the state's solicitor general while Pruitt served as attorney general, cautioned Pruitt before and after he had taken over at EPA that excessive spending could lead to ethics problems.

As always, feel free to reach either of us by phone or email. I'm in transit at the moment but should be at the office soon. Juliet is on the road today and will be reachable on and off.

Many thanks,

Brady

****

Brady Dennis

Staff Writer

The Washington Post

202-334-7745

brady.dennis@washpost.com

Message

From: Konkus, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=555471B2BAA6419E8E141696F4577062-KONKUS, JOH]
Sent: 7/3/2018 4:52:15 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Wilcox, Jahan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=88fd588e97d3405d869bcae98d391984-Wilcox, Jah]
Subject: FW: From WashPost

FYI. I'm going to give him our statement: "EPA has not spoken with Mr. Jackson or Ms. Dravis about their testimony."

From: Stromberg, Stephen [mailto:Stephen.Stromberg@washpost.com]
Sent: Tuesday, July 3, 2018 12:43 PM
To: Press <Press@epa.gov>
Subject: From WashPost

Hi –

I'm seeking comment on the story our newsroom ran last night on Mr. Jackson's and Ms. Dravis's congressional testimony. Doesn't the revelation that they expressed concerns about Mr. Pruitt's first-class travel show that it was not a reasonable security precaution? Was it appropriate for Mr. Pruitt to ask staff to contact conservative groups in search of a lucrative job for his wife? Or to review a rental agreement on a U street apartment? Or to refer staff to a GOP lawyer rather than an EPA ethics official?

Thank you in advance.

All Best,
Steve

Steve Stromberg
The Washington Post
Office: (202) 334-6370
Cell: (310) 770-6646

OIG Audit of EPA's Adherence to Policies, Procedures and Oversight Controls Pertaining to the Administrator's Travel
Project No. OA-FY17-0382
Audit Objective 1

OBJECTIVE:

Determine the frequency, cost and extent of the Administrator's official travel through December 31, 2017.

SUMMARY:

The OIG identified $987,339 in travel costs associated with the Administrator's official travel for the period March 6 to December 31, 2017. This amount covered 40 completed and canceled trips and included costs incurred by the Administrator, ~~his~~ the Protective Service Detail (PSD) and other staff throughout the Agency. Of the 40 trips, 16 trips included travel to, or stops in, Tulsa, Oklahoma—the location of the Administrator's permanent residence. The 40 trips included six canceled trips.

Cost and Extent of Travel

Travel costs associated with the Administrator's official travel totaled $987,339, including $878,534 for trips taken and $108,805 for trips canceled. Based on the EPA's accounting system—Compass Data Warehouse (CDW)—the Administrator's first trip at the EPA was on March 6, 2017. From that date through December 31, 2017, the Administrator took a total of 34 trips consisting of 32 domestic and two international trips. The trip costs included all travel costs incurred by the Administrator, ~~his~~ the Travel and Advance staff, ~~his~~ the PSD, the Office of International and Tribal Affairs[1] (OITA), and other EPA offices.[2] The travel costs also included military and charter flights paid outside of the EPA's travel management system.

The Administrator canceled six trips that included domestic and international travel.- Two trips were cancelled due to a Government shut down and Hurricane Harvey. While the trips were cancelled due to circumstances outside of EPA's control the ~~Although trips were canceled, the~~ travelers incurred costs resulting from cancellation fees, no-show hotel charges and service fees. In some instances, the Administrator's advance staff and PSD were in travel status prior to the trip cancellation, resulting in lodging, per diem, transportation and other miscellaneous travel costs. Canceled trips represent approximately 11 percent of the total costs incurred ($108,805 of $987,339).

Commented [WH1]: Edit – The PSD is not his but rather an Detail within OCEFT.

Commented [WH2]: Note: There were other offices that travelled with the Administrator outside of AO and participated in the 32 domestic or international trips. The Travel and Advance can provide the OIG with the names of the participants. If needed.

Commented [WH3]: Response – If we are going to mention the cancellation OIG should be clear about what caused the cancellations, that of the six cancellations two were international and the vast amount of the costs, and the remaining four trips were outside of the control of the EPA.

[1] OITA staff are part of the advance team for international trips, helping with all aspects of the coordination and logistics because of their expertise on international travel.
[2] Examples of other EPA offices that traveled with the Administrator include the Office of Public Affairs, Office of Multimedia, Office of Public Engagement, Office of Congressional and Intergovernmental Relations, and Office of Policy.

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Table 1 provides a breakdown of costs incurred for all travel. Additional details on travel costs associated with the completed and canceled trips are in Attachments 1 through 3.

Table 1: Total travel costs incurred

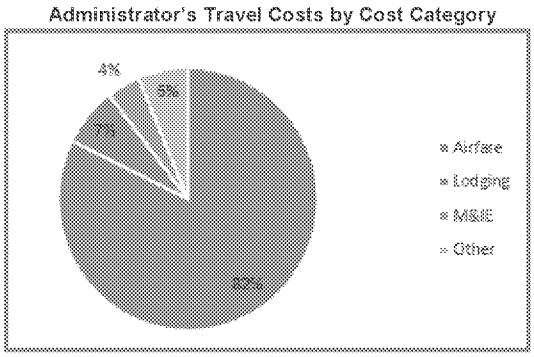
Trip type	No. of trips	Administrator	Staff	PSD	OITA	Other	Totals
Trips Taken:							
Domestic	32	$91,329	$205,071	$294,869		$65,720	$656,989
International	2	26,629	70,572	67,304	$20,973	36,069	221,547
Subtotal	**34**	**$117,958**	**$275,643**	**$362,173**	**$20,973**	**$101,789**	**$878,536**
Canceled:							
Domestic	4	$731	$3,633	$6,283	-	-	$10,647
International	2	1,995	34,871	54,889	$6,402	-	98,157
Subtotal	**6**	**$2,726**	**$38,504**	**$61,172**	**$6,402**	**-**	**$108,804**
% of Total		**2%**	**12%**	**14%**	**23%**		**11%**
Total	**40**	**$120,684**	**$314,147**	**$423,345**	**$27,374**	**$101,789**	***$987,339***
% of Total		**12%**	**32%**	**43%**	**3%**	**10%**	**100%**

Source: OIG analysis of travel data from the EPA's CDW accounting system.

Note: Number in italics at bottom right slightly off due to rounding.

The majority of the Administrator's travel costs—approximately 82 percent—was for airfare. However, this included 16 trips with travel to, or stops in, Oklahoma, during which the Administrator ~~generally~~ did not incur meals and incidental expenses (M&IE) or lodging costs every day. The pie chart below shows a breakdown of his travel costs by category. A detailed schedule of the Administrator's travel costs by cost category is in Attachment 2. We did not analyze the costs incurred by cost category for PSD and staff from the Office of the Administrator, OITA and other EPA offices.

Commented [WH4]: Comment – this is not accurate. According to the information I have the 16 trips with travel to or stops in, OK, where there was **not** official business the m&ie was zeroed out. See Attachment



The Administrator's travel most often included PSD staff, a ~~a personal~~ Travel and Aadvance team member(s), senior advisors, a communications specialist, and a photographer. On occasion, the Chief of Staff traveled with the Administrator. Based on our analysis, the Administrator's advance team for domestic travel averaged one to two people each from his staff and from PSD for a 1-to-2-day advance period. For international travel, the advance team averaged two to three

people each from his staff and from PSD for a 5-to-7-day period. Based on discussions with the Administrator's office, the ~~personal~~ advance team varied based on complexity of the trip (different locations, number of meetings, etc.). The advance team ~~checked~~ coordinated their travel planning with the Associate Administrator of Public Engagement, other Program Offices that would be travelling as a result of the specific topics discussed, and other Senior Leadership. The Travel and Advance team also considered everything the Administrator would be doing while in travel status, such as contacts, venues (site walk-through of every place, including where the Administrator will eat), PSD, etc.

Commented [WH5]: OIG spoke to the Director of Travel and Advance but did not speak to any others to my knowledge. On June 15th AO provided additional information regarding the purpose of the team.

Our analysis showed that for most trips the personal advance team's travel extended through the end of the Administrator's travel. We were unable to determine from the travel documents the purpose of the advance staff once the Administrator arrived. The travel documents only cited as a purpose to advance the Administrator. We found no operating procedures that outline the required actions and responsibilities of the Administrator's ~~personal~~ advance team. According to the advance team, the staff are busy the entire trip. Once the Administrator arrives, one person would go on to his next meeting place to make sure everything was ready while the other staff would stay behind to make sure the Administrator was getting what he needed and everything was proceeding smoothly.

Commented [WH6]: On June 15th AO provided OIG with the following information:

1. Purpose of the EPA Advance and Travel Team
2. Draft Interim operating procedures, which includes sample travel invitations.
3. Copies of the team's PD's that outlines the roles and responsibilities.

Frequency of Travel to Tulsa, Oklahoma

OIG analysis of travel data in the EPA's CDW accounting system showed that of the 34 trips the Administrator took from March through December 2017, the Administrator made 16 trips to, or stops in, Tulsa~~, the location of his permanent residence~~. These trips represent 47 percent of his total trips. Details are in Table 2.

Table 2: Trips to, or stops in, Tulsa, Oklahoma

	Administrator's travel period[3] trips	Days of the week	Destination	Purpose of trip
1	03/06/17-03/07/17	Mon - Tue	Scottsdale, AZ Tulsa, OK*	Speaking
2	03/08/17-03/12/17	Wed - Sun	Houston, TX Tulsa, OK*	Speaking
3	03/23/17-03/27/17	Fri - Tue	Oklahoma City, OK Tulsa, OK*	Speaking
4	04/12/17-04/25/17	Thu - Wed	New York, NY Pittsburgh, PA Tulsa, OK Chicago, IL Columbia, MO Dallas, TX Naples, FL	Tour/speaking/meeting
5	05/04/17-05/08/17	Thu - Mon	Tulsa, OK	Meeting
6	05/11/17-05/15/17	Thu - Mon	Colorado Springs, CO Tulsa, OK*	Speaking
7	05/19/17-05/22/17	Fri - Mon	Tulsa, OK	Facility tour
8	05/25/17-05/29/17	Thu - Mon	Tulsa, OK	Site tour

Commented [WH7]: Response – The Travel documents have descriptions (see attachments). Furthermore, we have invitations in response to Table 2 trips (see attachments).

[3] Travel period for the Administrator's advance staff and security detail varied.

	Administrator's travel period[3] trips	Days of the week	Destination	Purpose of trip
9	06/22/17-06/26/17	Thu - Mon	Tulsa, OK	Facility tour/meeting
10	07/26/17-07/30/17	Wed - Sun	Tulsa, OK Oklahoma City, OK Guymon, OK	Meetings
11	08/02/17-08/10/17	Wed - Thu	Indianapolis, IN Denver, CO Tulsa, OK* Des Moines, IA Grand Forks, ND	Meetings
12	08/30/17-09/05/17	Wed - Tue	Corpus Christi, TX Tulsa, OK*	Meetings
13	09/14/17-09/19/17	Thu - Tue	Houston, TX Tulsa, OK* New York, NY	Tour/meeting/media event
14	10/04/17-10/09/17	Wed - Mon	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK* Lexington, KY	Speaking/meeting
15	10/27/17-10/30/17	Fri - Mon	New Orleans, LA Tulsa, OK*	Speaking
16	11/30/17-12/04/17	Thu - Mon	Louisville, KY Des Moines, IA Tulsa, OK*	Speaking/meetings

Source: OIG analysis of travel data downloaded from the EPA's CDW accounting system.

*Trips to Tulsa for personal reasons, not for official business.

Commented [WH7]: Response – The Travel documents have descriptions (see attachments). Furthermore, we have invitations in response to Table 2 trips (see attachments).

The travel period represents all dates covered by travel vouchers, including weekends and holidays. As shown in Table 2, the Administrator's travel pattern was to travel mostly on Wednesday, Thursday or Friday from Washington, D.C., and other locations to Tulsa, and to return to Washington on Monday or Tuesday of the following week. The Administrator was often accompanied by EPA staff, some of whom also stayed over the weekend in Tulsa.

Commented [WH8]: Note – Checking with AO Traveler.

The purpose of Administrator's trips to Tulsa/Oklahoma City from Washington (six out of the 34 trips taken) included such purposes as a meeting and/or facility tour. We were unable to determine from the information provided by the Administrator's office as to whether all of the meetings and/or facility tours were self-initiated or requested by external parties. Based on the Administrator's calendar, the trips usually included one meeting and/or a facility tour. The trips with stops in Tulsa (10 out of the 34 trips taken) were made as part of longer trips and the stops were primarily self-initiated for weekends at the Administrator's permanent residence in Tulsa. We identified no official weekend business associated with most of these weekends.

Commented [AS9]: AO provided the needed information.

We identified no specific criteria that would limit the Administrator's travel to, or stops in, Tulsa ~~for the weekend or otherwise~~. However, for alternative travel, EPA policy requires a cost comparison for determining the most advantageous method of travel. Reimbursement is limited to the cost of travel via direct or uninterrupted route.

Commented [WH10]: Response: On June 15th AO provided the cost comparisons for the trips identified.

Although the Administrator's travel authorizations included some cost comparisons for his self-initiated weekend stops in Tulsa, the comparisons did not contain the detail to support the alternative travel required under EPA policy. As a result, we were unable to determine whether the costs associated with the Administrator's trips with stops in Tulsa included the most advantageous method of travel. This issue is further discussed under Objective 2, Finding No. 7.

Commented [WH11]: Response: The travel preparer did conduct a cost comparison analysis. AO understood that the use of the worksheet, which is recommended in the EPA Travel policy, was not required.

The frequency and duration of the Administrator's and his staff's trips to, and stops in, Tulsa can potentially:

Commented [WH12]: Response: As stated in previous comments, the frequency was initiated by official business. The duration of the trips that involved traveling to residence were zeroed out in M
&IE and the Administrator took personal days. Lastly, there were instances where the Administrator paid for travel. Thus, I would ask OIG to reconsider its conclusions in the first two bullets.

- ~~Give the appearance that trips are being planned for the benefit of travel home.~~
- ~~Call into question the necessity of the trip~~.
- Result in additional travel time for his PSDs and increased costs.

CONCLUSION:

The information presented in Audit Objective 1 is intended for information purposes to address the frequency, cost and extent of the Administrator's official travel. Audit issues and recommendations pertaining to the Administrator's travel are detailed in Audit Objectives 2 and 3, Findings 1 through 9.

Attachment 1

Cost Details for Trips Taken by the Administrator

	Administrator's travel period[4]	Destinations	Administrator costs	Staff costs	PSD costs[5]	Other costs[6]	Total
1	03/06/17-03/07/17	Scottsdale, AZ Tulsa, OK*	$739	$1,343	$7,773	-	$9,855
2	03/08/17-03/12/17	Houston, TX Tulsa, OK*	1,039	4,791	8,092	-	***13,923***
3	03/15/17-03/15/17	Detroit, MI Nashville, TN	-	36	1281	$45,000[7]	46,317
4	03/23/17-03/27/17	Oklahoma City, OK Tulsa, OK*	615	1,901	5,588	-	8,104
5	04/12/17-04/25/17	New York, NY Pittsburgh, PA Tulsa, OK Chicago, IL Columbia, MO Dallas, TX Naples, FL	4,182	22,272	30,997	-	***57,452***
6	05/04/17-05/08/17	Tulsa, OK	1,043	1,017	3,285	-	5,345
7	05/11/17-05/15/17	Colorado Springs, CO Tulsa, OK*	3,582	2,336	8,515	-	14,433
8	05/16/17-05/17/17	New York, NY	2,055	3,910	4,937	-	***10,903***
9	05/19/17-05/22/17	Tulsa, OK	2,123	849	2,567	-	***5,538***
10	05/25/17-05/29/17	Tulsa, OK	2,997	2,135	8,964	-	14,096
11	06/05/17-06/06/17	New York, NY	2,201	2,564	369	-	5,134
12	06/07/17-06/11/17	Cincinnati, OH Rome, Italy Bologna, Italy	8,998	35,225	38,863	50,256[8]	133,342
13	06/22/17-06/26/17	Tulsa, OK	2,799	857	4,747	-	8,403
14	06/30/17-06/30/17	Manhattan, NY	823	1,701	2,535	-	5,059
15	07/06/17-07/06/17	Birmingham/ Wilsonville, AL	2,623	5,795	3,069	-	11,487
16	07/07/17-07/07/17	Cochran, GA	1,963	613	1,953	-	***4,528***
17	07/17/17-07/20/17	Salt Lake City, UT Minneapolis, MN Little Rock, AK	5,769	20,419	15,888	-	42,076
18	07/24/17-07/14/17	Charleston, SC	1,644	4,637	1,233	-	7,514
19	07/26/17-07/30/17	Tulsa, OK Oklahoma City, OK Guymon, OK	2,933	6,731	9,258	15,000[9]	33,922

Commented [WH13]: Response – the Administrator paid for the Tulsa portion out of pocket.

Commented [WH14]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH15]: Response - the Administrator paid for the Tulsa portion out of pocket.

Note: Numbers in ***bold and italic*** are slightly off due to rounding
*Trips to Tulsa for personal reasons, not for official business.
[4] Travel period for the Administrator's advance staff and security detail will vary.
[5] Some of the PSD vouchers cover more than one of the Administrator's trips, and we were unable to separate the costs by trip. As a result, we captured the costs under one of the trips—usually the trip with the most activities.
[6] Includes OITA staff and military and charter flight costs.
[7] Military flight with President of the United States.
[8] Consists of $14,187 travel costs for OITA staff and $36,069 for the Administrator, his staff and PSD to a travel military flight from Cincinnati (meeting with President) to JFK Airport (New York) to catch flight to Rome, Italy.
[9] Charter flight from Tulsa to Guymon, OK, return to Oklahoma City.

	Administrator's travel period[4]	Destinations	Administrator costs	Staff costs	PSD costs[5]	Other costs[6]	Total
20	08/02/17-08/10/17	Indianapolis, IN Denver, CO Tulsa, OK* Des Moines, IA Grand Forks, ND	12,872	41,728	65,542	5,720[10]	125,862
21	08/30/17-09/05/17	Corpus Christi, TX Tulsa, OK*	3,931	83	11,146	-	***15,161***
22	09/09/17-09/10/17	Thurmont, MD	-	498	-	-	498
23	09/14/17-09/19/17	Houston, TX Tulsa, OK* New York, NY	4,407	9,441	14,342	-	***28,189***
24	09/27/17-09/28/17	New York, NY	2,672	4,868	6,495	-	14,035
25	10/04/17-10/09/17	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK* Lexington, KY	5,706	20,726	22,734	-	***49,167***
26	10/11/17-10/12/17	Jackson, MS	3,273	6,572	5,015	-	14,860
27	10/19/17-10/20/17	Houston, TX Omaha, NE	3,979	11,221	9,510	-	24,710
28	10/23/17-10/23/17	Nashville, TN	2,877	2,198	2,084	-	7,159
29	10/27/17-10/30/17	New Orleans, LA Tulsa, OK*	2,303	4,396	10,321	-	17,020
30	11/08/17-11/0817	Chicago, IL	1,317	1,903	5,918	-	9,138
31	11/09/17-11/09/17	Kiawah Island, SC	3,155	3,716	2,794	-	9,665
32	11/27/17-11/27/17	Orlando, FL	2,221	3,253	5,149	-	10,623
33	11/30/17-12/04/17	Louisville, KY Des Moines, IA Tulsa, OK*	3,486	10,559	12,766	-	26,811
34	12/09/17-12/13/17	Rabat, Morocco Marrakech, Morocco	17,631	35,347	28,440	6,785[11]	***88,204***
		Total	**$117,958**	***$275,642***	***$362,173***	**$122,761**	**$878,534**

*Trips to Tulsa for personal reasons, not for official business.

Commented [WH16]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH17]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH18]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH19]: Response - the Administrator paid for the Tulsa portion out of pocket.

Commented [WH20]: Response - the Administrator paid for the Tulsa portion out of pocket.

[10] Charter flight from Denver to Durango, CO.
[11] Represents OITA travel costs.

Attachment 2

Administrator's Travel Costs by Cost Category

	Travel Period	Destination	Airfare[12]	Lodging[13]	M&IE	Other[14]	Total
1	03/06/17-03/07/17	Scottsdale, AZ Tulsa, OK*	$594.40		$88.50	$56.04	$738.94
2	03/08/17-03/12/17	Houston, TX Tulsa, OK*	575.60	$284.00	82.50	97.33	1,039.43
*3	03/15/17-03/15/17	Detroit, MI Nashville, TN					
4	03/23/17-03/27/17	Oklahoma City, OK Tulsa, OK*	449.6		53.5	112.28	615.38
5	04/12/17-04/25/17	New York, NY Pittsburgh, PA Tulsa, OK Chicago, IL Columbia, MO Dallas, TX Naples, FL	2,480.10	554.10	664.50	483.53	4,182.23
6	04/27/17-04/28/17	New York, NY		252.00	111.00	108.67	471.67
7	05/04/17-05/08/17	Tulsa, OK	847.60		127.50	67.99	1,043.09
8	05/11/17-05/15/17	Colorado Springs, CO Tulsa, OK*	2,690.60		133.50	227.71	3,051.81
9	05/16/17-05/17/17	New York, NY	1,316.45	450.00	111.00	177.98	2,055.43
10	05/19/17-05/22/17	Tulsa, OK	1,927.10		127.50	67.99	2,122.59
11	05/25/17-05/29/17	Tulsa, OK	2,627.60	145.00	137.25	86.87	2,996.72
12	06/05/17-06/06/17	New York, NY	1,588.29	340.00	111.00	161.76	2,201.05
13	06/07/17-06/11/17	Cincinnati, OH Rome, Italy Bologna, Italy	6,687.76	1,339.08	603.00	367.99	8,997.83
14	06/15/17-06/19/17	Tulsa, OK				67.99	67.99
15	06/21/17-06/21/17	Manhattan, NY				123.23	123.23
16	06/22/17-06/26/17	Tulsa, OK	2,603.60		127.50	67.99	2,799.09
17	06/30/17-06/30/17	Manhattan, NY	646.00		55.50	121.23	822.73
18	07/06/17-07/06/17	Birmingham/ Wilsonville, AL	2,437.58		44.25	141.13	2,622.96
19	07/07/17-07/07/17	Cochran, GA	1,846.53		38.25	77.94	1,962.72
20	07/17/17-07/20/17	Salt Lake City, UT Minneapolis, MN Little Rock, AK	4,626.80	693.00	211.50	273.19	5,768.49
21	07/24/17-07/14/17	Charleston, SC	1,603.50	269.10	103.50	137.99	2,114.09
22	07/26/17-07/30/17	Tulsa, OK Oklahoma City, OK Guymon, OK	2,603.60		178.50	151.13	2,933.23

*The Administrator did not incur costs related to these trips but costs were incurred by other associated travelers.

[12] Starting mid-April 2017, most of the Administrator's flights were premium class (first or business).

[13] Lodging and M&IE are a low percentage of the total travel costs because the Administrator generally did not claim lodging or M&IE for his trips to, and stops in, Tulsa; he generally stayed at his residence in Tulsa.

[14] Other costs included travel agent services fees, voucher fees and miscellaneous travel costs.

	Travel Period	Destination	Airfare[12]	Lodging[13]	M&IE	Other[14]	Total
23	08/02/17-08/10/17	Indianapolis, IN Denver, CO Tulsa, OK* Des Moines, IA Grand Forks, ND	10,671.08	1,376.00	393.75	431.50	12,872.33
24	08/21/17-08/21/17	Mexico City, Mexico				67.99	67.99
25	08/23/17-08/24/17	Lincoln, NE				67.99	67.99
26	08/30/17-09/05/17	Corpus Christi, TX Tulsa, OK*	3,703.40			227.71	3,931.11
27	08/31/17-09/06/17	Sydney, Australia				1,926.93	1,926.93
*28	09/09/17-09/10/17	Thurmont, MD					
29	09/14/17-09/19/17	Houston, TX Tulsa, OK* New York, NY	3,329.70	804.00	193.50	79.44	4,406.64
30	09/27/17-09/28/17	New York, NY	1,791.40	595.00	111.00	174.47	2,671.87
31	10/04/17-10/09/17	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK* Lexington, KY	4,812.82	468.00	197.75	227.83	5,706.40
32	10/11/17-10/12/17	Jackson, MS	2,977.80	93.00	64.50	137.16	3,272.46
33	10/19/17-10/20/17	Houston, TX Omaha, NE	3,610.30	107.00	96.00	165.52	3,978.82
34	10/23/17-10/23/17	Nashville, TN	2,744.40		44.25	87.89	2,876.54
35	10/27/17-10/30/17	New Orleans, LA Tulsa, OK*	2,075.60		38.25	189.42	2,303.27
36	11/08/17-11/08/17	Chicago, IL	1,172.00		55.50	89.94	1,317.44
37	11/09/17-11/09/17	Kiawah Island, SC	2,865.90		51.75	237.61	3,155.26
38	11/27/17-11/27/17	Orlando, FL	2,055.60		44.25	121.23	2,221.08
39	11/30/17-12/04/17	Louisville, KY Des Moines, IA Tulsa, OK*	3,197.30	109.00	88.50	91.02	3,485.82
40	12/09/17-12/13/17	Rabat, Morocco	16,163.76	862.95	528.50	76.12	17,631.33
		Total	**$99,323.77**	**$8,741.23**	**$5,017.25**	**$7,541.73**	**$120,623.98**
		Percent of Total	**82.3%**	**7.2%**	**4.2%**	**6.3%**	**100%**

*Trips to Tulsa for personal reasons, not for official business.

Attachment 3

Cost Details for the Administrator's Canceled Trips

	Administrator's travel period[15]	Destination	Administrator costs	Staff costs	PSD costs[16]	OITA	Total
	Domestic						
1	04/27/17-04/28/17	New York, NY	$472	$1,143	$2,055		$3,670
2	06/15/17-06/19/17	Tulsa, OK	68	49	2,199		2,316
3	06/21/17-06/21/17	Manhattan, NY	123	2,115	2,029		4,267
4	08/23/17-08/24/17	Lincoln, NE	68	326			394
		Domestic subtotal	**$731**	**$3,633**	**$6,283**		**$10,647**
	International						
5	08/21/17-08/21/17	Mexico City, Mexico	$68	$177	$203		$448
6	08/31/17-09/06/17	Sydney, Australia	1,927	34,694	54,687	$6,402	97,710
		International subtotal	**$1,995**	**$34,871**	**$54,889**	**$6,402**	**$98,710**
		Total	**$2,726**	**$38,504**	**$61,173**	**$6,402**	**$108,805**

[15] Travel period for the Administrator's advance staff and security detail will vary.
[16] Some of the PSD vouchers cover more than one of the Administrator's trips, and we were unable to separate the costs by trip. As a result, we captured the costs under one of the trips—usually the trip with the most activities.

OIG Audit of EPA's Adherence to Policies, Procedures and Oversight Controls Pertaining to the Administrator's Travel
Project No. OA-FY17-0382
Audit Objectives 2 and 3

OBJECTIVES:

Determine:

2. Whether applicable EPA travel policies and procedures were followed for the Administrator's travel, as well as other staff and security personnel traveling with or in advance of the Administrator.
3. Whether applicable EPA travel policies and procedures are sufficiently designed to prevent fraud, waste and abuse with the Administrator's travel.

CONCLUSION:

The Office of Inspector General (OIG) found that not all applicable EPA travel policies and procedures were followed and additional actions are needed to strengthen the EPA's internal controls over the Administrator's travel. Although our focus was on the Administrator's travel, we also noted issues related to the Administrator's staff and the Office of Criminal Enforcement and Forensic Training (OCEFT)'s Protective Security Detail (PSD) traveling with or in advance of him. We noted the following issues that are discussed in Findings 1 through 8:

1. No formal delegation was authorized for approval of the Administrator's travel.
2. First/business-class exceptions were awarded for the Administrator and his PSD agents without sufficient justification.
3. An employee's use of business-class accommodations was approved without the required analysis.
4. First/business-class flights and air carriers were selected without justifications.
5. An employee used a foreign air carrier without the required justification and certification.
6. Lodging costs claimed by Administrator in excess of 150 percent of per diem were not approved in advance.
7. Cost comparisons for trips with stops in Tulsa did not contain required detailed support.
8. International trip reports were inaccurate and incomplete.

We found that the Administrator's use of military/chartered flights were properly documented and approvals were obtained in accordance with EPA policy and federal requirements. This matter is discussed in Finding 9.

Further, we found that the EPA's travel policies and procedures are sufficiently designed to prevent fraud, waste and abuse, and are consistent with the Federal Travel Regulations (FTR). However, based on the issues presented above, additional controls over travel, as recommended in Findings 1 through 8, would further strengthen the EPA's policies and procedures and provide additional controls to aid in the prevention of fraud, waste and abuse.

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Finding 1
No Formal Delegation Was Authorized for Administrator's Travel

Condition

The Administrator's travel authorizations and vouchers were prepared by his Travel Coordinator, in consultation with the scheduling team and the Chief of Staff, and were approved by the Deputy Chief of Staff. However, the agency has no formal document that authorizes this delegation or further delegation, if needed. The decision for the Deputy Chief of Staff to approve the travel authorizations and vouchers was verbal and informal, and may vary for each administration. According to an agency official, the Chief of Staff, rather than the Deputy Chief of Staff, approved the prior Administrator's travel authorizations and vouchers.

Commented [WH1]: Packard, Elise
I recommend that this finding be deleted as was fully delegated to the Deputy Chief Delegations 1-87A and 1-87B. My under OCFO has already fixed the Executive Ap portion of those delegations to include t any confusion there has been addressed

Criteria

The EPA's Resource Management Directives System (RMDS) 2550B, *Official Travel,* Section V, states that all travel requires approval from proper travel-authorizing officials or designees prior to employees conducting official travel or incurring any costs associated with travel.

On April 24, 2014, the EPA issued a memorandum to Senior Resource Officials, *Implementing Internal Controls Related to Time and Attendance, Travel, Payroll, and Parking and Transit Subsidies*, which requires all EPA organizations to use the Executive Approval Framework for executive travel; the framework clarifies the appropriate level of approval for EPA executives.

Cause

Although the EPA's RMDS for travel defines the delegation authority for approving specific sensitive items—such as the use of premium-class accommodation, lodging in excess of per diem, and the use of military and chartered aircrafts—neither the RMDS nor the *Executive Approval Framework* include delegations for the approval of travel authorizations and vouchers at the Administrator level.

Effect

The lack of a formal authorized delegate and backup at an appropriate level could result in inappropriate approval and lead to potential fraud, waste and abuse with the Administrator's travel.

Recommendation

We recommend that the Chief Financial Officer:

1. Update the *Executive Approval Framework* or other EPA policy in Resource Management Directives System 2550B to include a formal authorized delegate and backup for approval of travel at the Administrator's level.

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Finding 2
First/Business-Class Exception Awarded Without Sufficient Justification

Condition

Agency officials requested and granted a first/business-class exception to the Administrator and the PSD agents who accompanied him without sufficient justification. On June 1, 2017, the Deputy Chief of Staff sent a memo to the Office of the Chief Financial Officer stating that, as the Senior Resource Officer, he concurred with the requested requirement that the Administrator be allowed to travel first/business class in accordance with the security exception in the FTR. The memo stated that the determination was made based on the prevailing security assessments provided by the Administrator's PSD and the high volume of potential threat information obtained from the EPA Office of Inspector General (OIG). On June 2, 2017, the acting Controller in the Office of the Chief Financial Officer approved the exception request, with a retroactive effective date of May 15, 2017. The approval memo stated that based on a review of the "related documentation received," it was determined that the request complied with criteria in the EPA's RMDS 2550B. On June 5, 2017, the acting Controller[1] approved the same exception for the OCEFT's PSD special agents who accompany the Administrator on official travel.

We requested the "related documentation" mentioned in the approval memo from the agency. On October 18, 2017, we received a response from the acting Deputy Chief of Staff saying that all he had was a "threat assessment" that was forwarded to him from the PSD and that PSD had used these assessments from very early in this administration. Our review showed that the referenced "threat assessment" document was a memorandum from OIG's Office of Investigations that was provided to PSD in response to a request by the acting Special Agent in Charge for information regarding threat investigations that PSD could use as part of its "threat assessment." The memorandum was dated August 16, 2017, with the subject title *Summary of Pending and Recent Threat Investigations*. The memorandum included sections that addressed:

Commented [WH2]: Response: I would recommend that we defer this to OCEFT/OECA. Also, please note that Acting Deputy Chief of Staff whom you spoke with is no longer in that position. Lastly, the AO would like the opportunity to provide related documentation and we believe that OECA will also be providing additional information in response to your questions.

- Summary and threats statistics.
- Threats directed against Administrator Scott Pruitt and/or his family.
- Threats directed against former Administrator Gina McCarthy.
- Threats directed against other EPA employees.

The section pertaining to threats against the Administrator included threatening messages received through mail, phone calls, social media, etc. These cases did not involve physical threats to the Administrator or his family and the memorandum did not include conclusions about the potential threats to the Administrator or recommend security action relating to the Administrator or his use of first/business-class travel. The August 16, 2018, memorandum is the only instance where the OIG has provided the PSD information regarding its threat investigations. As such, the

Commented [WN3]: Finding mentions 8/16/17 memo and 8/16/18 memo. OIG needs to verify the 2018 date is correct.

[1] The acting Controller became the Controller on July 12, 2017.

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information provided by the OIG would not have been available at the time the first/business-class waiver was discussed, requested or approved.

Based on interviews with agency officials, we learned that the discussion over security and the need for first/business-class travel originated in the Administrator's office in April 2017. The Office of the Chief of Staff called meetings with the PSD, ~~Office of the Chief Financial Officer~~ and legal counsel regarding the use of first/business-class travel prior to the Deputy Chief of Staff's June 1, 2017, request for a waiver. We were advised that although the PSD said there were security concerns and that putting the Administrator in first/business class was necessary to protect him, the specific security issues were not discussed at the meetings, as most of the meeting attendees did not have the security clearance to be privy of the security data. Following that meeting, ~~U~~the EPA Counsel advised officials ~~at that time~~ that the FTR does allow first/business-class exceptions and would need the PSD to provide written justification to support the security concerns. The EPA Counsel also advised that blanket authorizations are prohibited under the FTR, so any determination would have to be on a trip-by-trip basis.

Commented [WH4]: Response: AO believes this meeting did not occur as described in this paragraph. AO asks that OIG please provide the details of the April 2017 events so that we can cross check the Chief of Staff's calendar.

Commented [PE5]: Again, if this was the 4/27 meeting the issue of security clearance did not come up. The specific security issues were within the purview of the PSD, not the others at the meeting.

It is unclear from the exception approval memo whether the waivers for the Administrator and the PSD who traveled with him was for a blanket authorization or was meant to be on a trip-by-trip basis. The memo did not include an expiration date or mention of a specific trip. The approving official has since stated that the waiver was intended to be on a trip-by-trip basis. However, the Administrator and the PSD front agents used the waiver as the basis for justifying first/business-class travel for each trip taken since the May 15, 2017—the effective date of the approval. There was no evidence of a trip-by-trip analysis or separate approval by the Controller for each trip.

The PSD provided no documentation to the OIG supporting the concerns addressed in these meetings, nor did the PSD provide documentation to support that it conducted a "threat assessment" to justify the exceptional security circumstances requiring other than coach-class accommodations under the FTR. As such, the OIG does not consider the security reasons discussed in these meetings and the request and subsequent approval as satisfying the intent of the FTR. Also, the agency's legal counsel advised that a blanket approval is a violation of the FTR.

Commented [WH6]: Response: AO would recommend that OIG please contact OECA's senior leadership.

Prior to the first/business-class exception, the Administrator had flown economy class, except for two trips in early May 2017. The first trip included an upgrade to first class on a return flight segment with no justification provided for the upgrade. The second trip was booked as a roundtrip first-class accommodation and included only the justification provided by the PSD. The justification—an unsigned memorandum dated May 1, 2017, from the PSD acting Special Agent in Charge to the Administrator's Travel Coordinator—requested that the Administrator be strategically seated in business or first class for official travel. The request stated that the PSD had previously observed a "lashing out" from passengers while the Administrator was seated in coach and the PSD was not easily accessible to the Administrator due to uncontrolled full flights. However, neither the PSD nor the Administrator's Travel Coordinator had the authority to approve first-class exceptions for these flights.

Commented [WH7]: Checking with AO Travel Coordinator.

Criteria

The EPA's RMDS 2550B, *Official Travel*, Section V, Travel Accommodations, states that EPA employees must use coach-class accommodations for official travel unless delegated officials

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grant an exception for a higher class. A request for a waiver to use other than coach-class (first or business) accommodations requires a memorandum from an employee's Office Director or equivalent to the Chief Financial Officer or designee for such approval. The Chief Financial Officer and Deputy Chief Financial Officer are delegated the authority to approve other than coach-class (first or business) accommodations for the Administrator under EPA Delegation 1-17-A, *Domestic Travel*. This authority was re-delegated in writing to the Director of the Office of Financial Management (now the Controller)[2] on March 1, 2012.

FTR, Chapter 301, Temporary Duty (TDY) Travel Allowances, Subchapter B, Allowable Travel Expense, §301-10.123, provides the circumstances that would allow the use of other than coach-class accommodation if the agency specifically authorizes/approves such use. One of the circumstances is if the use of coach-class accommodation would endanger life or government property. The FTR's term "other than coach-class" refers to first- or business-class accommodations for airplane, train or ship in lieu of coach-class.

According to the Secret Service, as cited a Government Accountability Office report, titled *Standardization Issues Regarding Protection of Executive Branch Officials*, issued July 2000, a threat assessment is "the process of gathering and assessing information about persons who may have the interest, motive, intention, and capability of mounting attacks against public officials and figures." The Government Accountability Office, based on a review of seven agencies that had prepared detailed threat assessments, stated that federal agencies' threat assessments generally contain "discussions of the officials' backgrounds, their visibility to the public, potential threats to the officials posed by individuals and groups, current events affecting the agencies, and other data. Some agencies also rated the levels of threat against their official in low, medium, or high categories, both overall, and for specific trips that the protected officials planned to take."

Commented [WH8]: Response: AO recommends that OIG reach out to OECA Senior Leadership.

Commented [PE9]: Not a legal issue, a programmatic issue of what constitutes a threat assessment.

Cause

The request for first/business-class accommodation was not based on an actual "threat assessment." When pressed for a justification, the agency provided an OIG informational threat investigation summary that was provided to the agency to conduct its "threat assessment." This shows a lack of understanding of what constitutes a "threat assessment" and the necessity for conducting such an assessment. The PSD is an organization within the Office of Criminal Enforcement, Forensics and Training under the EPA's Office of Enforcement and Compliance Assurance and is responsible for the threat assessment.

The agency's acting Controller (now the Controller) and legal counsel also believed that, because they do not have the proper security clearance, they should not discuss security concerns with the PSD. They relied on the PSD's recommendation without obtaining any details.

Commented [PE10]: Speaking for OGC, we believed that we had no expertise concerning security and relied on the subject matter experts, the PSD, to determine what did or did not constitute a sufficiently significant security concern.

The approval for the first/business-class travel was unclear, giving the appearance that the approval was open-ended, effective May 15, 2017, rather than on a trip-by-trip basis.

Effect

[2] In March 2016, the Office of Financial Management and the Office of Financial Services merged into a new Office of the Controller, headed by the Controller. The merger eliminated the Director of Financial Management position. Therefore, the further delegation is currently to the Controller per the written re-delegation.

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Without a proper "threat assessment" to support that the Administrator's life was endangered when flying coach-class, as well as a trip-by-trip justification, the Administrator's first/business-class travel, along with his accompanying PSD agents also flying first/business-class, was in violation of the FTR. By the Administrator and his accompanying PSD agents flying first/business class, they incurred more travel costs than necessary or appropriate.

Recommendation

We recommend that the Chief Financial Officer:

2. Implement controls to verify that the use of other than coach-class accommodations is properly justified and documented.

Commented [PE11]: Not sure how CFO can do that other than the documentation. Need to rely on subject matter experts to determine whether it is properly justified.

Commented [WN12]: The agency's travel policy has outlined the necessary steps to ensure first/business-class accommodations are in accordance with the FTR. Since 2014, OCFO has been performing internal control reviews on a biannual basis for travel controls. In addition, a monthly quality review is performed on travel vouchers.

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Finding 3
An Employee's Use of Business-Class Accommodations Was Approved Without Required Analysis

Condition

The acting Deputy Chief of Staff approved the use of business-class accommodations for an employee traveling with the Administrator on an international trip without the required analysis. The use of business class pertained to the international segment of the return flight and cost close to $3,000 more than the economy-class fare. The approval was based solely on the fact that the flight time—including the stopover—exceeded 14 hours. The approval did not include an analysis of the "constructive" costs or the urgency of the business, as required under the FTR and/or EPA policy under the EPA's RMDS 2550B.

Commented [WH13]: The employee is Samantha Dravis and the approving official was the Acting DCOS (Helena Wooden-Aguilar). On June 15th I sent a response to OIG documenting the analysis for the approval. The documentation will show that I considered an analysis of the "constructive" costs or the urgency of the business, as required under the FTR and/or EPA policy under the EPA's RMDS 2550B.

Therefore, I would recommend that this finding be deleted.

Criteria

FTR §301-10.123(b)(6) and §301-10.125(a) allow the use of business class if when: the origin and/or destination are OCONUS, the scheduled flight time—including non-overnight stopovers and change of planes—is in excess of 14 hours; and the traveler is required to report to duty the following day or sooner.

Per the EPA's RMDS 2550B, *Official Travel*, Section V, Travel Accommodations, EPA employees must use coach-class accommodations for official travel unless delegated officials grant an exception for a higher travel class. A request for a waiver to use other than coach-class (first/business-class) accommodations requires a memorandum from the employee's Office Director or equivalent to the Chief Financial Officer or designee for such approval.

When the scheduled flight time—including non-overnight airport stopovers and plane changes—exceeds 14 hours, the FTR allows for either a rest stop of no more than 24 hours or business-class accommodations to be authorized. However, the EPA's RMDS states that the duration of a flight alone does not justify authorizing premium-class travel. The approving officials should consider the "constructive" costs and the purpose and urgency of the trip. Constructive costs include the cost of business-class accommodations versus the cost of coach-class accommodations plus the cost of reimbursements in conjunction with a rest stop. The purpose and urgency of the trip considers whether the travel is so urgent or unexpected that it cannot be delayed or postponed, and the traveler is unable to schedule a rest stop or an earlier flight that would allow for a rest period before having to report for duty.

Cause

The employee's upgrade to business-class accommodations was supported by the Office of Policy's Chief of Staff and approved by the acting Deputy Chief of Staff for the Office of the Administrator without meeting the requirement of EPA policy. This shows the lack of understanding of the requirements of the EPA policy on the use of first/business-class accommodations.

Commented [WN14]: The FTR and the agency's travel policy states travelers are allowed a rest stop or can upgrade to business-class accommodations for travel exceeding 14 hours. If the SRO approved the business-class travel, the costs were allowable.

Commented [WH15R14]: The SRO did approve and the justification and analysis was submitted to OIG on June 15th.

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Effect

Approving business-class accommodations without analyzing the constructive costs and justifying the urgency of mission is a violation of the FTR and EPA policy. The employee may have incurred close to $3,000 more in travel costs than necessary for taking a business-class accommodation that was not justified.

Commented [SA16]: This would only be a violation of the FTR if it didn't meet the 3-part test above. The FTR's 14-hour rule section doesn't appear to require an analysis of constructive costs and urgency; that analysis is a requirement set forth in EPA's policy.

Recommendation

We recommend that the Chief Financial Officer:

3. Implement controls to verify that the use of premium-class accommodations complies with the requirements of the Federal Travel Regulations and EPA policy in Resource Management Directives System 2550B.

Commented [WN17]: The agency's travel policy has outlined the necessary steps to ensure first/business-class accommodations are in accordance with the FTR. Since 2014, OCFO has been performing internal control reviews on a biannual basis for travel controls. In addition, a monthly quality review is performed on travel vouchers.

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Finding 4
First/Business-Class Flights and Air Carriers Were Selected Without Justification

Condition

Between May and December 2017, the Administrator traveled mostly on first-class accommodations without justification to support that the accommodations were the least expensive to meet agency needs, as required under FTR §301-10.123. Also, the Administrator did not provide any evidence to show that the carriers and flights selected were the most advantageous to the government, as required under FTR §301-10.112. The travel authorizations and vouchers showed that a noncontract fare was used, and the justification comments stated that the noncontract fare was used because the Administrator was authorized to use first-class accommodations. The travel authorizations and vouchers do not provide a justification as to why first-class accommodations were necessary or provide any cost or schedule information to justify the carrier and airfare selection.

Commented [WN18]: Although justification for not using a contract carrier should be provided, language in FTR §301-10.123 does not necessarily require an analysis or justification to show that first-class accommodations are the least costly method of first-class accommodations to the government. The language does require approval for use of first-class accommodations, but only states what the requirements are for approval, not the requirement to show it is the least costly method of first-class travel. In the event none of the exceptions are met, travel should be booked in accordance with the FTR's and agency's "coach-class" accommodations requirements.

Commented [WN19]: FTR §301-10.112, written justification is not required to show the flights selected were most advantageous to the government.

Commented [WH20]: On June 15th AO provided OIG additional information regarding the schedule information to justify carrier selection. So while not required AO did conduct an analysis for a mostly all of the trips.

As discussed in Finding 2, the Administrator was approved to use business/first-class accommodation based on security concerns. We found that between May and December 2017, 76.8 percent of the traveled flight segments for the Administrator were on first class, with only 11.6 percent each for business and economy/premium economy, as shown in Table 1. Prior to May 2017, all 23 segments flown were economy or premium economy.

Table 1: Summary of the Administrator's flight segments (airlines and accommodations class)

Travel period (2017)	Total segments flown	Delta	American	Others[3]		First class	Business class	Economy/ premium economy
March– April	23	12	10	1		0	0	23
% of Travel		52.2%	43.5%	4.3%				100%
May– December	112	91	16	5		86	13	13
% of Travel		81.3%	14.3%	4.4%		76.8%	11.6%	11.6%
Totals	**135**	**103**	**26**	**6**		**86**	**13**	**36**
		76.3%	**19.3%**	**4.4%**		**63.7%**	**9.6%**	**26.7%**

Source: OIG analysis of EPA travel data, and travel authorizations and vouchers from the Concur travel system.

In addition, the Administrator did not provide any evidence to show that the air carriers and flights selected were the most advantageous to the government, as required under FTR §301-10.112. FTR §301-10.106 requires federal employees to use contract city-pair fares unless one of the exceptions exists. However, since there are no first or business class fares in city pairs, FTR §301-10.112 requires the travelers to use the lowest cost for the same service unless the use of higher-cost service is more advantageous to the government. Therefore, even if the Administrator is justified in using business/first-class accommodations, he still needs to demonstrate that the

[3] "Others" includes the following airlines: Emirate, JetBlue, Southwest and United.

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selected carriers and flights were the most advantageous to the government within that class. We found no justification for the selected carriers or flights for the Administrator's premium-class accommodations.

Based on OIG analysis of the Administrator's travel authorizations and vouchers, Delta was the most frequently used airline (76.3 percent of the flights, or 103 of the 135 segments traveled), followed by American (19.3 percent of the flights, or 26 of the 135 segments traveled), as shown in Table 1. Between May and December 2017, when the Administrator used first- and business-class accommodations, Delta usage jumped to 81.3 percent from 52.3 percent in March and April 2017. Travel records indicate that the Administrator was a frequent flyer member on Delta, American and other airlines.

Commented [WH21]: Response: We would ask that OIG note that when the Administrator's flights were selected AO selected flights that were cost effective and that would meet the mission. To assume that the rationale was not cost and mission seems to overlook that AO did do cost comparisons for flights that were with non-contract carriers. Alternatively, if the contract carrier was Delta then AO would follow all EPA Travel Policies.

Criteria

The EPA's RMDS 2550B, *Official Travel*, Section V, Use of the City Pair Program, states that the EPA is a mandatory user of the General Services Administration's "City-Pair" contract. Employees on official business must use the contract carrier when one is available unless a specific FTR exception (§301-10.107) applies.

FTR, Chapter 301—Temporary Duty (TDY) Travel Allowances, Part 301-10 Transportation Expenses, §301-10.107, states:

> Yes, your agency may authorize use of a fare other-than a contract city-pair fare when—
>
> (a) Space on a scheduled contract flight is not available in time to accomplish the purpose of your travel, or use of contract service would require you to incur unnecessary overnight lodging costs which would increase the total cost of the trip;
> (b) The contractor's flight schedule is inconsistent with explicit policies of your Federal department or agency with regard to scheduling travel during normal working hours;
> (c) A noncontract carrier offers a lower fare to the general public that, if used, will result in a lower total trip cost to the Government (the combined costs of transportation, lodging, meals, and related expenses considered).

A note to paragraph (c) indicates this exception does not apply if the contract carrier offers the same or lower fare and has seats available at that fare, or if the fare offered by the noncontract carrier is restricted to government and military travelers performing official business and may be purchased only with a contractor-issued charge card, centrally billed account, or Government Transportation Request.

Under FTR §301-10.105, one of the basic requirements for using common carrier transportation is to use contract carrier, when available, and if the traveler's agency is a mandatory user of GSA's city-pair contracts for air passenger transportation services, unless the traveler has an approved exception. FTR §301-10.106 further clarifies that the traveler must always use a contract city-pair fare unless one of the exceptions in §301-10.107 above exists.

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FTR §301-10.112 states:

> When there is no contract fare, and common carriers furnish the same service at different fares between the same points for the same type of accommodations, you must use the lowest cost service unless your agency determines that the use of higher cost service is more advantageous to the Government.

FTR §301-10.123 states:

> Government travelers are required to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business when making official travel arrangements, and therefore, should consider the least expensive class of travel that meets their needs. You may use the lowest other than coach-class airline accommodations only when your agency specifically authorizes/approves such use….

Cause

The EPA's travel policy does not specify what documentation is needed to support air carrier and airfare selection when there are no contract rates in city pairs. Agency official said that this was the first time an EPA official was approved to use first/business-class accommodations. The agency had no experience dealing with such accommodations.

Effect

The OIG could not determine whether the carriers and/or flights and fares selected were the most advantageous to the government because the Administrator mostly used first- and business-class travel that did not have published contract fares, and the Administrator did not provide any justification for the selections. Unnecessary costs may have been incurred for using first-class accommodations when business class might have met the agency's needs. Personal preference for a certain airline could result in the use of carriers/flights/fares that were not necessarily the most advantages for the government. In addition, all individuals traveling with the Administrator may have incurred additional costs to accompany him on the same flight.

Recommendations

We recommend the Chief Financial Officer:

4. Clarify EPA policy in Resource Management Directives System 2550B on the requirements for justifying and documenting carrier/flight/airfare selection when there are no contract fares in city pairs.

Commented [WN22]: The agency's travel policy is clear on the requirements for the use of GSA City-Pair contract airfare.

The agency's travel policy applies to all EPA offices.

5. Implement controls within the Office of the Administrator to include adequate justification to support the use of first- and business-class accommodations and for carrier/flight/airfare selection when there are no contract rates in city pairs.

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Finding 5
An Employee Used a Foreign Air Carrier Without Required Justification and Certification

Commented [NK23]: Segments in question were originated and end in a foreign location (foreign-to-foreign). When booking with the travel agent, use of US flag carriers is always prioritized, so the resulting fare, must have been the one that most aligned with the traveler's schedule. Similarly, code share agreements and the Open Skies Agreement with European Union would have made travel on the sited airlines compliant with the Fly America Act. The travel would have been approved by the SRO or delegate.

Condition

One of the Administrator's PSD agents used a foreign air carrier for an international trip without providing justification and certification as required by the FTR. The employee, on approved leave at the time, flew from Zagreb (Croatia) to London (England) on British Airways and then to Rabat (Morocco) on Air France for PSD activities in connection with the Administrator's trip to Morocco. The return flight was on Delta with the rest of the associated travelers. A cost comparison prepared by the employee showed that it was more advantageous to the government to pay for the employee to fly from Zagreb to Rabat rather than return home and fly from the employee's official duty station in Washington, D.C. However, unexpected cancellation occurred that resulted in additional rebooking fees. The employee's final round trip airfare of $3,736 was approximately the same price as the original estimate from Washington, which is within the price range of $3,717 and $4,533 paid by the associated travelers whose trip originated in Washington.

The FTR requires anyone whose air travel is financed by federal funds to "Fly American" (i.e., use a U.S. flag air carrier) unless one of the FTR exceptions applies. A foreign carrier may not be used solely based on the cost of the ticket or for the convenience of the agency. If a foreign carrier is used, the traveler is required to provide a certification; the agency cannot pay the foreign air carrier fare without the required certification. In this instance, the employee provided no justification or certification for use of the foreign carriers and was reimbursed for the $714 paid the foreign carriers.

Criteria

The following guidance is provided by the FTR:

- FTR §301-10.135 requires anyone whose air travel is financed by federal funds to "Fly American" (i.e., use an U.S. flag air carrier) unless one of the following exceptions applies:
  - (a) Use of a foreign air carrier is determined to be a matter of necessity.
  - (b) The transportation is provided under a bilateral or multilateral air transportation agreement between the U.S. government and a foreign government.
  - (c) The traveler is an officer or employee of one of the special agencies (the EPA is not one of them) and the travel is paid with funding from those agencies.
  - (d) When no U.S. flag air carrier provides services on a particular leg of the route, foreign carriers may be used to or from the nearest interchange point to connect with a U.S. flag air carrier.
  - (e) A U.S. flag air carrier involuntarily reroutes the traveler to a foreign air carrier.
  - (f) Service on a foreign air carrier would be 3 hours or less and use of the U.S. flag air carrier would at least double the traveler's en route travel time.

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(g) When the costs of transportation are reimbursed in full by a third party.

- FTR §301-10.137 requires for travel solely outside the United States that the traveler "must always use a U.S. flag carrier" unless, when compared to using a foreign air carrier, such use would:
  a) Increase the number of aircraft changes one must make en route by 2 or more, or
  b) Extend one's travel time by 6 hours or more, or
  c) Require a connecting time of 4 hours or more at an overseas interchange point.

- FTR §301-10.139 to .140 states the traveler may not use a foreign carrier solely based on the cost of the ticket or for convenience of the agency.

- FTR §301-10.141 to .142 states that if a foreign carrier is used the traveler needs to provide a certification. The agency cannot pay the foreign air carrier fare without the required certification, which must include:
  - The traveler's name.
  - The dates traveled.
  - The origin and the destination of the travel.
  - A detailed itinerary of the travel, name of the air carrier, and flight number for each leg of the trip.
  - A statement explaining why the traveler met one of the FTR exceptions, or a copy of the agency's written approval that foreign air carrier service was deemed a matter of necessity in accordance with the FTR.

Cause

Convenience appears to be the primary reason for the use of the foreign carriers, as the employee was on leave in Croatia. The employee's use of a foreign carrier and subsequent approval by approving officials show a lack of understanding of the FTR requirement for justification and certification.

Effect

Using a foreign carrier without proper justification and certification is a violation of the FTR.

Recommendation

We recommend that the Chief Financial Officer:

6. Implement controls to enforce that travelers must "Fly American" and the use of a foreign carrier must be approved in advance and only when in compliance with Federal Travel Regulations.

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Finding 6
Lodging Costs Claimed by Administrator in Excess of 150 Percent of Per Diem Not Always Approved in Advance

Condition

The Administrator incurred lodging expenses in excess of 150 percent of per diem on numerous occasions with minimal justification and after-the-fact second-line supervisor approval. EPA policy requires specific notation on the travel authorization for lodging in excess of per diem. If the expense exceeds 150 percent of per diem, the policy also requires second-line supervisor approval prior to occurrence of travel. When travel-authorizing officials approve expenses after the completion of the trip, an amendment to the travel authorization is required.

Justifications for the Administrator's lodging expenses in excess of 150 percent of per diem and second-line supervisor approval were received after the fact for all but one of the 34 trips taken. Some of the justifications were very minimal, such as "due to high season." There were a few occasions that completely lacked justification and/or second-line supervisor approval. There were also instances where the actual lodging expenses in the vouchers exceeded 150 percent of per diem but the travel authorization was not amended to reflect the approval of the higher rate.

As shown in Table 2, we identified 10 trips (or 29 percent of the 34 trips taken) where the Administrator's lodging costs exceeded 150 percent of per diem.

Table 2: Administrator's lodging over 150 percent of per diem

	Travel date	Destination	Hotel	Per diem	150% of per diem	Lodging claimed	Justification
1	03/08/17	Houston, TX	Hilton Americas	$135	$203	$284	None
2	04/19/17	Columbia, MO	Double Tree	91	137	159	None
3	05/16/17	New York, NY	The Michelangelo	267	401	450	High season – no government rate
4	06/09/17	Bologna & Rome, Italy	Savoia Hotel Regency & Baglioni Hotel Regina	359	539	629	Charged for 2 hotels due to security sweep
5	07/17/17	Salt Lake City, UT	The Monaco	115	173	199	None
	07/18/17	Minneapolis, MN	Le Meridien	145	218	299	None
	07/19/17	Little Rock, AK	Capital Hotel	94	141	195	None
6	07/24/17	Charleston, SC	The Spectator	178	267	269	High season
7	08/02-08/03/17	Denver, CO	The Oxford	178	267	380	High season
8	09/18/17	New York, NY	Cassa	301	452	669	High season-sold out
9	09/27/17	New York, NY	The Knickerbocker	301	452	595	High season-sold out
10	10/05/17	Phoenix, AZ	Kimpton Hotel Palomar	124	186	269	High season-sold out
	10/08/17	Lexington, KY	21c Museum	109	164	199	None

Source: OIG analysis of EPA travel data and travel authorizations and vouchers from the Concur travel system.

Commented [WH24]: 150% was not completed.

Commented [WH25]: 150% was completed See attachment sent to OIG on June 15th.

Commented [WH26]: 150% was not completed for this segment of the trip.

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Although not included in the table, the Administrator's staff and PSD had also incurred lodging in excess of per diem. We did not analyze all authorizations and vouchers for the staff and PSD who accompanied the Administrator. Based on the limited vouchers analyzed, the Administrator's PSD agents mostly stayed in ~~adjacent rooms~~ to the Administrator due to security protocols and incurred approximately the same lodging rates as the Administrator. The remaining staff usually—though not always—stayed in the same hotel and may or may not have incurred the same lodging rates. Sometimes staff other than PSD agents who accompanied the Administrator and stayed in the same hotel might have paid lower lodging rates than the Administrator.

Commented [AS27]: This statement addresses protection personnel located in adjacent hotel rooms, and publicizing that info might actually have a negative impact on security. (per OECA)

Criteria

- RMDS 2550B, *Official Travel*, Actual Expenses, requires specific notation on the travel authorization for lodging in excess of per diem. Travel requests with per diem above 150 percent of established rate for the TDY location require second-line approval prior to occurrence of travel in the travel system. After-the-fact approvals require an amendment to the authorization.

- FTR, Chapter 301—Temporary Duty (TDY) Travel Allowances, Part 301-11, Per Diem Expenses, §301-11.30, states:
  (a) The traveler may request reimbursement on an actual expense basis, not to exceed 300 percent of the maximum per diem allowance.
  (b) Request for authorization for reimbursement under actual expense should be made in advance of travel. However, subject to the policy of the traveler's agency, after-the-fact approval may be granted when supported by an explanation acceptable to the agency.

Cause

The OIG could not determine a specific cause for the scheduling staff not including the actual lodging rate in the Administrator's travel authorization, thus requiring after-the-fact approval. However, the examples discussed show a general lack of understanding of the EPA's travel policy by staff and management responsible for the Administrator's travel.

Effect

Exceedance of 150 percent of per diem without sufficient justification and second-line supervisor approval violates the EPA's travel policy. Although after-the-fact approval is acceptable under EPA policy, it is intended for special circumstances and not for routine use, as the FTR notes authorization should be obtained in advance. Exceeding per diem rates without proper approval may result in unnecessary costs and contribute to the potential for waste and abuse of taxpayer monies.

Recommendations

We recommend the Chief Financial Officer:

7. Provide training on the EPA's travel policy in Resource Management Directives System 2550B and individual responsibilities to all staff associated with the Administrator's travel, including those who plan, prepare and approve travel authorizations and vouchers.

Commented [WN28]: Agency-wide travel policy training was held in 2016, 2017, and is also being provided in the 3rd quarter of FY 2018.

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8. Implement controls within the Office of the Administrator to obtain approvals before travel with adequate justification and prevent after-the-fact approvals.

Commented [WN29]: The agency's travel policy has outlined the necessary steps to ensure first/business-class accommodations are in accordance with the FTR. Since 2014, OCFO has been performing internal control reviews on a biannual basis for travel controls. In addition, a monthly quality review is performed on travel vouchers.

ED_002125A_00000051-00017

Finding 7
Cost Comparisons for Trips With Stops in Tulsa Did Not Contain Required Detailed Support

Commented [NK30]: Through cost comparison documentation was lacking for some of the earlier trips, AO's office has improved and currently original estimates for flights are attached to the vouchers. This is sufficient for the payment office to make the comparison. CFC will continue to monitor to make sure the necessary documentation is there for future trips.

Condition

Documentation for the Administrator's trips to Tulsa for personal reasons while on business travel did not contain adequate cost comparisons, as required under EPA policy in RMDS 2550B. OIG analysis of travel data in the EPA's Compass Data Warehouse accounting system and vouchers and receipts in the agency's Concur travel system showed that the Administrator took 34 trips from March through December 2017. Of the 34 trips, six were exclusively to the Administrator's hometown of Tulsa for official business. An additional 10 trips were taken elsewhere but included self-initiated weekend stays in Tulsa where ~~no~~ official business was conducted. Additional details on these trips are in Objective 1, ***Frequency of Travel to Tulsa, Oklahoma*** section.

Commented [WH31]: On June 15th AO has provided cost comparisons to the OIG. AO also provided documentation that demonstrates the official business in Tulsa, OK. If the documentation is adequate I would recommend this finding be deleted or edited to reflect the information provided.

Commented [WH32]: Response – Recommend we delete and please refer to Objective 1 comments from AO.

Commented [WH33]: Response – same comment as above.

We identified no specific criteria that would limit the Administrator's travel to, or stops in, Tulsa for the weekend or otherwise. However, for alternative travel, EPA policy requires a cost comparison for determining the most advantageous method of travel. Reimbursement is limited to the cost of travel via direct or uninterrupted route. The cost comparison should calculate all constructive costs ~~in a worksheet~~ and be included or attached in Concur. The EPA policy also requires attaching a printed copy of flight information ~~to the worksheet~~ for documentation.

The trips with stops in Tulsa for personal convenience while on business travel would be considered alternative travel because they were not the direct uninterrupted route for the travel being taken. Although some of the trips included cost comparison information in the travel authorization, ~~there were no formal comparison worksheets, and the evidence~~—such as the printed copy of the alternative flights—were not uploaded to Concur. In addition, the cost comparisons did not always consider all constructive costs. For example, for some of the Administrator's trips home for the weekend, the cost comparison/justification was that the Administrator paid his own way to Tulsa from his place of business. These comparisons did not address the airfare differences between flying back to Washington, D.C., from his original place of business versus flying through Tulsa prior to returning to Washington. On another trip, the cost comparison was done based on the prices for business class when in fact the Administrator flew first class, but a less expensive business fare does not guarantee a less expensive first-class fare. The travel costs of the PSD agents and other EPA employees who accompanied the Administrator were also not addressed.

Commented [WH34]: Constructive costs were always a consideration, including using contract carriers.

Criteria

The EPA's RMDS 2550B, *Official Travel*, provides guidance. Specifically:

Commented [SA35]: Just pointing out that combining personal and official travel is also addressed in the FTR at 301-10.7 and 10.8. It is also addressed in 2550B at pp. 22-23 (2018 manual).

- Section V requires employees to scan into Concur or fax to the travel office all documents used to justify claims for reimbursement, including cost comparisons.

- Section VIII, Cost Comparison Vouchers, states that if employees request an alternate method of travel, travel-authorizing officials should determine the method most advantageous to the federal government prior to approving the travel authorization. Reimbursement will be limited to the lesser of the cost for the alternative method of travel or travel via direct or uninterrupted route.

- Attachment E provides a sample cost comparison worksheet showing how constructive costs are calculated and requires attaching a printed copy of the screen with the flight information to the worksheet for documentation.

Cause

The OIG could not determine a specific cause for the lack of adequate cost comparison and supporting documents. However, the examples discussed show a general lack of understanding of cost comparison requirements in the EPA's travel policy by staff and management responsible for the Administrator's travel.

Effect

Without proper cost comparisons, we were unable to determine whether the costs associated with the Administrator's trips to, and those with stops in, Tulsa were the most advantageous method of travel for the government. These stops in Tulsa may have incurred unnecessary costs to the government and may contribute to the potential for waste and abuse of taxpayer monies.

Recommendation

We recommend that the Chief Financial Officer:

9. Implement controls to confirm that adequate cost comparisons are provided before approving travel authorizations where an alternative travel method is used.

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Finding 8
International Trip Reports Were Inaccurate and Incomplete

Condition

International trip reports were inaccurate and incomplete. The EPA's travel policy requires EPA travelers to complete a trip report in the Fast International Approval of Travel database within 15 days of the final date of travel. The trip report provides an overview of the trip and should note any next steps expected on the part of the EPA or partner organizations. The policy also requires each National Program Manager and region to monitor, at least annually, the completion of international travel reports by its travelers. Upon completion of travel, employees should attach a trip report to their International Trip Plan.

The Administrator had planned four international trips: Mexico City, Mexico; Sydney, Australia; Rome, Italy; and Rabat, Morocco. The trip to Mexico City was canceled without travel and did not require an international trip report. The Sydney trip was canceled prior to the Administrator's departure date, but his advance teams had deployed and arrived 2 days before the trip was canceled, thus requiring a trip report. We obtained hard-copy reports from the Office of International and Tribal Affairs for two of the three trips requiring reports—Sydney and Rome. Our analysis of the reports found numerous errors, including that not all travelers' names were included in the reports. For example, the report for the Sydney trip showed that three employees reported that the "trip was completed successfully without incident." One of these employees did not even go on the trip because it was canceled before his planned trip start date. Also, for both trips, some of the travelers did not file a report and their names were not included in other people's reports. In addition, some of the travel dates in the reports did not match the travel vouchers.

Criteria

The EPA's RMDS 2550B, *Official Travel*, Section VII, Administrative Requirements for International Trip Report, requires EPA travelers to complete a trip report in the Fast International Approval of Travel database within 15 days of the final date of travel. The policy also requires each National Program Manager and region to monitor, at least annually, the completion of international travel reports by its travelers.

Cause

The errors in the international trip reports reflect either the employees' lack of understanding of the requirements or the need for an accurate report. The EPA policy has limited information on the international trip report requirements. Although the lack of an international trip report was raised in a prior OIG audit report,[4] the EPA's revised travel policy did not seem to provide clarifications about the requirement. Rather, the current policy provides less information about the requirement than the prior version. Additionally, although the policy requires employees to

[4] *EPA Needs Better Management Controls for Approval of Employee Travel*, Report No. 15-P-0294, issued September 22, 2015.

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file the trip report in the Fast International Approval of Travel database, it also seems to allow one person to prepare the report for all travelers without designating a responsible office for the report preparation.

Effect

The lack of trip report submissions affects proper monitoring of international engagements. The EPA's Office of International and Tribal Affairs and other EPA offices need trip reports to avoid unnecessary international trips. Without proper monitoring, the EPA cannot verify that international trips achieved expected results, are in the best interest of the taxpayer, and are not duplicative of other international trips.

Recommendations

We recommend that the Chief Financial Officer:

10. Update the EPA's travel policy in Resource Management Directives System 2550B to clarify the requirement and importance of trip reports for all international travel.

11. Implement controls to verify that international trip reports are accurate and complete.

Commented [WN36]: The agency's travel policy updated in April 2018, which clarifies the requirements for International Trip Plans.

Commented [AS37]: This recommendation should be assigned to OITA. Also, see their response to this recommendation.

ED_002125A_00000051-00021

Finding 9
Use of Military and Charter Flights Justified and Met Federal Requirements

Condition

The Administrator's use of military and charter flights was justified and in compliance with the FTR. The Administrator incurred travel costs of $101,787 for three military and two charter flights. The purpose of each trip, along with dates and costs, are identified in Table 3.

Table 3: Use of military and charter flights

Travel date	Type	Destination	Purpose	Costs
03/15/17	Military	DC - Detroit - Nashville	Travel with President	$45,000
06/07/17	Military	DC - Cincinnati – JFK (New York)	Travel with President	36,068
09/09/17	Military	DC - Camp David	Cabinet meeting with President	n/c
			Total military flights	**$81,068**
07/27/17	Charter	Tulsa – Guymon – Oklahoma City	*Waters of the United States* State Action tour	$15,000
08/04/17	Charter	Denver - Durango	Gold King Mine meeting	5,719
			Total charter flights	**$20,719**
			Total military and charter flights	**$101,787**

Source: OIG analysis of EPA travel data and travel authorizations and vouchers from Concur travel system.

The Administrator's use of military flights pertained to travel with the President of the United States, except for travel from Cincinnati to the JFK airport in New York. The Administrator and his staff flew military aircraft from Cincinnati to JFK without the President to catch an evening flight to Rome, Italy. Federal travel regulations allow for the use of military flights to meet scheduling needs. For those flights involving the President, the FTR allows for the use of military flights to fulfill a mission requirement.

The Administrator's use of chartered flights included a planned flight to Guymon (Oklahoma) as part of the *Waters of the United States* State Action tour. The charter was necessary due to the remote location of the meeting site—commercial flights were not available. The use of the second charter was an unplanned flight from Denver to Durango (Colorado) for a meeting at the Gold King Mine, where a major spill had occurred. The use of the charter resulted from weather delays with a booked commercial flight. The charter was needed to meet the Administrator's schedule. Our audit found that the use of the charter flights was justified under the FTR, which allows for the use of charters to meet scheduling needs.

Criteria

The EPA's RDMS 2550B, *Official Travel*, Section V, Federal Government Aircraft, states that the EPA's use of a federal government aircraft—chartered or federal government-owned—must comply with Office of Management and Budget Circular A-126. The EPA must determine the service necessary to fulfill a mission requirement, including exceptional, scheduling,

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communication or security requirements; or if there is a substantial cost savings to the government. These guidelines are implemented in FTR §301-10.261 through §301-10.264.

Cause

The actions taken by agency staff demonstrate a knowledge of and adherence to travel requirements for booking and approving the use of military and charter flights.

Effect

The agency complied with applicable policy.

Recommendations

We make no recommendations on the Administrator's use of military or chartered flights.

ED_002125A_00000051-00023

Message

From: Ferguson, Lincoln [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=08CD7F82606244DE96B61B96681C46DE-FERGUSON, L]
Sent: 4/25/2018 1:19:29 PM
To: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Wilcox, Jahan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=88fd588e97d3405d869bcae98d391984-Wilcox, Jah]
CC: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Kelly, Albert [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08576e43795149e5a3f9669726dd044c-Kelly, Albe]
Subject: RE: APPROVAL: Request for comment on hearings

Good with me

From: Lyons, Troy
Sent: Wednesday, April 25, 2018 9:07 AM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>
Subject: Re: APPROVAL: Request for comment on hearings

Looks good

Sent from my iPhone

On Apr 25, 2018, at 8:45 AM, Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:

> We should continue to lower the bar and praise Trump. Below is a statement regarding hearing prep that we can use throughout the day:
>
> **"These hearings are an opportunity to reiterate the accomplishments of President Trump's EPA which includes: working to repeal Obama's Clean Power Plan and WOTUS, providing regulator certainty, and declaring a war on lead all while returning to Reagan-era staffing levels."** – EPA spokesman, Jahan Wilcox
>
> **From:** Friedman, Lisa [mailto:lisa.friedman@nytimes.com]
> **Sent:** Wednesday, April 25, 2018 7:32 AM
> **To:** Bowman, Liz <Bowman.Liz@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Press <Press@epa.gov>
> **Subject:** Request for comment on hearings
>
> Hi Liz & Jahan,
>
> I'm running a story today that advances the congressional hearings at which Mr. Pruitt will testify Thursday.
>
> The story will include and make reference to a document that I have, entitled "Hot Topics." The story will characterize this document as outlining Mr. Pruitt's potential responses to likely questions during the hearings.
>
> Can you tell me who drafted this document? I'd also like to get a comment on whether it accurately describes answers that Mr. Pruitt has been prepped by staff to give.

I won't attach the actual document but for purposes of verifying its validity with you, this with you it begins:

HOT TOPICS

Condo

Kevin Minoli, EPA's principal deputy general counsel, in a March 30 memo determined that the rate for 30 consecutive days would have equated to a monthly rent of$1,500. Minoli described that as " reasonable market value." He also found it did not constitute a "prohibited gift." I would be happy to provide that memo to your staff.

These, according to the document, are some of the other topics he is prepared to address — several of which I will make reference to in the story:

SCIF; Sweeping the office; Biometric Locks; Bullet proof vehicles and tires; Office Decoration; Netjets; G7 Trip; Staffing (Raises; Samantha Dravis; Alleged Reassignment of Staff); Sue and Settle; Super Fund Task Force; Travel; First Class Travel; Morocco; Non-Commercial Flights; Homebuilders Association Hotel; Advisory Panels (membership, grants); Definers Contract; Chlorpyrifos; Climate change strategic plan; Enforcement; Funding; DOJ Funding; emails; Environmental Justice; War on Lead; IRIS; grants process; meetings with industry; Narragansett Bay; Regulatory Task Force; Reorganizations; and VERA/ViSP.

Finally, the story will point out that, according to the preparations shown in this document, Mr. Pruitt may say that other people were responsible for the bulk of the recent spending and ethics issues like frequent first class travel, the SCIF and pay raises.

I will need a comment on this by 11 a.m, and of course if you have any other comment on Mr. Pruitt's plans for testifying before Congress tomorrow I will certainly include. I'll be out of pocket for the next hour but you can also call me on my cell after 8:30 a.m. if you'd like to speak directly.

Thanks so much,

Lisa

--
Lisa Friedman
Reporter, New York Times
(202) 862-0306 office
(202) 251-2083 cell

Message

From: Vizian, Donna [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CB2401BF8D4F441DBF27F21E122BE2C5-VIZIAN, DONNA]
Sent: 4/10/2018 6:32:12 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Wilcox, Jahan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=88fd588e97d3405d869bcae98d391984-Wilcox, Jah]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Leopold, Matt [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Re: APPROVAL: security threat - comment request

It's an ongoing personnel issue so we need to be careful what we say

On Apr 10, 2018, at 2:31 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Thank you.

So Troy, this was the culmination of a full year's worth of investigation which was going on nearly on the first day I arrived.

From: Vizian, Donna
Sent: Tuesday, April 10, 2018 2:14 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Leopold, Matt <Leopold.Matt@epa.gov>
Subject: RE: APPROVAL: security threat - comment request

He left escorted by Ted and one of my labor relations staff at 11am today.

From: Jackson, Ryan
Sent: Tuesday, April 10, 2018 2:07 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Vizian, Donna <Vizian.Donna@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Leopold, Matt <Leopold.Matt@epa.gov>
Subject: FW: APPROVAL: security threat - comment request

Here is the trail.

CNN has also asked us about Mario being walked out of the building to which we have responded that we don't discuss personnel issues. Mario is #2 in DHS. He has lost his security clearance and been investigated for the past year to reach the conclusion of placing him on administrative leave. However, with Whitehouse saying he has something from OHS and Mario coinciding on the same day is not good. Donna is checking on whether Mario has actually left the building and whether this action has been taken as of yet.

From: Wilcox, Jahan
Sent: Tuesday, April 10, 2018 10:44 AM

To: Jackson, Ryan <jackson.ryan@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>
Subject: APPROVAL: security threat - comment request

UPDATED STATEMENT (With RJ's suggestion):

"Scott Pruitt has faced an unprecedented amount of death threats against him and these threat assessments are conducted within OECA using information collected from the PSD, EPA's Office of Homeland Security, and Inspector General. Americans should all agree that members of the President's cabinet should be kept safe from these violent threats." – EPA spokesman, Jahan Wilcox

---

From: Jackson, Ryan
Sent: Tuesday, April 10, 2018 10:39 AM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: APPROVAL: security threat - comment request

Also, I would include that threat assessments are conducted within OECA and involves information collected from the PSD, EPA's Office of Homeland Security, and Inspector General.

From: Wilcox, Jahan
Sent: Tuesday, April 10, 2018 10:36 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: APPROVAL: security threat - comment request

I think we just stick to what we have been saying. That said it's odd for us to respond to a letter between 2 Senators. Will wait for RJ or Troy's guidance.

"Scott Pruitt has faced an unprecedented amount of death threats against him and these threat assessments are conducted within OECA using information collected from the PSD, EPA's Office of Homeland Security, and Inspector General. Americans should all agree that members of the President's cabinet should be kept safe from these violent threats." – EPA spokesman, Jahan Wilcox

BACKGROUND …

Patrick Sullivan, EPA's Assistant Inspector General For Investigations said there are a number of threats against EPA Administrator Scott Pruitt. "'We have at least four times -- four to five times the number of threats against Mr. Pruitt than we had against Ms. [Gina] McCarthy,' said Patrick Sullivan, EPA's assistant inspector general for investigations, referring to Pruitt's predecessor during the Obama administration. He declined to provide the specific numbers of threats against Pruitt. 'They run the variety of direct death threats -- 'I'm going to put a bullet in your brain' -- to implied threats -- 'if you don't classify this particular chemical in this particular way, I'm going to hurt you,'' Sullivan told CNN in an interview. 'Then there's implied threats -- like they say in New York, with the mafia: 'If you come after me and my family, I'll come after you and your family.'' (CNN, 11/28/17)

According to Patrick Sullivan, threats have nearly doubled against Pruitt. "In an interview with

E&E News, Patrick Sullivan, EPA's assistant IG for investigations, said the watchdog opened roughly 70 threat probes in fiscal 2017, including cases and complaints related to EPA facilities and personnel. That surpassed the total of about 45 such probes into threats against EPA from fiscal 2016. Sullivan also said Pruitt has faced more threats than his immediate predecessors, former administrators Gina McCarthy and Lisa Jackson. 'He has had significantly more threats directed against him. There's absolutely no question about it,' Sullivan said." (E&E News, 01/11/18)

Threats have been made against Pruitt and his family. "The administrator of the Environmental Protection Agency said an increase in his security detail is the result of an escalation in threats to him and his family. 'The quantity and the volume -- as well as the type -- of threats are different," Pruitt said in an interview with Bloomberg News. "What's really disappointing to me as it's not just me -- it's family.'" (Bloomberg, 10/26/17)

Pruitt said threats the level of protection is decided by the threat. "The level of protection is dictated by the level of threat," Pruitt said, noting security arrangements are decided by others assessing the situation." (Bloomberg, 10/26/17)

EPA's Office EPA's Office of Criminal Enforcement, Henry Barnet said there have been incidents of aggressive behavior against Pruitt. "There were 'incidents where he was being approached -- vulgar language, people were being somewhat aggressive towards him -- and so the special agent in charge provided documentation -- a memo -- to me and up the chain of command requesting the administrator be placed in business- or first-class to avoid these potential issues for the safety of the administrator.'" (Bloomberg, 02/15/18)

EPA's Office EPA's Office of Criminal Enforcement, Henry Barnet said it's their job to ensure they can pull Pruitt away from threats. "The agents have to make sure he's in a position where they can protect him," the director of EPA's Office of Criminal Enforcement, Henry Barnet, said in an interview. "If he's surrounded by other members of the public or it's a threat, their job is to push him and pull him away from those threats. That's why it is imperative to keep him away from the individuals so they can keep him safe." (Bloomberg, 02/15/18)

EPA's Protective Service Detail says there is a high level of interest against Pruitt. "Perrotta described a "high level of unusual interest in the administrator," calling it the most he's ever seen while safeguarding EPA chiefs." (Bloomberg, 02/15/18)

From: Friedman, Lisa [mailto:lisa.friedman@nytimes.com]
Sent: Tuesday, April 10, 2018 10:32 AM
To: Press <Press@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Subject: security threat - comment request

Sen. Whitehouse has sent a letter to Barrass - he said he has an EPA Homeland Security intelligence assessment that he says undercuts the October memo of Mr. Pruitt's security detail justifying the need for first-class travel, etc. as security measures. We're doing a story quickly - if you have any immediate comment I will put it in as quickly as possible; we are also writing through the story today.

Best,
Lisa

--
Lisa Friedman
Reporter, New York Times
(202) 862-0306 office
(202) 251-2083 cell

Senate Committee on Environment and Public Works
"Oversight Hearing to Receive Testimony from Environmental Protection Agency Administrator Scott Pruitt"
Questions for the Record for Administrator Scott Pruitt
January 30, 2018

1. At the hearing, I asked you about your travel to Oklahoma during the period from May 4, 2017 to May 8, 2017. You agreed to provide me with additional information about your activities in Oklahoma during this time period as the only non-redacted item appearing on your calendar is a one hour lunch meeting with the CEO of the National Rural Water Association.
    a) What other official business did you conduct in Oklahoma during this time period?
    b) Why does your calendar only show a one-hour lunch on May 5?
    c) Did you meet with or attend any events organized by the Oklahoma Republican Party, political fundraisers, political strategists, and/or candidates for office during this or any other trip to Oklahoma since you were confirmed as EPA Administrator? If so, please provide details about each of those meetings.
    d) Please provide all authorizations or guidance from EPA's designated ethics official for any aspect of this trip.

    The Administrator's calendar is publicly available at https://www.epa.gov/senior-leaders-calendars. The agency has also released a more-detailed version of the Administrator's private calendar in response to FOIA requests and Congressional oversight requests. The portion of this calendar responsive to your request is attached.

2. According to your Outlook calendar, on Wednesday, June 7, you flew to Rome. You were scheduled to attend the G7 environment ministers summit meeting in Bologna on June 11 and 12. Your Outlook calendar for Thursday, June 8 shows one meeting which is entirely redacted. Your Outlook calendar for Friday, June 9 also shows one meeting which is entirely redacted. Your Outlook calendar shows no events for Saturday, June 10. Your Outlook calendar for Sunday, June 11 indicates that you were at the summit meeting in Bologna, but it also shows that you flew back to JFK on an Emirates flight from Malpensa Airport in Milan. This flight is normally scheduled to depart at 3:40 PM. Normal drive time between Bologna and Malpensa is two and a half hours, meaning that you could have at best attended half a day of the two day summit.

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a) With whom did you meet on June 8?
b) With whom did you meet on June 9?
c) With whom did you meet on June 10?
d) If there were any additional meetings beyond the one indicated on June 8 and the one indicated on June 9, why do they not appear in your Outlook calendar?
e) For how long did you attend the G7 environment ministers summit meeting on June 11? What events were you physically present for?
f) Did you attend any of the G7 environment ministers summit on June 12?
g) With whom did you meet on June 12?
h) Please provide all authorizations or guidance from EPA's designated ethics official for any aspect of this trip.
i) If in fact you were meeting with Catholic Church officials in Rome as has been reported, did you discuss the Pope's recent *Laudato Si* encyclical, which urges immediate action to tackle climate change, or any other Church positions on environmental issues?

Please see the response to Question 1 regarding the Administrator's calendar generally. The portion of the Administrator's calendar responsive to your request is attached. As you note, the purpose of the trip was to attend the G7 summit, and specifically to discuss the Paris decision. This trip is a subject of an ongoing congressional oversight inquiry to which the agency is in the process of responding. We will also send responsive documents to you as they become available for delivery.

3. According to your Outlook calendar, you flew to Rabat on Saturday, December 9. Your Outlook calendar has no entry for Sunday, December 10. On Monday, December 11, it shows one meeting with the Moroccan Agency for Sustainable Energy and then one redacted entry.
   a) With whom did you meet while in Morocco on December 10 and December 11?
   b) It has been reported that you promoted exports of American liquefied natural gas (LNG) while in Morocco. The mission of EPA (as stated on the EPA website) is "to protect human health and the environment." How does promoting LNG exports fulfill EPA's mission?
   c) With whom did you discuss LNG exports while in Morocco?
   d) Prior to travelling to Morocco, did you speak with any industry representatives that could profit from the sale of natural gas abroad about promoting their products abroad? If so, with whom?
   e) Since travelling to Morocco, have you spoken with any industry representatives that could profit from the sale of natural gas abroad about promoting their products abroad? If so, with whom?
   f) Please provide all authorizations or guidance from EPA's designated ethics official for any aspect of this trip.

Please see the response to Question 1 regarding the Administrator's calendar generally. The portion of the Administrator's calendar responsive to your request is attached. The focus of our trip to Morocco was to negotiate the environmental chapter of our free trade agreement and further our partnership by discussing innovations in environmental technologies with State officials. Moroccan government officials briefed the Administrator on aspects of Morocco's green economy. Likewise, the Administrator shared opportunities for the United States' involvement in Morocco's sustainable development. As with the Italy trip, this trip is a subject of an ongoing congressional oversight inquiry to which the agency is in the process of responding. We will also send responsive documents to you as they become available for delivery.

4. On Monday, January 1, your Outlook calendar shows you had two events, both of which have been redacted.
    a) With whom did you meet on Monday, January 1?
    b) Did you attend the Rose Bowl on January 1?
    c) If so, who paid for your tickets?
    d) If so, who paid for your plane fare and accommodations while in Southern California?
    e) If so, did your private security detail accompany you for this trip? If your private security detail accompanied you, what was the total cost to taxpayers associated with their presence during this trip?
    f) Please provide all authorizations or guidance from EPA's designated ethics official for any aspect of this trip.

The review of this specific trip has been referred to the EPA's Office of Inspector General, which has investigatory authority. More information may be available at the conclusion of this investigation.

5. You have been quoted as saying that you fly first class based on an assessment made by your private security detail and your chief of staff.
    a) Is this assessment a blanket assessment that applies to all travel or is it made on a cases by case basis?
    b) Please provide any written guidance you have received from agency officials that justifies this expense. If you are relying on guidance from a previous administration, please provide that guidance too.
    c) When you fly first class, does your security detail also fly first class with you?

Please see attached travel vouchers and receipts for my travel up to February 2018, along with an explanatory letter from the EPA Controller, Jeanne Conklin.

6. What was the total cost of your security detail for calendar year 2017? Total cost should include salaries, benefits, overtime, vehicles, equipment, travel, lodging, per diems, as well as any accommodations that must be made for them while they are on nightshift outside your residence.
    a) Does your security detail provide the same protection to you on trips outside Washington DC that do not involve official business?

       For safety and security reasons, the EPA does not discuss the operational security measures associated with the Protective Service Detail.

    b) What was the total cost of security provided to the EPA Administrator in FY 2016?

       For safety and security reasons, the EPA does not discuss the operational security measures associated with the Protective Service Detail.

    c) President Trump's FY 2019 budget would cut EPA's funding by more than a third and reduce EPA's staff by more than 20 percent. Will these cuts be reflected in the funding and personnel allocated to your private security detail?

       The overall FY 2019 budget reduces or eliminates discretionary programs and focuses the agency's efforts on statutory obligations. Security for staff and enhanced security for the Administrator remain required functions and are supported at the levels recommended by agency security professionals.

7. It has been reported that you spent $25,000 to install a sound-proof booth in your office.
    a) Have you ever used that booth to make a call outside the federal government? If so, please list each call and the reason for the call.
    b) Are you maintaining a log of all calls made from that secure line?

   For security reasons, the EPA does not discuss the operational measures associated with sensitive and secure communications.

8. In October, you issued a new directive barring academic scientists who accept EPA grant money from serving on EPA's Science Advisory Boards. At your hearing, I introduced for the record a new report by the Union of Concerned Scientists that reveals that under your tenure, representation of academic scientists on EPA Science Advisory Boards has declined by 40 percent while industry representation has tripled. Yet many of the people you nominated to the SABs are closely tied to industry and appear to have conflicts of interest. Consider the following nominees:

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- Dr. Kimberly White: Currently the senior director of chemical products and technology at the American Chemistry Council, a trade association that lobbies on issues that the SAB has covered and will likely cover in the future, including formaldehyde, flame retardants, hexavalent chromium, phthalates, bisphenol-A, ozone, NAAQS, and water infrastructure.
- Robert W. Merritt: Spent his career in the oil industry, including stints at ExxonMobil, Total, and Elf Aquitaine.
- Larry Monroe: Recently retired as an executive of Southern Company. He has also held a leadership role in industry groups including the Utility Air Regulatory Group, the Electric Power Research Institute, and the Coal Utilization Research Council.
- Merlin Lindstrom: Currently the VP of technology at Phillips 66 Company.
- Dr. Tony Cox: Private consultant who has received funding from the American Chemistry Council related to silica research, the American Petroleum Institute on particulate matter analysis, and the National Stone, Sand, and Gravel Association for silica analysis.

a) Have you put in place any rules to prevent an industry representative from sitting on a SAB from opining on matters that will affect her employer?
b) If so, how do the above nominees not run afoul of such conflict of interest rules?
c) Why does receiving an EPA grant present a conflict of interest that automatically bars a scientist from being able to serve on an EPA advisory board, committee or panel under the Federal Advisory Committee Act (FACA) or any other recognized standard?
d) Is the risk of academic scientists not acting independently and objectively because of the source of their funding qualitatively different from industry-funded scientists?
e) Before issuing your October directive on SAB membership, did EPA conduct any assessment of how excluding all scientists currently receiving EPA funding would affect the ability of EPA to attract qualified scientists to serve on its FACs?
f) Your October directive put a priority on "fresh perspectives." What definition is EPA using to decide whether a scientist offers "fresh perspectives"? How is that definition consistent with FACA and its implementing regulations?

EPA follows (and is committed to following) all Federal ethics rules and regulations, including conflict of interest matters, for all FACA appointees who serve as special government employees.

9. At your hearing, I introduced two internal EPA documents relating to the deliberations surrounding the nomination process for one of the SABs, the Clean Air Scientific Advisory Committee (CASAC). These documents show that EPA's career staff recommended 11 scientists to serve on CASAC. Instead of accepting those recommendations, Dr. Richard Yamada instead sent back three names, two of whom were not recommended by career staff because one lacked "direct experience in health effects of air pollution" and one had potential conflicts of interests. Ultimately, EPA nominated the two people, Dr. Tony Cox and Dr. Larry Wolk, who were selected by Dr. Yamada and not recommended by career staff.
    a) Will you commit to follow the recommendations of EPA's career staff and ensure that no one appointed to EPA's SABs are either unqualified or have conflicts of interests?
    b) If you are unwilling to make that commitment, under what circumstances do you believe it is justified to deviate from the recommendations of career staff?

EPA follows (and is committed to following) all Federal ethics rules and regulations, including conflict of interest matters, for all FACA appointees who serve as special government employees.

10. Your recently released FY 2017 enforcement report contains more than three and half months of enforcement actions overseen by the Obama administration and is therefore not an accurate overview of your enforcement efforts. In that report you highlighted the following "enforcement accomplishments":
    - An increase in the value of commitments by private parties to clean up sites to more than $1.2 billion.
    - An increase in the environmental benefits of EPA Superfund and RCRA Corrective Action enforcement, with commitments to address an estimated 20.5 million cubic yards of contaminated soil and 412 million cubic yards of contaminated water.
    - An increase in the total of criminal fines, restitution, and mitigation to $2.98 billion.
    - An increase in the years of incarceration resulting from EPA's criminal enforcement actions to 150 years.
    - An increase in the value of actions taken to improve compliance with the law and reduce pollution, to nearly $20 billion.
    - $1.6 billion in administrative and civil judicial penalties, higher than any of the previous 10 years other than FY 2016, which included the $5.7 billion BP action."[1]

    For each claim you make above, please specify the enforcement matters you are counting in the total, the date on which the enforcement matter was initiated, and the date on which the enforcement accomplishment was achieved.

[1] https://www.epa.gov/newsreleases/epa-announces-2017-annual-environmental-enforcement-results

This Administration is proud to highlight accomplishments and to honor EPA employees for all of the great work they did last fiscal year. The enforcement and compliance work accomplished in fiscal year 2017 demonstrates the agency's commitment to hold polluters accountable and to continue working with federal, state and tribal partners to increase environmental compliance and enforce the rule of law. Because many enforcement cases can take months or years to develop and come to fruition, the EPA continues to focus its enforcement efforts on the most significant cases that maximize compliance results, not the number of individual actions. In addition, EPA works cooperatively with states as partners, even if our efforts are not directly reflected in the number of individual actions taken. EPA regularly works with individual states as they conduct a vast portion of the inspections and subsequent enforcement actions to ensure that companies comply with environmental laws.

The following tables include information regarding criminal fines, restitution, and mitigation as well as administrative and judicial actions that are included in the FY 2017 results. The tables also show the proportion of activity included in the fiscal year 2017 results completed before and after January 20, 2017.

Chart 1: Percentage of FY17 fines, penalties, and other relief secured before and after January 20, 2017.

Measure	Percentage for October 1, 2016-January 19, 2017	Percentage for January 20, 2017 – September 30, 2017
Fines (Criminal)	0.3%	99.7%
Restitution (Criminal)	57.5%	42.5%
Years of Incarceration	44.1%	55.9%
Court Ordered Environmental Projects (Criminal)	37.1%	62.9%
Amount Committed by Liable parties to Clean Up for Superfund sites	5.6%	94.4%
Amount Committed by Liable Parties to Reimburse the Government for Past Costs at Superfund Sites	15.7%	84.3%

Judicial Penalties	**3.2%**	**96.8%**
Administrative Penalties	**27.5%**	**72.5%**
Injunctive Relief (Judicial and Administrative)	**82.5%**	**17.5%**
Supplemental Environmental Projects (Judicial and Administrative)	**23.2%**	**76.8%**

Chart 2: Percentage of cases included in the FY17 reporting that were initiated, opened, or filed after January 20, 2017.

Measure	**Percentage for October 1, 2016- January 19, 2017**	**Percentage for January 20, 2017 – September 30, 2017**
Civil Judicial Referrals	**28.9%**	**71.1%**
Criminal Cases Opened	**39.1%**	**60.9%**
Inspections/Evaluations[2]	**20.1%**	**79.9%**
Administrative Penalty Order Complaints (APOCs)	**22.9%**	**77.1%**
Administrative Compliance Orders (ACOs)	**21.5%**	**78.5%**
Final Administrative Penalty Orders (FAPOs)	**22.5%**	**77.5%**
Complaints Filed With Court	**48.2%**	**51.8%**

In addition, the three enclosures listed below provide additional detail regarding the FY 17 results. Since any set of data is a snapshot in time, the attached data contains several slight modifications from the data that was pulled in October 2017 and used to populate the FY 2017 Annual Results. The attachments are based on a recent data pull and reflect corrections that have been made to the FY 2017 enforcement actions since they were released. The following changes are reflected in the two

[2] The Inspection/Evaluation totals in this chart exclude manually reported SDWA UIC inspections because EPA does not maintain the date of these inspections. The FY 2017 total number of inspections reported for Annual Results, including SDWA UIC inspections, is 11,756 (9,918 + 1,838 manually reported SWDA UIC inspections.)

attachments as a result of data being corrected after the Annual Results were published:

- **The years of incarceration increased from 150 years to 158 years.**
- **The total value of administrative penalties assessed decreased from $48,078,393 to $48,049,183.**
- **The total value of judicial penalties assessed increased from $1,583,645,506 to $1,584,635,506**
- **The total value of complying actions (administrative) increased from $659,508,331 to $660,406,193.**
- **The total value of complying actions (judicial) increased from $19,312,276,708 to $19,314,331,142**

Enclosures:

Enclosure 1 includes the FY 2017 criminal enforcement actions we are counting in the total; the date on which the action was initiated; and the date on which the enforcement accomplishment was achieved.

Enclosure 2 includes the FY 2017 administrative and judicial actions we are counting in the total; the date on which the action was initiated; and the date on which the enforcement accomplishment was achieved.

Enclosure 3 includes the FY 2017 commitments by private parties to clean up sites and benefits of EPA Superfund and RCRA corrective actions we are counting in the total; the date on which the action was initiated; and the date on which the enforcement accomplishment was achieved.

11. At your hearing, you restated your commitment to lead a "war on lead." Under EPA's FY 2019 "Budget in Brief," funding for EPA's lead risk reduction prevention program is entirely eliminated. I also note that funding for grants related to lead is eliminated. Please explain how cutting funding for EPA's work on lead is consistent with your claims to be leading a war on lead.

The work of the Lead Risk Reduction Program in its entirety will not be eliminated; critical aspects of the program will continue. EPA will continue to provide firm and individual certifications for safe work practices for lead-based paint abatement and renovation and repair efforts. EPA will also continue to provide for operation and maintenance of the online database that supports the processing of applications for training providers, firms, and individuals. Other forms of lead exposure (in water and air) continue to be addressed through a host of federal and state programs.

These efforts play an integral role in addressing the critical issue of childhood lead poisoning, the core focus of EPA Administrator Pruitt's "War on Lead", through a combination of outreach and regulations. Although EPA's grant funding to states is proposed for elimination, states could choose to fund programs targeted at reducing lead-based paint poisoning and continue activities that have been supported by EPA.

Broader agency efforts to combat lead exposure include planned updates to the Lead and Copper Rule to reduce lead in drinking water, use of a range of tools such as SRF and WIFIA funding and the Brownfields Program, and critical research efforts including grants. For example, EPA recently awarded $1.9 million to Virginia Tech (principal investigator Dr. Marc Edwards) to research strategies to detect and control lead exposure in drinking water and $1.9 million to the Water Research Center in Denver, CO, to create a risk-based model to identify opportunities to mitigate lead exposure from drinking water including at home and community levels, especially among children and pregnant women.

12. You met with Senator Sullivan and me on January 9, 2018 to discuss our concerns relating to marine debris. You informed us that reducing marine debris would be a priority of yours, something you again affirmed to Senator Sullivan at your hearing. Under EPA's FY 2019 "Budget in Brief," funding for EPA's marine pollution program is eliminated. Please explain how cutting funding for EPA's marine pollution work is consistent with your statements to members of the Committee that you are committed to reducing marine debris.

    I support the President's Budget but will implement whatever laws the Congress passes and the President signs.

13. On October 31, 2017, I wrote to you about EPA's decision to prohibit three EPA-affiliated scientists from presenting their research at a workshop put on by the Narragansett Bay Estuary Program (NBEP). On December 4, 2017, you wrote back to me that you had "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." While I appreciate that commitment and your answers to several of the questions I raised, you ignored others. I renewed this line of questioning again at your hearing, and you agreed to respond. I therefore repeat those questions here:
    a) Who made that decision? At what level was it approved? Please provide all communications related to that decision, and any documents that reference the NBEP October 23 workshop.

b) Please provide all communications between Autumn Oczkowski, Rose Martin, Emily Shumchenia, and/or any other representative of the Atlantic Ecology Division and (1) Region 1 EPA Headquarters and/or (2) EPA's main headquarters in Washington, D.C. related to the participation of any EPA employee(s) or contractor(s) in NBEP's October 23, 2017 press conference and workshop or the EPA research to be presented at that conference.
c) The *Washington Post* has previously reported that John Konkus, who is deputy associate administrator in EPA's Office of Public Affairs, "reviews every award the agency gives out" and "has told staff that he is on the lookout for 'the double C-word' — climate change." What role will Mr. Konkus have reviewing annual work plan submissions and long-term comprehensive conservation and management plans for National Estuaries Program sites? Please provide any guidance used by Mr. Konkus or any other EPA staff used to review these submissions.

EPA has awarded millions to the Narragansett Bay Estuary Program over the years including recently awarding a $600,000 grant to the Narragansett Bay Estuary Program. The event in question was not an EPA event; but we were pleased to attend the event nevertheless. EPA scientists included their findings in the report and that report is public and we encourage people to review it. We believe estuaries across America play a vitally important role in regional environments and local economies. We have a centralized search underway that may yield documents responsive to this request. We will deliver responsive documents as they become available.

Message

From: Lyons, Troy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=15E4881C95044AB49C6C35A0F5EEF67E-LYONS, TROY]
Sent: 7/18/2017 4:45:16 PM
To: Greaves, Holly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=abcb6428b3df40a9a78b059a8ba59707-Greaves, Ho]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
Subject: RE: QFRs

Let us know if you need us to make any changes

From: Greaves, Holly
Sent: Tuesday, July 18, 2017 9:33 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: Fwd: QFRs

Ryan, here is the entire list of QFRs.

Sent from my iPhone

Begin forwarded message:

> **From:** "Greaves, Holly" <greaves.holly@epa.gov>
> **Date:** July 17, 2017 at 11:20:18 AM EDT
> **To:** "Jackson, Ryan" <jackson.ryan@epa.gov>
> **Cc:** "Bowman, Liz" <Bowman.Liz@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>
> **Subject: RE: QFRs flagged for chief of staff review**
>
> Ryan, here is the whole list – about half of these are "cleared by OMB" and they are working through the other half now, so there may be minor edits.
>
> As a reminder, the deadline to the Hill is tomorrow. In the event you or OMB is not finished with their review and we don't get all of these to the Hill tomorrow COB, then the Hill would include the following language in the hard copy hearing book, which includes the transcript of the hearing and QFRs (I don't believe QFRs go anywhere else):
>
> ***"The Agency was not able to complete the questions for the record due to the expedited process, but are committed to answering them as quickly as possible."***
>
> Hopefully we will push through, but just wanted you to be aware of the consequences if there is a delay.
>
> Thanks,
> Holly
>
> ---
>
> **From:** Jackson, Ryan
> **Sent:** Monday, July 17, 2017 9:46 AM
> **To:** Greaves, Holly <greaves.holly@epa.gov>
> **Cc:** Bowman, Liz <Bowman.Liz@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
> **Subject:** RE: QFRs flagged for chief of staff review

Can I get the whole list in a Word version with everyone's contributions. I know there's a number I need to answer regarding scheduling.

From: Greaves, Holly
Sent: Friday, July 14, 2017 3:25 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Bowman, Liz <Bowman.Liz@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: QFRs flagged for chief of staff review

Ryan,

Liz and I wanted to flag the following QFRs for your review. Please see our proposed response, and let me know if you have any edits:

McCollum Q35: To date, what are the total travel costs incurred by the Administrator including all support staff? What was the total travel costs per year for the Administrator for the last four years?

Answer: As of June 30, 2017 the total travel cost incurred by the Administrator and support staff was $133,934

The previous Administrator, Mrs. McCarthy's per year individual travel cost is as follows (this does not include support staff costs):

FY 2013	$5,651.28
FY 2014	$53,577.85
FY 2015	$37,581.77
FY 2016	$49,616.55
FY 2017	$8,110.67
Please note, total does not include support staff costs.	

McCollum Q36: How many times has Administrator Pruitt traveled to Oklahoma since becoming Administrator? For each trip made to Oklahoma using federal funds, provide the purpose of the trip and the purpose for any meetings the Administrator attended.

Answer: Administrator Pruitt has traveled to Oklahoma five times since becoming Administrator to receive awards, meet with environmental organizations impacted by EPA's regulations and to tour various environmental facilities.

(OECA)
McCollum Q37: From what program projects is protection of the Administrator funded and what are the FY 2017 and FY 2018 requested levels? Provide the costs of the security detail provided to Administrator Pruitt and provide the last four years of security costs for Administrator protection.

> **Answer:** The Office of Enforcement and Compliance Assurance (OECA) receives funding for the Administrator's Protection Services Detail (PSD) in the Facilities Infrastructure and Operations program project. The actual PSD costs for fiscal years

2013-2016, the FY 2017 request and enacted levels, as well as the FY 2018 request levels, are included in the table below.

Resources (dollars in thousands)

	FY 2013 Actuals	FY 2014 Actuals	FY 2015 Actuals	FY 2016 Actuals	FY 2017 Request	FY 2017 Enacted	FY 2018 Request
Dollars	$2,036	$2,228	$2,138	$1,751	$2,312	$4,364	$5,706
FTE	8.4	8.4	7.7	5.6	8.0	15.5	20.0

(OA)

McCollum Q38: Does Administrator Pruitt fly first class at the federal tax payers' expense? If so, what is the justification for the upgraded travel? Did prior Administrators use this justification and, if so, which ones?

Answer: Administrator Pruitt flies either Premium Business Class or First Class due to security reasons. The Administrator has left the assessment of his security needs to the professionals at EPA who have experience in that area. It was determined after reviewing related documentations that his request complied with criteria outlined in the Federal Travel Regulation (FTR). Prior Administrators have used other justifications allowed by FTR.

PAY RAISE ALLEGATIONS:

I understand that the raises were given under lawful authority, but when I learned that they were given without White House approval I resubmitted them to the White House personnel office for review.

The Safe Drinking Water Act of 1977 established 30 positions to be filled by the Administrator to fulfill responsibilities under the SDWA or "under other provisions of law" and may fill "scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws." 42 U.S. Code § 300j–10.

This authority has been used consistent with prior Administrations to fill roles from junior and support staff to special advisors with very technical expertise for Administrators. A history of roles can be provided to Congress.

Process

- EPA hires administratively determined positions, Schedule C, and Non-career SES positions.
- For each, the employees complete background information and fingerprinting
- For ADs, EPA can hire, set salary, set title once background information is returned
- For Schedule Cs and Non-career SES positions, EPA proposes the hire, salary, and title and Presidential Personnel Office confirms each before hiring.
- The same process is true for salary adjustments:
  - For AD's EPA staff prepare a salary adjustment justification for the file and make salary changes.
  - For Schedule C's and Non-career SES positions, EPA staff prepare a salary adjustment justification or title change and submit to PPO for confirmation.

TRAVEL:

Official travel for the agency is governed by federal regulation and EPA policy. I understood there was a process that included career staff in my office to arrange travel and ensure that it met relevant requirements. It is my understanding that my travel was approved and vouchers have been reimbursed by these career professionals consistent with those policies.

Process

- When official travel is necessary, an itinerary for the trip is handed to a travel preparer. The traveler preparer will log in the agency's electronic travel system (ETS) and book reservations for the trip as well as start the travel authorization (TA) which funds the trip.
- If the traveler requires a class of service other than coach, it must be booked by calling BCD travel directly. The traveler must obtain the proper approval for the class of service being used by citing one of the exceptions and submitting a request to the proper authority.
- Once all reservations are booked, they are dropped in the TA where all the non-reservation expenses (i.e. meals, taxis, etc.) are added.
- After this is complete, the preparer can sign the TA on the traveler's behalf and send it to the authorizer who would look to see that the trip is justified and all expenses are reasonable.
- Once the traveler returns from the trip, the traveler would hand all the expense receipts from the trip to the travel preparer. The preparer would create a voucher based on the receipts, adjusting the estimates from the TA to match the actual incurred cost.

- When the prepared voucher is complete, it is signed by the traveler to move on to the next step.
- After the traveler signs, the voucher would go the authorizer for approval. The authorizer would assure all cost are reasonable, match the receipts provided, and all expenses are justified. Once it is signed by the authorizer, the voucher is sent to the payment office.

SECURITY:

When I came to EPA, I experienced an unprecedented number of threats. This was not people just being rude, as the media has reported. There are legitimate threats on my life and to my family, and they are because of the changes I'm making at the EPA. As documented by our Office of Inspector General, these threats were different in kind and in number from prior administrators. [consider giving specific examples].

Because of this, career professionals at EPA approved 24/7 security for me. This was not approved by my current head of my security detail. It was approved by the officials who were in place at the time of my arrival and who supervise the security detail and other law enforcement programs at EPA. Once approved, this detail was with me at all times for protection.

Threats have continued to come in and there are regular threat assessments that are conducted to continue to reassess the threats going forward. If the nature of the threats changes in the future, I will follow the advice of the career professionals on whether 24/7 protection is still needed.

As for first class travel, I again depended on EPA career officials to authorize and approve these trips based on the recommendations of the security team that I be near the front of the plane to allow for expeditious exit in the event of an incident. When all the criticism of my travel became a distraction from accomplishing the EPA mission, I made a personal decision to seek to best meet the security needs outside of flying first class.

With respect to the bug sweep, it's my understanding it was consistent with prior agency practice, and I have no knowledge on the details of how the sweep was carried out by EPA staff.

PERSONNEL:

It is EPA's policy not to discuss personal matters. The few things I can say about the allegations are:

John Reeder, Reginald Allen, Eric Weese

- All are still employed at EPA
- Reeder and Allen are Senior Executive Service which regularly rotate positions. Currently they are serving Interagency Personnel Agreements with American University and George Mason University which are opportunities they chose to pursue
- Weese is an agent in EPA's Criminal Investigation Division

Kevin Chmielewski

- Kevin joined EPA in April 2017 as the head of advance
- In July, he was promoted to deputy chief of operations – which leads all advance
- Kevin resigned for the EPA in March 2018
- EPA was the second agency in which Kevin worked in this Administration

MULTIPLE EMAIL ADDRESSES:

Administrators frequently have multiple email addresses. I have a public facing address at Pruitt.scott@epa.gov, an address for scheduling invitations within EPA, and a private address where I may receive briefing materials and information. When a FOIA is received for communications with my addresses, our National FOIA Office coordinates with the Office of the Administrator and any other office or regional office to ensure all addresses are searched.

This is a regular type of organization for Administrators. For example, Administrator McCarthy maintained four email addresses. They were the following: 5178RAMcCarthy@epa.gov, Adm13McCarthy@epa.gov, GinaMcCarthy.epaadministrator@epa.gov, and McCarthy.Gina@epa.gov.

DRAVIS:

- All calendars, timesheets, and time off can be made a matter of public record, to the extent permissible by law.
- In December, she joined Administrator Pruitt and EPA staff on a trip to Morocco.
- She flew on one leg of a flight a five-leg flight trip back to the U.S. from Amsterdam in business class.
- Under the Federal Travel Regulations, a 14+ hour trip, allows for an upgrade to first class for any employee.
- These matters are handled by career EPA administrative officials, not political appointees, and this upgrade was approved by a career EPA official.

DÉCOR OFFICE:

- Administrator Pruitt's immediate office is furnished with four portraits of Henry Clay, Abraham Lincoln, James Monroe, and John Marshall. The Smithsonian's National Portrait Gallery and National Gallery of Art loaned the works to the EPA for $750.00
- His immediate office is also furnished with a stand up desk for $2963.05
- His immediate office is also furnished with a desk and chair retrieved from EPA's furniture warehouse at no cost.
- The Office of Administration and Resources Management initially retrieved the desk and paid $XX to refinish the desk to be used in the Agency should the Administrator not wish to use it.

PHONE BOOTH:

I am aware that the GAO concluded that EPA should have notified Congress prior to spending money on this phone booth. In its letter to EPA, GAO recognized the 'need for employees to have access to a secure telephone line' when handling classified information, and did not question EPA's position that it was an appropriate expenditure. EPA lawyers disagreed with GAO's legal conclusion that this expenditure also required notice to Congress. However, out of respect for the process we addressed GAO's concern and made the notification to the relevant committees.

Message

From: Lyons, Troy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=15E4881C95044AB49C6C35A0F5EEF67E-LYONS, TROY]
Sent: 9/14/2017 3:02:02 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]
Subject: FW: Updated oversight chart and priority list
Attachments: Whitehouse Air Travel 8-23-17.docx; Whitehouse Air Travel 8-28-17 Travel List.docx; Whitehouse Air Travel 8-10-17.pdf

Importance: High

I will send this out this afternoon unless there are any edits/modifications. Please advise

---

From: Trudeau, Shaun
Sent: Thursday, September 14, 2017 10:32 AM
To: Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Blake, Wendy <Blake.Wendy@epa.gov>
Subject: RE: Updated oversight chart and priority list

Hi everyone,

We (Erik, Justina, Charlotte, and I) have reviewed the Whitehouse/Air Travel response for OGC, and we have no edits or comments concerning the attached version.

Please let me know if you have any questions or concerns.

Thank you,
Shaun

Shaun R. Trudeau
Attorney-Advisor
Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

From: Youngblood, Charlotte
Sent: Thursday, September 14, 2017 9:50 AM
To: Lyons, Troy <lyons.troy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Blake, Wendy <Blake.Wendy@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Subject: RE: Updated oversight chart and priority list

Yes. I'm looping Shaun in here. He coordinated with Justina, and I believe he will be routing the letter to our Front Office this morning.

Shaun – do I have that right?

Thanks,

Charlotte Youngblood
Deputy Associate General Counsel
General Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-0283
youngblood.charlotte@epa.gov

From: Lyons, Troy
Sent: Thursday, September 14, 2017 9:47 AM
To: Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Blake, Wendy <Blake.Wendy@epa.gov>
Subject: RE: Updated oversight chart and priority list
Importance: High

I just received a call from Senator Whitehouse regarding the travel letter. ***Can we expedite this to get this out by tomorrow***? I know this may require resources to do, but with Matt Leopold's hearing next week I want to show that we are responsive.

From: Youngblood, Charlotte
Sent: Tuesday, September 12, 2017 2:03 PM
To: Lyons, Troy <lyons.troy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Blake, Wendy <Blake.Wendy@epa.gov>
Subject: RE: Updated oversight chart and priority list

Thanks, Troy. As discussed at our meeting last week, we are poised to help move these as quickly as possible. I just want to clarify for the benefit of others on the chain that, with the exception of the air travel letter (which I believe is being reviewed in our ethics office, but will double-check), all of the letters "with OGC review" below came in yesterday afternoon/this morning, and we are working on routing them as quickly as we can (unfortunately I'm out of the office, but continue to monitor email and route the letters). I don't want anyone to get the misimpression that we are letting these sit in OGC. I'll double-check with Kyle that I haven't missed any. Kyle has been doing a great job routing everything.

Thanks again to you both for your work on all of this!

Best,

Charlotte Youngblood
Deputy Associate General Counsel
General Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-0283
youngblood.charlotte@epa.gov

From: Lyons, Troy
Sent: Tuesday, September 12, 2017 12:26 PM
To: Baptist, Erik <baptist.erik@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>
Subject: Fwd: Updated oversight chart and priority list

Ogc--I know there are many balls in the air for you all, but I would appreciate your assistance in helping to get responses back to EPW by the end of the week. Ahead of next week' s hearing, it would be ideal to get the OK email, travel and grants letters back to the committee by the end of this week.

I appreciate your attention and assistance on these letters.

_____

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Ex. 6 (cell)

Sent from my iPhone

Begin forwarded message:

> **From:** "Aarons, Kyle" <Aarons.Kyle@epa.gov>
> **Date:** September 12, 2017 at 12:06:51 PM EDT
> **To:** "Lyons, Troy" <lyons.troy@epa.gov>, "Palich, Christian" <palich.christian@epa.gov>, "Ringel, Aaron" <ringel.aaron@epa.gov>, "Richardson, RobinH" <Richardson.RobinH@epa.gov>, "Youngblood, Charlotte" <Youngblood.Charlotte@epa.gov>, "Baptist, Erik" <baptist.erik@epa.gov>
> **Cc:** "Williams, LaShawn" <williams.lashawn@epa.gov>, "Cheatham-Strickland, Latonia" <Cheatham-Strickland.Latonia@epa.gov>, "Rodrick, Christian" <rodrick.christian@epa.gov>, "Frye, Tony (Robert)" <frye.robert@epa.gov>, "Shimmin, Kaitlyn" <shimmin.kaitlyn@epa.gov>
> **Subject: Updated oversight chart and priority list**
>
> Hi all – Ahead of next week's confirmation hearings, we'd like to get as many of these letters delivered as possible. These are roughly in priority order.
>
> Whitehouse: OK Email – yesterday
> - With OGC for final review
>
> Whitehouse: Air Travel – with ethics
> - With OGC for final review
>
> Carper: Grant Review – today
> - With OGC for final review
>
> Carper: Drinking Water
> - With Lee Forsgren for review
>
> Chairman Smith: Kaspersky Lab - today
> - With OGC for final review

Cummings: Trump Org - yesterday

- With OGC for final review

In addition to the letters above, we are waiting for documents to be available on a number of EPW requests:

- Carper: Honest Act / HR 1430 (interim letter sent informing committee of ongoing search)
- Whitehouse: Tate Bennett Ethics (interim letter sent)
- Carper: Clean Power Plan EO
- Carper: Chlorpyrifos (interim letter sent)
- Carper: Board of Scientific Counselors (interim letter sent)

As noted in the attached chart, we have now received 32 oversight letters from a member of the EPW minority during the 115th Congress. We have formally responded to 24 of these requests. Note we have sent fewer than 24 letters as some of our outgoing letters explicitly respond to more than one incoming letter. Also note that not all responses are substantive; some simply indicate that we are working on a document search and will deliver documents once available.

Thanks,
Kyle

Kyle Aarons
Congressional Affairs
U.S. Environmental Protection Agency
202-564-7351

Message

From: Wilcox, Jahan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=88FD588E97D3405D869BCAE98D391984-WILCOX, JAH]
Sent: 5/5/2018 11:04:00 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Ferguson, Lincoln [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08cd7f82606244de96b61b96681c46de-Ferguson, L]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Leopold, Matt [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: APPROVAL: questions regarding the Administrator's travel

I'm just going to respond with: individual waiver and then just ignore the rest.

They selectively used what fit their narrative last time.

Begin forwarded message:

> **From:** "Wallace, Gregory" <gregory.wallace@turner.com>
> **Date:** May 5, 2018 at 5:06:56 PM EDT
> **To:** Jahan Wilcox <wilcox.jahan@epa.gov>
> **Subject: questions regarding the Administrator's travel**
>
> Hi, Jahan,
>
> We have a few questions about the Administrator's travel.
>
> Has Administrator Pruitt received an individual waiver or justification for each flight he has taken in other-than-coach seats? If not, why not?
>
> On June 2, 2017, acting Controller Jeanne Conklin wrote a memo to the Administrator's office titled "Business/First Class Exception for Security Reason." If individual waivers or justifications were not prepared, did did the Office of the Administrator interpret that memo as authorizing other-than-coach seats for more than one flight or trip?
>
> On February 14, 2018, you told Politico, "for every trip Administrator Pruitt submits a waiver to fly in either first or business class." At the time of your comment to Politico, had Pruitt received an individual waiver for each flight he had taken in other-than-coach seats? Did you misspeak?
>
> On May 1, the acting special agent in charge of the Protective Services Detail wrote a memorandum to an individual identified as "travel coordinator" "requesting that the EPA Administrator be strategically seated in business and or first class seating when on official travel." Has the Office of the Administrator or the Protective Services Detail had communications with the Office of the Controller regarding flight accommodations for the Administrator besides the May 1, 2017 and June 2, 2017 memos?
>
> The May 1 memo says there is an "increased awareness and at times lashing out from passengers." Were any other justifications provided for the memo's conclusion that "continued use of coach seats for the Administrator would endanger his life?"

Were any additional documents attached to the May 1 memo?

Thank you, Greg

HOT TOPICS

Condo

- Kevin Minoli, EPA's principal deputy general counsel, in a March 30 memo determined that the rate for 30 consecutive days would have equated to a monthly rent of $1,500. Minoli described that as "a reasonable market value." He also found it did not constitute a "prohibited gift." I would be happy to provide that memo to your staff.

SCIF

- This was necessary to ensure the agency could conduct secure conversations with government officials.
- GAO reported that,

  > "EPA's failure to make the necessary notification is the ***only*** subject of this opinion. However, we recognize the requirement to protect classified material and the need for employees to have access to a secure telephone line when handling such information in the course of conducting official agency business. After making the required notification, section 710 would have presented no bar to EPA's activities."

- However, also included in the report was EPA OGC's deputy general counsel Kevin Minoli writing that he found no violation of appropriations law or the Anti-Deficiency Act.
- The line was paid for by the Office of Administration and Resources Management out of funds used for upgrades.
- Every year the operations and maintenance for the HQ structures is approximately $6 million.

Sweeping the office

- Lisa Jackson reference
- Approved by the Office of Executive and Administrative Services Director Reginald Allen

Biometric Locks

- When we arrived EPA staff frequently accessed the Administrator's office unannounced and unplanned.
- The Administrator's office has regularly had combination locks on its doors which had become worn over time.
- The Office of Executive and Administrative Services received bids on new door looks and installed three new locks. I understand that they are similar to locks used in by EPA's Office of Inspector General.

Bullet proof vehicles and tires

- I would like to put this rumor to rest. EPA has no bulletproof desks or vehicles, the agency has no contracts for any bulletproof desks or vehicles, and the agency never sought any contracts for bulletproof desks or vehicles.
- In response to an individual attempting to assassinate numerous Congressional Republicans while they practiced for a charity baseball game, EPA's Protective Service Detail placed bullet-proof vests over each seat.

Office Decoration

- My office contains a free desk and chair from EPA's furniture warehouse. It contains a standing desk purchased from a U.S. manufacturer consistent with Made in America guidelines. It also features artwork borrowed from the Smithsonian similar to other offices throughout the federal government. Finally, the lobby of the Administrator's office features a large, framed U.S. flag which replaced a large portrait of Ben Franklin with the U.S. Postal Service retrieved last year.

Netjets

- "This is not news. EPA's CFO regularly receives solicitations for this type of travel, we did our due diligence, found it was not as cost efficient and continued to fly commercial."

G7 Trip

- I attended the G7 with six other environmental ministers from Japan, France, Germany, GB, Canada, and Italy last July 2017. I took the opportunity to conduct a bilateral visit with counterparts in the Vatican as well. Administrator McCarthy visited the Vatican in February 2015.
- At no point did EPA spend $30,000 for a private Italian security.

Staffing

<u>Raises</u>

- All decisions regarding salaries and responsibilities are handled by the agency's chief of staff, the agency's White House liaison, the Presidential Personnel Office, and the Agency's HR office. I directed that any salary changes for the two individuals involved be also approved from the Presidential Personnel Office. PPO is evaluating that at this time. The initial raises have been suspended.
- As staff have gained new responsibilities or a promotion to another position, their pay reflects that.
- At no point did any staff member receive a $72% raise at one time. Over the course of the previous year, staff have received additional responsibilities

and as more political appointees have joined the EPA, responsibilities have been shifted, added, shared among the new positions hired.

- I am glad to provide documentation of changes in salary over the previous year and the justifications for the Committee's review. It is all public information.

Samantha Dravis

- Samantha Dravis has resigned her post effective April 20 and no longer works at the agency.
- She was the Associate Administrator of the Office of Policy which negotiates new rulemakings with the Office of Management and Budget.

Alleged Reassignment of Staff

- Mario Carabello (OHS) – result of year long investigation. The Office of Administration and Resource Management career staff carried out their recommendation.
- John Reeder – is currently on an intergovernmental agreement with American University. It is a matter of public record that he was severely question before the House Oversight Committee about not appropriately responding to allegations of sexual harassment by a subordinate.
- Reg Allen – is currently on an intergovernmental agreement with George Mason University. It is a matter of public record that he was ultimately the approving authority at the EPA for the over-expense of the security phone line.
- Kevin Chmielewski – is no longer with EPA. He has held two positions within this administration and we ultimately had performance issues namely that he stopped doing advance and logistics work. [tracking down CG discharge information]

Sue and Settle

- Ensuring the Agency increase transparency, improve public engagement, and provide accountability to the American public when considering a settlement agreement or consent decree.

Super Fund Task Force

- I will be happy to provide this committee with the documents produced by the Super Fund Task Force.

Travel

- My travel is for official purposes, when it is for personal time, I incur the cost.

First Class Travel

- It is my responsibility to take the advice of the agency security officials who have recommended how I travel.
- Now, what I've done going forward is I've instructed those same individuals to accommodate those security threats in alternate ways — up to and including flying coach going forward. Changes have already begun occurring and I have been flying coach."

Morocco

- I met with the Moroccan ambassador in my office prior to my trip and met with Moroccan leaders to convey our priorities and best environmental practices, as well as identify opportunities for continued and cooperation, as our two countries further talks around the Environmental Work Plan under the U.S-Morocco Free Trade Agreement. There is more
- Both career and political staff accompanied me on this mission – 8 total staff, 2 career and 6 political; plus security detail
- [if asked about why LNG was discussed]: The purpose of my mission to Morocco was to further talks surrounding the renegotiation of the Environmental Work Plan. The fact that discussions also occurred regarding the exportation of U.S. technology and innovation abroad—including but not limited to LNG--only serves to emphasize the importance this Administration has placed on promoting U.S. businesses.
- [Re: flying in business class]: Due to concerns from our security team, I was granted a waiver by EPA's Chief Financial Officer to fly business-class.

Non-Commercial Flights

- I have taken only four non-commercial flights, all of which were approved by EPA ethics officials and were for extraordinary circumstance.
- I was transparent about these flights in a detailed letter to Senator Whitehouse.

Homebuilders Association Hotel

- The travel was approved orally by the career EPA senior counsel for ethics in advance of the trip, as noted in the approval document.
- I am happy to supply the committee with the "Approval to Accept Travel Under Ethics Reform Act of 1989" form signed by EPA's career ethics official.

Advisory Panels

<u>Membership</u>

- The directive to reform the science advisory boards will help ensure advisors serving on an EPA Federal Advisory Committee are independent and free

from any real, apparent, or potential interference with their ability to objectively serve as a committee member.

- Our federal advisory boards will now have scientists from 40 states, significantly increasing the diversity of scientific perspectives by 10 additional states.

Grants

- The science coming from EPA should not be political science.
- Moving forward, committee members will have the option choose remaining on their respective committee or continue receiving grants.

Definers Contract

- The contractor offered services not available with other outlets.
- Definers was awarded the contract to do our press clips at a rate that was $87,000 cheaper than our previous vendor.
- EPA followed sole source procurement procedures compliant with the applicable Federal Acquisition Regulations.

Chlorpyrifos

- President Obama's USDA, EPA's Scientific Advisory Panel expressed concerns with EPAs approach.
- Both groups noted that the lack of access to the Columbia data created concerns and uncertainties that affected the risk assessment.
- ADD -- Where OSCPP is in the 15-year review.
    - EPA has several additional milestones to complete before we will be able to finalize a registration review decision for chlorpyrifos, as required by the registration review deadline of October 2022. Once completed, the revised human health risk assessment and subsequent proposed interim decision (PID) will each be published for a 60-day public comment period.
- The need for the time is to ensure what we report to the American public is correct. Currently reportedly 40,000 farms use this common pesticide.
- Responding to the denial of the environmental group's petition only allows them new standing to sue the agency resulting in a sue and settle situation which is the reason we are in this situation rather than relying on the Agency's statutory review of this chemical.

Climate Change-Strategic Plan *(why was it not included in the strategic plan)*

- The Strategic Plan emphasizes EPA's Back to Basics Agenda, and has three goals which reflect my core philosophies: (1) Refocus the Agency on its core mission; (2) Restore power to the states through cooperative federalism; and (3) lead the Agency through improved processes and rule of law.

- This Plan is designed to strengthen EPA's ability to faithfully execute and administer environmental laws, as outlined in the statutes, to protect human health and the environment for all Americans.
- We all can agree that we want our future generations to inherit a cleaner, healthier environment that supports a thriving economy.

Enforcement

- If the minority really cared about enforcement it would not have wasted time from her nomination in May until the Senate UNANIMOUSLY confirmed her in December of Susan Bodine, the Assistant Administrator for Enforcement and respected former chief counsel of this very committee under two chairmen.
- It also would not have delayed her mark-up nor reported her out of the EPW committee on a party line vote in July only to UNANIMOUSLY confirm her 6 months later.

Funding

General Budget Concerns

- The 2018 Omnibus funds EPA at $8.8 Billion, which is $2.7 billion above the 2019 President's Budget Request level of $6.146 billion.
- As I stated in my hearings before appropriations last year, I will work with Congress within the budget they enact.

DOJ funding

- We value the contributions made by DOJ attorneys over the years to EPA's work and funding for these attorneys is included in our 2019 budget request.

Emails

- As I have stated and in a subsequent letter to the EPW Committee, I acknowledged the use of multiple state email addresses while serving as the Attorney General of Oklahoma.
- The agency maintains a public account (Pruitt.scott@epa.gov) for the public to communicate with me.
- Also, staff have set up secondary accounts for scheduling and my daily communications.
- ALL of my emails are subject to FOIA.
- Obama EPA officials said multiple email addresses for the Administrator "have been standard practice since the Clinton Administration." Bush officials also noted that "there was nothing unusual," about the arrangement.

Environmental Justice

- The agency remains committed to working with low-income, minority and tribal/indigenous communities to develop solutions to the disproportionate environmental and public health challenges they face.
- Progress has been made in incorporating environmental justice considerations into the agency's core programs through the efforts of the EJ program. This progress has greatly enhanced the EPA's ability to protect the health and environment of our most vulnerable communities.
- •Environmental Justice is moving to the agency's Office of Policy where it will have more visibility within EPA.

War on Lead

- Lead exposure is one of the greatest environmental threats we face as a country and it grossly impacts minority communities and underprivileged children. I have made it a priority to combat lead-contaminated services lines that are poisoning community water systems.
- Last year I had the opportunity to visit East Chicago, Illinois the location of a Superfund Site—USS Lead—that remains a hazard for residents the area. This Superfund Site has been added to the emphasis list for expedited remediation.

IRIS

- Risk assessments are not going away, the IRIS risk assessments have historically supported a variety of EPA Programs, such as the Super Fund program.
- We are looking at how risk assessments can support TSCA and how to continue to making improvements to the IRIS program.
- Congress funded the IRIS program at almost $20 million, and we will continue to enact the program in accordance with congressional intent.
- If asked about staff on detail, we are trying to use expert risk evaluators to preform risk evaluations on new chemicals to ensure newer and safer chemicals make it to the market.

Grants Process

- We review grants to see if they are providing tangible results to the American people.
- Grant decisions are to are to ensure funding is in line with the Agency's mission and policy priorities.

Meetings w Industry

- We meet with those who request meetings with us. I have met with a number of stakeholders—many of whom were ignored by the previous administration.
- My meetings have also included more than two dozen health organizations, including the Audubon Society and the American Lung Association.

Narragansett Bay

- As I indicated in my letter to Senator Whitehouse—this was a misunderstanding and decisions about future speaking engagements will be made by the Office of Research and Development leadership.

Regulatory Task Force

- I selected members of the task force consistent with Section 3 of Executive Order 13777, and based on their experience and expertise in policy and regulatory issues. EPA career staff with relevant policy and regulatory expertise have worked closely with the Task Force members as they perform their duties under EO 13777.

Reorganizations

- 3 intra-office reorgs were completed between April and June 2017: (1) Two new branches within OCSPP were created to meet increasing demand for monitoring bio pesticide ingredients, and risk assessments were centralized; (2) One ORD lab consolidated divisions and branches to reduce supervisory positions; (3) the OW consolidated the Offices of Wetlands, Oceans, and Watersheds.
- My staff have briefed House and Senate appropriations, and EPW, on other potential reorganizations that are under either formal internal agency review or under development.
- None of these reorganizations were initiated to reduce the Agency's workforce.

VERA/VISIP

- Managing agency payroll costs effectively minimizes the impact on non-payroll resources available to protect human health and the environment.
- 376 employees accepted our offer of voluntary buyouts. This gave long-serving and hard-working employees the opportunity to retire early.
- Our business case for requesting voluntary buyout authority from OPM/OMB focused on improving overall efficiency and effectiveness across the enterprise – we did not single out a particular program office or region.

- We continue to manage the size of our workforce through attrition, and with limited external hiring that supports high-priority work, such as implementation of TSCA.

Message

From: Shimmin, Kaitlyn [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BECB3F33F9A14ACD8112D898CC7853C6-SHIMMIN, KA]
Sent: 4/17/2018 10:55:17 PM
To: Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Leopold, Matt [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]; Burke, Marcella [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5066626ec70846439b8d3f6c35d92be8-Burke, Marc]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Ringel, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1654bdc951284a6d899a418a89fb0abf-Ringel, Aar]; Rodrick, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6515dbe46dae466da53c8a3aa3be8cc2-Rodrick, Ch]; Greaves, Holly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=abcb6428b3df40a9a78b059a8ba59707-Greaves, Ho]; Hanson, Paige (Catherine) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=95adc1b2ac3b40ab9dc591801d594df8-Hanson, Cat]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]
Subject: RE: DRAFT--Murder Board Questions
Attachments: 4.17.18 - V2 - Potential Political Questions for Congressional Oversight and Budget Hearings for Administrator Pruitt.docx

Apologies, the previous draft missed some changes that were made last night. See attached for most up to date version.

Kaitlyn Shimmin
Congressional and Intergovernmental Affairs
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
O: (202) 564-4108
C: Ex. 6 - Personal Privacy
Shimmin.Kaitlyn@epa.gov

From: Frye, Tony (Robert)
Sent: Tuesday, April 17, 2018 5:28 PM
To: Lyons, Troy <lyons.troy@epa.gov>; Leopold, Matt <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Baptist, Erik <Baptist.Erik@epa.gov>; Burke, Marcella <burke.marcella@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Subject: RE: DRAFT--Murder Board Questions

Hello all – Additional questions attached and written in red to identify those that are new.

Thanks,
Tony

Tony Frye
Special Assistant
Office of Congressional & Intergovernmental Affairs
Environmental Protection Agency
Phone: 202.564.0640
Cell: Ex. 6 - Personal Privacy

From: Lyons, Troy
Sent: Tuesday, April 17, 2018 12:01 AM
To: Leopold, Matt <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Baptist, Erik <Baptist.Erik@epa.gov>; Burke, Marcella <burke.marcella@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Subject: DRAFT--Murder Board Questions
Importance: High

Ryan, Matt

OCIR prioritized the creation of the attached draft murder board script for the upcoming hearings. OCIR took the first stab at the questions after discussing with OGC late last week. The content is based on Congressional inquiries and blogs/news reports. The questions are harshly worded but it is to attempt to create authentic questions we expect members to ask the Administrator.

We need your guidance on the hearing briefing; specifically, will the White House murder board the Administrator, or will others? Currently the budget prep is scheduled for 4/24, 4/25 with 30 minutes for each program office which is dove tailed by the "hot topics" briefing which will be compromised of the topics included in our script.

Perhaps it would be beneficial to meet tomorrow to hammer out any changes to the briefing schedule.

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Ex. 6 - Personal Privacy (cell)

Date: April 16, 2018
Re: Potential Political Questions for Congressional Oversight and Budget Hearings for Administrator Pruitt

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Background: The following document provides potential political questions Administrator Pruitt may receive during upcoming oversight and budget hearings before Congressional committees of jurisdiction.

Questions:

General:

- Q: Your defense for most of these controversies is that your staff made the decisions and you were unaware. **This defense is unacceptable—either you are incompetent or you are lying—which is it?**

- Q: We have seen your financial disclosures and understand that you have been more well-to-do than most Americans; however, when compared to your colleagues on President Trump's cabinet, you are much more modest than the rest. In fact, your frivolities and fiduciary recklessness lends me to believe you were trying to keep up with the Jones' by using America's credit card. **Please take a minute to justify your spending habits in light of these realities.**

- Q: It has been reported that dozens of photos of yourself were framed and hung on the halls of EPA's 3rd floor surrounding where your office is located. **What was the cost of this project and who authorized this decision? Will you send me information pertaining to the cost of this endeavor?**

- Q: The New York times reported that you wanted to update EPA's "Challenge coins" by removing the EPA logo which you believe looks like a Marijuana leaf, and replacing it with your name and other symbols. Allegedly similar conversations took place regarding leather bound notebooks, pens and stationary… **When were these conversations taking place? Approximately how much time did you and others spend on this project? What would the cost of this endeavor have been and what personalized items were ultimately purchased?**

- Q: You have claimed to follow your security detail's advice on your travel; however, when your former lead agent refused to use lights and sirens to get you to personal meetings you demoted him—**how do you rectify this double standard?**

Kevin Chmielewski

- Q: As you know, your former staffer Kevin Chmielewski was recently interviewed by Congressional investigators. Mr. Chmielewski appears by all accounts to be loyal to this administration and President Trump once even called him a "star." **Did you fire Mr. Chmielewski?**

- **FOLLOW-UP: If not, why does he seem to think you did?**
- **FOLLOW-UP: If so, why? Not answering the phone while with the Vice President hardly seems like a reasonable cause for removal.**

- Q: **Is it true that you removed your Chief of Staff, Director of Scheduling, and other senior officials from your scheduling meetings because they voiced concern with your travel plans?**

- Q: According to reports that site a former political staffer, Kevin Chmielewski, you have created a toxic atmosphere that upon Mr. Chmielewski's arrival at the agency, your Chief of Staff, Ryan Jackson that "the nightmare is now yours," which is clearly in reference to you. **Do you understand what it takes to be a leader?**
  - **FOLLOW-UP: If your political staff are troubled and drained by your requests, how can you expect the rank and file career employees who you have marginalized to an unbelievable degree not feel demoralized with your leadership?**

Condominium:

- Q: You enjoyed a sweetheart deal by living in a condominium owned by a well-known energy lobbyist. There are conflicting reports about whether you actually paid rent. **Did you pay rent?**
  - **FOLLOW-UP: Did you pay your rent on time and according to the terms of your lease or was it after-the-fact?**
  - **FOLLOW-UP: Can you produce bank statements to prove you paid the Harts for using their apartment?**

- Q: There are reports that your daughter also stayed at the condo owned by a high profile energy lobbyist. **Did your daughter stay with you while interning at the White House?**
  - **FOLLOW-UP: If yes, did she sleep in your bedroom or an alternative bedroom?**
  - **FOLLOW-UP: If yes, did your daughter have a separate lease?**
  - **FOLLOW-UP: Did your daughter ever have guests stay at the apartment?**
  - **FOLLOW-UP: Did you compensate the Harts for the use of a second room?**

- Q: It has been reported that when your daughter stayed at your one-bedroom apartment owned by the Harts, she drug her luggage across the floor, causing significant damage to the hardwood floors. **Did you pay for the repairs to the property that resulted from your stay?**

- Q: The terms of your lease strictly state that the room afforded to you was only for use while you were in Washington, D.C., and would be left free and available for use by the owners when you were not occupying the room. **Did you leave any belongings at the apartment on days you did not stay at the apartment?**

- Q: According to reports, you were such an awful tenant that outstayed his welcome to the point that the Harts changed the locks to keep you from returning. **Are these reports accurate? Were you forced out to the Harts' apartment? Did the Harts kick you out of their apartment because you failed to pay your rent, or were late with payment?**

- Q: It's been widely reported that the lobbyist owned condo you stayed at held various fundraisers for political candidates, it is incredibly hard for me to believe you never attended one of these numerous events while staying feet away from the event. **Did you ever attend? If you did attend while living there did you list these as official meetings or keep records of these encounters of any form?**

- Q: We have heard rumors that you conducted official business at the condo owned by the Harts. **Did you staff ever visit the condo in an official or unofficial manner? If so who?**

- Q: **Did you ever hold events on the condo premises?**

- Q: I understand that the condo owned by the Harts was often used for political fundraisers. **During your time renting a room, were you aware of any of these fundraisers taking place? Did you attend any of these fundraisers? Did you ever encounter any of the attendees?**

- Q: **What were the conditions for your vacancy from your apartment owned by the Harts? Why did you leave the apartment without having an alternative living arrangement?**

- **Q:** After leaving the Hart's property you had no Washington, DC address for about a month. **Is that correct? Did you use taxpayer dollars on trips to avoid paying rent in DC?**

- **Q: Were you forced out of the Harts' apartment?**

- Q: I have serious concerns that there is not a date on your lease with the Harts. **Was this lease signed in February 2017?**

<u>Pay Raises:</u>

- Q: In addition to your questionable ethics and spending habits, you used an obscure provision in the Safe Drinking Water Act to secure hefty pay increases for you two of your favorite aides from Oklahoma. We are also aware of emails that contradict your claim to Fox News' Ed Henry that you were not aware of the raises. **Did you authorize their pay increases?**
    - **FOLLOW-UP: If not, then why was your Chief of Staff, Ryan Jackson, removed from his position for improperly executing the SDWA provision that is at the sole discretion of the Administrator?**

- Q: You clearly authorized the substantial pay increases for two of your favorite staff to the tune of $56,765 and $28,130; however, the latter figure is misleading because the employee had already received a pay increase of $19,950, which brings her total pay increase to $48,080. Both of these totals are well above the annual household earnings for many families in my state, let alone such massive pay increases over the course of a single year. **Do you think it is appropriate and a good use of taxpayer dollars for two of your prized employees to receive these pay increases in a single year?**
    - **FOLLOW-UP: Do you even know what the median income is for American households?**

- Q: You said in a recent Fox News interview that you were not aware of the raises given to your staff members Sarah Greenwalt and Millan Hupp, **is this still correct?**
    - **FOLLOW-UP: Well by law you are required to know this for any AD appointments under the SDWA, someone signed on your behalf, are you aware of that sir because we have the documents?**
    - **FOLLOW-UP: So, what does it say about you and your leadership of the agency if you or members of your team are signing documents on your behalf but not making you aware? What critical environmental decisions are they making without your awareness?**

- Q: During your Fox News interview with Ed Henry you stated that you were unaware of the raises given to certain staff. **If this is the case, why did Sarah Greenwalt send an email claiming that you had personally authorized the raise? Was Ms. Greenwalt lying? And if so has she been disciplined?**

- Q: During your Fox News interview with Ed Henry, you stated that even though you had taken back Ms. Greenwalt and Ms. Hupp's raises, they were defensible because "they work for a very important person." **Do you believe that you are such an important person that your staff should get $60K raises?**

- It's been said that a good leader takes a little more than his share of the blame and a little less than his share of the credit. **Would you say it was good leadership to let your Chief of Staff Ryan Jackson take the blame for this embarrassing pay raise situation involving Ms. Hupp and Ms. Greenwalt?**

- Q: **Can you commit to providing this committee with all emails and correspondences related to the pay increases for Sarah Greenwalt and Millan Hupp?**

- Q: **Did Millan Hupp and/or Sarah Greenwalt ever discuss their compensation with you?**

- Q: In less than a year, Sarah Greenwalt and Millan Hupp – two of your closest aides – received a 68% and a 72% increase, respectively. **How can you explain this pay increase to the average American?**

- Q: According to reports and direct statements taken from individuals who were fired, forced to resign, or otherwise marginalized after providing pushback on one of your many extravagant ideas, you have a propensity for punishing staff that disagree with you on an issue. Conversely, when you were given a blank check by your staff to do as you see fit, they received lucrative security contracts and pay increases approaching 75% of their yearly salary. **How can any reasonable individual not see your actions as being a reward for never pushing back against your demands?**

Travel:

- **Q:** In response to growing criticism for your premium travel, you told Major Garrett in a February 28 interview "your very next flight would be coach" and you would be changing how you travel. **Was your next flight in fact economy? You were recently in Cincinati, Ohio—was your travel in first class?**

- Q: You routinely rely on enhanced security concerns for justifying your regular use of premium travel. I will be the first person to stand up for the need to ensure the safety of any elected or presidentially appointed official, but, with all due respect, you can't hide behind the occasional mean tweet to justify flying first class. In fact, I would tend to agree with Chairman Gowdy of the House Committee on Oversight and Government Reform when he appeared on Fox News Sunday on April 15th when he said, "I'd be shocked if that many people knew who Scott Pruitt was, so the notion that 'I've got to fly first class because I don't want people to be mean to me' — you need to go into another line of work if you don't want people to be mean to you. Like maybe a monk." **During your tenure as Administrator, why have you used your position to stroke your own ego and waste taxpayer dollars?**

- Q: **Do you think it was appropriate for you to ask Millan Hupp to inquire about securing a $100,000/month contract with NetJets for your use?**

- Q: It has been reported that you directed you scheduling and advance team to schedule travel based off of your desire to visit particular cities or states and to find reasons justifying going there. **Do you honestly think it is the best use of taxpayer dollars for you to throw a dart at a map and then direct your staff to find a reason for you to go to a particular destination?**

- Q: You have cited that "security" is the reason you flew first class on the taxpayer's dime for official travel, let's for a second give you the benefit the doubt that is true, **then why when traveling on your own dime or as reported a friend's "companion pass" that these security rules no longer applied? Was there just no more threat when you were paying?**
    - **FOLLOW-UP: Also, did you ever compensate your friend for use of this gift of the companion pass?**

- Q: You reportedly benefited from a "companion pass" owned by one your subordinates, Ken Wagner, which gave you the ability to travel for free with the associated air carrier. **Do you**

understand that it is highly suspect and ethically unconscionable to accept a gift of this magnitude from a subordinate?

- Q: During your trip in Paris, it has been reported that you missed multiple flights. **Why did these missed flights occur? What was the cost of the changes to your travel? How did you spend your additional time in Paris?**

- Q: **Are you prepared to pay back the American taxpayers if the EPA Inspector determines that you misused federal funds for your travel?**

- Q: We have reports that you instructed your staff to book your flights on solely Delta, even if more direct, less expensive flights were available via government contract. This was your way to accumulate points with the airline. **Did you instruct your staff to only book flights on Delta?**
    - **FOLLOW-UP: Can you commit to forfeiting the miles you accumulated from Delta on government travel?**

- Q: **Why did you think you were entitled to have a private plane at your disposal when you solicited a quote from NetJets?**

- Q: **Did you reassign a staffer who voiced opposition to pursuing a NetJets account for you?**

- Q: **Did you direct your staff to schedule a robust travel agenda for the month of August (2017) because you did not have a place to live in Washington, D.C.?**

- Q: According to reports you have had a propensity for scheduling travel to Oklahoma by way of scheduling meetings with old friends and acquaintances to ensure the American taxpayer foots the bill for your travels to and from your home. **Can you provide all documents, including travel documents and schedules unredacted, relating to your travels to and within Oklahoma?**

- Q: It has been reported that you frequently seek hotels while traveling that exceed the allowable U.S. government per diem, sometimes even exceeding the 300 percent cap permitted in exceptional circumstances. **How do you justify staying at hotels at such expensive rates?**
    - **FOLLOW-UP: Have you been reimbursed for the totals exceeding the allowable per diem?**
    - **FOLLOW-UP: If so, can you say the same about the staff and security detailees that accompanied you?** In order to corroborate your assertions, please provide all travel vouchers relating to this request.

Morocco:

- Q: **Why did you travel to Morocco in December 2017 promoting the export of liquid natural gas if your agency doesn't have jurisdiction over this issue?**

- Q: Given that the EPA is not responsible for overseeing the export of LNG, **who directed you to travel to Morocco in December 2017 to promote its export?**

- Q: When you first moved to Washington, D.C., you enjoyed a to-good-to-be true living arrangement where you paid for a room in a condo at $50 per night, only when you stayed in Washington, from the family of a high profile energy lobbyist, J. Steven Hart. It just so happens that one of clients at Mr. Hart's firm is Cheniere Energy which owned the only active LNG export plant in the U.S. when you traveled to Morocco in December 2017 to promote the export of LNG. **Did Mr. Hart, or anybody associated with him, direct you to take this trip as a quid pro quo for your living arrangement?**
    - **FOLLOW-UP: Do you understand that this situation creates an image of questionable ethics on your part?**

- Q: **Do you know which state ranks third in the nation in natural gas production?**
    - **FOLLOW-UP:** The answer would be Oklahoma, your home state. **Do you know what happens if the export of a product such as LNG increases?**
    - **FOLLOW-UP:** I hope you understand that your position as Administrator of the EPA is to protect human health and the environment of the entirety of the United States and the territories. **Please explain why you spent taxpayer dollars to travel to Morocco in December 2017 to explicitly promote the export of a leading industry of your home state when LNG export is not under overseen by the EPA.**

<u>Emails/FOIA:</u>

- Q: Dating back to your days as the Oklahoma Attorney General, your use of email to conduct official business is troubling. You have stated publically that you use three email addresses; however, it is now reported you use four email accounts. **How many is it?**
    - **FOLLOW-UP: Are you employing these tactics to avoid compliance with the Freedom of Information Act?**
    - **FOLLOW-UP: Are all of your emails searched when responding to FOIA requests?**

- **Q: Do you ever communicate with staff via email?**
    - **FOLLOW-UP: So you are insisting that you only give verbal directives?** I find this highly unlikely and if true, deeply troubling.

- Q: Administrator Pruitt, despite EPA's claims of regular threats to you, which this committee takes seriously, I fail to see how sitting in the first class cabin of a plane adds any safety benefit to you. As Congressman Trey Gowdy noted, the back of the plane would likely be safer for you to avoid running into someone dangerous. Additionally, it seems like the concern was simply that someone might say something mean to you… Of course this would be a

ridiculous use of taxpayer dollars—most of the members on this committee fly coach back and forth to our districts every week. I know if my constituents saw me in the first class of a plane I would be totally humiliated. **So, since you've recently stated that you will be flying coach now, will you reimburse the taxpayers for all of your first class trips?**

- Q: It has been reported that one of your staff has allowed you to use his "Buddy Pass" when flying for personal reasons back to Oklahoma. **Have you cleared this arrangement with your ethics official? What would the approximate cost or savings of this arrangement be for you? And would this constitute as a gift to you?**
    - **FOLLOW-UP:** I understand that the federal government has a maximum allowable price for gifts to superiors. **Does this arrangement fall within the acceptable price of that regulation?**

Office Redecoration:

- Q: The GAO recently determined that you broke federal law by authorizing the installation of a private phone booth in your office because the cost exceeded the mandated $5,000 threshold that requires you to inform House and Senate Appropriations Committees PRIOR to spending funds for your office. **Can you explain why you felt it was necessary to spend taxpayer funds on a phone booth for "secure communications" when a SCIF is readily available at EPA HQ?**

- Q: **Do you have leased paintings or other art on loan from the Smithsonian Institution?**
    - **FOLLOW-UP: What authority did you do to pay for the leases?**

- Q: **Why did you order the framing of an 8'x10' American Flag?**

- Q: **Did you direct agency personnel to hang an unseemly number of pictures of yourself around the halls of EPA HQ? Does your vanity know no bounds?**

- Q: **Have you actually used your secret phone booth?**

- Q: Given the nature of your soundproof phone booth, conversations not deemed sensitive in nature, such as non-classified communications with Administration officials or those not regarding issues of national security, should be subject to open records regulations and statutes. **Will you commit to providing all records, including calls or meetings and the names of all parties, held within the phone booth?**

- Q: **Do you understand that when you direct the Agency spend more than $5000 to furnish your office you must notify Congress?**
    - **FOLLOW-UP: Why did you fail to do so when you installed your private, soundproof phone booth, which costed the American taxpayer $43.238.68?**

- **FOLLOW-UP:** If you are insisting that the phone booth was not a furnishing, **then why did the non-partisan Government Accountability Office issue a report confirming the fact that you violated law in failing to do so?**

Personal Business/Millan:

- Q: **Did you direct or ask Millan or Sydney Hupp to assist you in securing a place to live?**
  - **FOLLOW-UP: Was the work on your behalf conducted on official EPA time?**
  - **FOLLOW-UP: Do you understand that it is highly suspect and ethically unconscionable to actively or passively direct a subordinate to conduct personal business on your behalf, even if the employee was willing or using their own time?**
  - **FOLLOW- UP: What other changes did you instruct Ms. Millan Hupp to execute on your behalf?**

- **Q: Have you directed other members of your staff to conduct your personal business on official time?**

- Q: **Can you commit to providing this committee with any agency communications related to your housing search?**

- Q: As you are now aware, paperwork was processed to give Millan Hupp a substantial raise of 72.3% in one year. **Were you compensating Ms. Hupp with government funds for out of pocket expenses incurred on your behalf?**

Samantha Dravis:

- Q: As you know, your closets aide, Samantha Dravis, is being investigated by the EPA's Inspector General for not consistently showing up to work during the period of November 2017-January 2018. **Did you allow this to occur because of your close relationship with Ms. Dravis?**
  - **FOLLOW-UP:** Ms. Dravis alleged absence from work coincides with the Rob Porter/Hope Hicks drama being in the news. As you may know, Ms. Dravis has reportedly been named as the source of the stories about Mr. Porter. **Do you think it is appropriate for Ms. Dravis to spend taxpayer dollars to launch a campaign to destroy the life, reputation, and career of a former boyfriend?**

- Q: It's been reported that you have given special treatment to your close personal friends and staff members at the agency, besides the staff raises to Sarah Greenwalt and Millan Hupp, there is also an IG investigation into the work schedule of Samantha Dravis, **are you aware of the letter to the IG from the Senate and this investigation sir? Are the reports true that Ms. Dravis is your closest confidant and aide at the agency?**

- **FOLLOW-UP: Were you aware that she had not been working full time at the agency for nearly three months? I'm sure as close as you are, as described by reports that you knew where your top aide was working? Was she regularly attending meetings with you in the months cited in the IG investigation?**
- **FOLLOW-UP:** See Mr. Pruitt I always know where my closest staff members are and what they are working on, so I'm sure you are willing to tell the committee today that the IG will find Ms. Dravis regularly was at the agency and attending meetings**, are you willing to say that to this committee, because I know three months would not have gone by without you not knowing where and what your top policy aide and friend was working on?**

- Q: You have worked with Ms. Dravis since your days at the Republican Attorney Generals Association, where Ms. Dravis worked as a fundraiser. **What made her qualified to be hired as the head of EPA's policy office when her previous experience was as a political fundraiser?**

- Q: During your trip to Morocco in December 2017 you authorized Samantha Dravis to fly first-class and directed your staff to sign-off on the decision after the trip was completed, for which there was no legal justification. **Can you explain this decision and provide all documents related to your travel and all staff that joined you on this trip?**

- Q: According to reports, following your trip to Morocco in December 2017 when you allowed Samantha Dravis to travel first-class, you directed Kevin Chmielewski to retroactively approve Ms. Dravis's travel accommodations despite there being no legal defensibility for doing so. However, when he refused to sign documents authorizing the upgrade, you directed Ryan Jackson, your Chief of Staff, to remove Mr. Chmielewski from his position. **Why did you authorize Ms. Dravis to upgrade her travel on this trip?**
  - **FOLLOW-UP: Do you think it is appropriate to remove employees who refuse to retroactively signoff on decisions for you, particularly when there is scant legal authority justifying your directive?**

Security:

- Q: Leaked internal memos have cast doubt on the actual number of threats to you EPA has encountered. Allegedly, the security threats to you include someone yelling at you on a plane and someone else threatening to spill paint on you. **Do you believe these threats are enough to warrant the additional security expenses you've incurred?**
  - **FOLLOW-UP: Are we to understand that you are spending this money on security due to people being mean to you on the internet?**
  - **FOLLOW-UP: It has been reported that none of your security threats have been prosecuted. Why is this?**
  - **FOLLOW-UP: Would you make all security information regarding threats to you available to the committee?**

- Q: There are reports that you requested 24-hour security before you even came to the agency. **How could this be justified? Were you/your life threatened before taking office?**

- Q: You have claimed to follow your security detail's advice on your travel; however, when your former lead agent refused to use lights and sirens to get you to personal meetings you demoted him—**how do you rectify this double standard?**

- Q: According to recent reports you upgraded your agency vehicle to a costlier, larger, and more high-end Chevy Suburban, which included bullet resistant covers over bucket seats and extravagant amenities such as Wi-Fi. Worse yet, you awarded another contract to a leasing company based in Connecticut for a 2018 Suburban with four-wheel-drive, extra captain's chairs, a sunroof, and GPS navigation. To add insult to injury, you continue to maintain the lease of the vehicle used by former Administrator Gina McCarthy. **Do you honestly believe you are under more scrutiny or threat than former EPA administrators to justify not only upgrading the fleet to fancier vehicles, but expanding the fleet to such degrees?**

- Q: There have been numerous reports that you have extended security contracts to friends, associates, and even to an outside company with which your security lead, Nino Perrotta, has part ownership. **Can you provide an accounting, including the names of owners and investors, of all security contracts, equipment, and other related hardware that has been purchased since January 20th, 2017?**

- Q: Under your leadership, Nino Perrotta, your Special Agent who leads your security detail has personally benefited from security contracts entered into by the Agency. Coincidentally, Mr. Perrotta has provided primary justification for your enhanced security. There is clearly a concerted effort being taken by you to reward Mr. Perrotta monetarily for granting your requests for excessive security improvements. **Can you provide unredacted documentation for this committee for all security related purchases and contracts, including information relating to whether or not the solicitations were made available for open bidding?**

- Q: During your travel to Italy in June 2017, the EPA, under the direction of Mr. Nino Perrotta, entered into a $30,000 contract with private Italian security personnel. It just so happens that Mr. Perrotta has familial and professional ties to security related personnel and firms in Italy. **Can you detail the circumstances, including the production of all documents, relating to this contract and explain how there is not a conflict of interest?**

- Q: **Has the EPA under your leadership entered into a contract, purchased hardware, or otherwise employed agents invested in or otherwise associated with Sequoia Security Group, Inc. or a subdivision thereof?**
    - **FOLLOW-UP: Do you commit to making all documents available related to this request?**

- Q: According to reports, when you were planning travel to Australia and Italy, you refused to stay at hotels recommended by the local U.S. Embassies. This is concerning because

U.S. Embassies have an intimate relationship with their host governments and are strategically placed to ensure the security and safety of officials traveling abroad. Further, by not heeding the advice of local officials and staying at hotels not prepared to meet the security standard you seem to require, you set a course of unnecessary security spending at facilities not positioned to meet this threshold. **Can you speak to why you sought alternative accommodations than what was recommended by the U.S. embassy officials?**

- **FOLLOW-UP: Was this another instance where you told your staff that you wanted to visit a specific city in the world and directed them to find a reason to make the trip seem legitimate?**

- Q: Mr. Pruitt, I have been reading in the papers that you have purchased new SUVs with bullet proof tires and kevlar seats, you requested a bullet proof desk for your office and you are surround by armed security guards 24/7. These sound like the type of precautions that would be taken by a Columbian drug dealer not Administrator or the EPA. **What has lead you to become so paranoid?**

HOT TOPICS

Condo

- Kevin Minoli, EPA's principal deputy general counsel, in a March 30 memo determined that the rate for 30 consecutive days would have equated to a monthly rent of $1,500. Minoli described that as "a reasonable market value." He also found it did not constitute a "prohibited gift." I would be happy to provide that memo to your staff.

SCIF

- This was necessary to ensure the agency could conduct secure conversations with government officials.

- GAO reported that,

  "EPA's failure to make the necessary notification is the ***only*** subject of this opinion. However, we recognize the requirement to protect classified material and the need for employees to have access to a secure telephone line when handling such information in the course of conducting official agency business. After making the required notification, section 710 would have presented no bar to EPA's activities."

- However, also included in the report was EPA OGC's deputy general counsel Kevin Minoli writing that he found no violation of appropriations law or the Anti-Deficiency Act.

- The line was paid for by the Office of Administration and Resources Management out of funds used for upgrades.

- Every year the operations and maintenance for the HQ structures is approximately $6 million.

Sweeping the office

- Lisa Jackson reference

- Approved by the Office of Executive and Administrative Services Director Reginald Allen

Biometric Locks

- When we arrived EPA staff frequently accessed the Administrator's office unannounced and unplanned.

- The Administrator's office has regularly had combination locks on its doors which had become worn over time.

- The Office of Executive and Administrative Services received bids on new door looks and installed three new locks. I understand that they are similar to locks used in by EPA's Office of Inspector General.

Bullet proof vehicles and tires

- I would like to put this rumor to rest. EPA has no bulletproof desks or vehicles, the agency has no contracts for any bulletproof desks or vehicles, and the agency never sought any contracts for bulletproof desks or vehicles.

Office Decoration

- My office contains a free desk and chair from EPA's furniture warehouse. It contains a standing desk purchased from a U.S. manufacturer consistent with Made in America guidelines. It also features artwork borrowed from the Smithsonian similar to other offices throughout the federal government. Finally, the lobby of the Administrator's office features a large, framed U.S. flag which replaced a large portrait of Ben Franklin with the U.S. Postal Service retrieved last year.

Netjets

- "This is not news. EPA's CFO regularly receives solicitations for this type of travel, we did our due diligence, found it was not as cost efficient and continued to fly commercial."

G7 Trip

- I attended the G7 with six other environmental ministers from Japan, France, Germany, GB, Canada, and Italy last July 2017. I took the opportunity to conduct a bilateral visit with counterparts in the Vatican as well. Administrator McCarthy visited the Vatican in February 2015.
- At no point did EPA spend $30,000 for a private Italian security.

Staffing

Raises

- All decisions regarding salaries and responsibilities are handled by the agency's chief of staff, the agency's White House liaison, the Presidential Personnel Office, and the Agency's HR office. I directed that any salary changes for the two individuals involved be also approved from the Presidential Personnel Office. PPO is evaluating that at this time. The initial raises have been suspended.
- As staff have gained new responsibilities or a promotion to another position, their pay reflects that.
- At no point did any one staff receive a $72% raise at any one time. Over the course of the previous year, staff have received additional responsibilities and as more political appointees have joined the EPA, responsibilities have been shifted, added, shared among the new positions hired.
- I am glad to provide documentation of changes in salary over the previous year and the justifications for the Committee's review. It is all public information.

Samantha Dravis

- Samantha Dravis has resigned her post effective April 20 and no longer works at the agency.
- She was the Associate Administrator of the Office of Policy which negotiates new rulemakings with the Office of Management and Budget.

Alleged Reassignment of Staff

- Mario Carabello (OHS) – result of year long investigation. The Office of Administration and Resource Management career staff carried out their recommendation.
- John Reeder – is currently on an intergovernmental agreement with American University. It is a matter of public record that he was severely question before the House Oversight Committee about not appropriately responding to allegations of sexual harassment by a subordinate.
- Reg Allen – is currently on an intergovernmental agreement with George Mason University. It is a matter of public record that he was ultimately the approving authority at the EPA for the over-expense of the security phone line.
- Kevin Chmielewski – is no longer with EPA. He has held two positions within this administration and we ultimately had performance issues namely that he stopped doing advance and logistics work. [tracking down CG discharge information]

Sue and Settle

- Ensuring the Agency increase transparency, improve public engagement, and provide accountability to the American public when considering a settlement agreement or consent decree.

Super Fund Task Force

- I will be happy to provide this committee with the documents produced by the Super Fund Task Force.

Travel

- My travel is for official purposes, when it is for personal time, I incur the cost.

First Class

- It is my responsibility to take the advice of the agency security officials who have recommended how I travel.
- Now, what I've done going forward is I've instructed those same individuals to accommodate those security threats in alternate ways — up to and including flying coach going forward. Changes have already begun occurring and I have been flying coach."

Morocco

- I met with the Moroccan ambassador in my office prior to my trip and met with Moroccan leaders to convey our priorities and best environmental practices, as well as identify opportunities for continued and cooperation, as our two countries further talks around the Environmental Work Plan under the U.S-Morocco Free Trade Agreement. There is more
- Both career and political staff accompanied me on this mission – 8 total staff, 2 career and 6 political; plus security detail
- [if asked about why LNG was discussed]: The purpose of my mission to Morocco was to further talks surrounding the renegotiation of the Environmental Work Plan. The fact that discussions also occurred regarding the exportation of U.S. technology and innovation abroad—including but not limited to LNG--only serves to emphasize the importance this Administration has placed on promoting U.S. businesses.
- [Re: flying in business class]: Due to concerns from our security team, I was granted a waiver by EPA's Chief Financial Officer to fly business-class.

Non-Commercial Flights

- I have taken only four non-commercial flights, all of which were approved by EPA ethics officials and were for extraordinary circumstance.
- I was transparent about these flights in a detailed letter to Senator Whitehouse.

Advisory Panels

<u>Membership</u>

- The directive to reform the science advisory boards will help ensure advisors serving on an EPA Federal Advisory Committee are independent and free from any real, apparent, or potential interference with their ability to objectively serve as a committee member.
- Our federal advisory boards will now have scientists from 40 states, significantly increasing the diversity of scientific perspectives by 10 additional states.

<u>Grants</u>

- The science coming from EPA should not be political science.

- Moving forward, committee members will have the option choose remaining on their respective committee or continue receiving grants.

Definers Contract

- The contractor offered services not available with other outlets.
- Definers was awarded the contract to do our press clips at a rate that was $87,000 cheaper than our previous vendor.
- EPA followed sole source procurement procedures compliant with the applicable Federal Acquisition Regulations.

Chlorpyrifos

- President Obama's USDA, EPA's Scientific Advisory Panel expressed concerns with EPAs approach.
- Both groups noted that the lack of access to the Columbia data created concerns and uncertainties that affected the risk assessment.
- ADD -- Where OSCPP is in the 15 year review.
    - EPA has several additional milestones to complete before we will be able to finalize a registration review decision for chlorpyrifos, as required by the registration review deadline of October 2022. Once completed, the revised human health risk assessment and subsequent proposed interim decision (PID) will each be published for a 60-day public comment period.
- The need for the time is to ensure what we report to the American public is correct. Currently reportedly 40,000 farms use this common pesticide.
- Responding to the denial of the environmental group's petition only allows them new standing to sue the agency resulting in a sue and settle situation which is the reason we are in this situation rather than relying on the Agency's statutory review of this chemical.

~~**Carl Ichan**~~

- ~~Carl Ichan was one of many of the president's advisors that I met with during my confirmation process.~~
- ~~During that meeting, I made no assurances with regard to any substantive issue.~~

- ~~In response to an oversight request from EPW, EPA's Office of Environmental Information searched the EPA e-mail boxes of 39 senior leadership employees, including both political and career staff.~~
- ~~There were no emails to or from any of those employees and Mr. Icahn or CVR on any subject.~~

Climate Change-Strategic Plan (why was it not included in the strategic plan)

- The Strategic Plan emphasizes EPA's Back to Basics Agenda, and has three goals which reflect my core philosophies: (1) Refocus the Agency on its core mission; (2) Restore power to the states through cooperative federalism; and (3) lead the Agency through improved processes and rule of law.
- This Plan is designed to strengthen EPA's ability to faithfully execute and administer environmental laws, as outlined in the statutes, to protect human health and the environment for all Americans.
- We all can agree that we want our future generations to inherit a cleaner, healthier environment that supports a thriving economy.

~~**Climate Change—Removal from the Website**~~

- ~~An archived version of the previous administration's website is found at the top of www.epa.gov~~

Enforcement

- If the minority really cared about enforcement it would not have wasted time from her nomination in May until the Senate UNANIMOUSLY confirmed her in December of Susan Bodine, the Assistant Administrator for Enforcement and respected former chief counsel of this very committee under two chairmen.
- It also would not have delayed her mark-up nor reported her out of the EPW committee on a party line vote in July only to UNANIMOUSLY confirm her 6 months later.

Funding

General Budget Concerns

- While we are still waiting on a final 2018 budget, the House and Senate mark are each at least 30% higher than the President's Budget submission last year ($7.4 billion and $7.9 billion, respectively).
- As I stated in my hearings before appropriations last year, I will work with Congress within the budget they enact.

DOJ funding

- Rather than contribute to conspiracy theory stories from the New York Times, the budget process continues to play out.
- We value the contributions made by DOJ attorneys over the years to EPA's work and acknowledge that final funding decisions will be made once Congress acts

Emails

- As I have stated and in a subsequent letter to the EPW Committee, I acknowledged the use of multiple state email addresses while serving as the Attorney General of Oklahoma.
- The agency maintains a public account (Pruitt.scott@epa.gov) for the public to communicate with me.
- Also, staff have set up secondary accounts for scheduling and my daily communications.
- ALL of my emails are subject to FOIA.

Environmental Justice

- The agency remains committed to working with low-income, minority and tribal/indigenous communities to develop solutions to the disproportionate environmental and public health challenges they face.
- Progress has been made in incorporating environmental justice considerations into the agency's core programs through the efforts of the EJ program. This progress has greatly enhanced the EPA's ability to protect the health and environment of our most vulnerable communities.
- Environmental Justice will continue to be considered within the work done at EPA and specifically incorporated into future work in the agency's Office of Policy.

War on Lead

- Lead exposure is one of the greatest environmental threats we face as a country and it grossly impacts minority communities and underprivileged children. I have made it a priority to combat lead-contaminated services lines that are poisoning community water systems.
- Last year I had the opportunity to visit East Chicago, Illinois the location of a Superfund Site—USS Lead—that remains a hazard for residents the area. This Superfund Site has been added to the emphasis list for expedited remediation.

IRIS

- Risk assessments are not going away, the IRIS risk assessments have historically supported a variety of EPA Programs, such as the Super Fund program.
- We are looking at how risk assessments can support TSCA and how to continue to making improvements to the IRIS program.
- Congress funded the IRIS program at $19.8 million, and we will continue to enact the program in accordance with congressional intent.
- If asked about detailees, we are trying to use expert risk evaluators to preform risk evaluations on new chemicals to ensure newer and safer chemicals make it to the market.

~~**Murray Action Plan**~~

- ~~The agency does not have this proposal.~~

Grants Process

- We review grants to see if they are providing tangible results to the American people.
- Grant decisions are to are to ensure funding is in line with the Agency's mission and policy priorities.

Meetings w Industry

- We meet with those who request meetings with us. I have met with a number of stakeholders—many of whom were ignored by the previous administration.
- My meetings have also included more than two dozen health organizations, including the Audobon Society and the American Lung Association.

Narragansett Bay

- As I indicated in my letter to Senator Whitehouse—this was a misunderstanding and decisions about future speaking engagements will be made by the Office of Research and Development leadership.

Regulatory Task Force

- I selected members of the task force consistent with Section 3 of Executive Order 13777, and based on their experience and expertise in policy and regulatory issues. EPA career staff with relevant policy and regulatory expertise have worked closely with the Task Force members as they perform their duties under EO 13777.

Reorganizations

- 3 intra-office reorgs were completed between April and June 2017: (1) Two new branches within OCSPP were created to meet increasing demand for monitoring bio pesticide ingredients, and risk assessments were centralized; (2) One ORD lab consolidated divisions and branches to reduce supervisory positions; (3) the OW consolidated the Offices of Wetlands, Oceans, and Watersheds.
- My staff have briefed House and Senate appropriations, and EPW, on other potential reorganizations that are under either formal internal agency review or under development.
- None of these reorganizations were initiated to reduce the Agency's workforce.

VERA/VISIP

- Managing agency payroll costs effectively minimizes the impact on non-payroll resources available to protect human health and the environment.
- 376 employees accepted our offer of voluntary buyouts. This gave long-serving and hard-working employees the opportunity to retire early.
- Our business case for requesting voluntary buyout authority from OPM/OMB focused on improving overall efficiency and effectiveness across the enterprise – we did not single out a particular program office or region.

- We continue to manage the size of our workforce through attrition, and with limited external hiring that supports high-priority work, such as implementation of TSCA.

Message

From: Wilcox, Jahan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=88FD588E97D3405D869BCAE98D391984-WILCOX, JAH]
Sent: 7/5/2018 2:54:19 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Ferguson, Lincoln [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08cd7f82606244de96b61b96681c46de-Ferguson, L]
Subject: APPROVAL: Administrator Pruitt's Schedule ...

Below is a 1x1 for approval that I will send out if approved. I do think the statement is strongest if it comes from you but can adjust.

Good afternoon –

Earlier this week, CNN falsely reported that Administrator Pruitt had secret calendars and schedules.

If this was true, why have so many news outlets reported on the various meetings with industry and stakeholders that Administrator Pruitt has attended? So which narrative is it: does EPA only meet with stakeholders or are they scrubbing secret meetings that have already been reported?

- **May 2018:** "Pruitt Resumes Courting Industry ..." (Bloomberg, 05/09/18)
- **April 2018:** "Embattled EPA chief's calendar shows industry had his ear" (Reuters, 04/06/18)
- **October 2017:** "Less than 1% of EPA administrator's meetings are with environmental groups" (CNN, 10/06/17)
- **October 2017:** "E.P.A. Chief's Calendar: A Stream of Industry Meetings and Trips Home" (The New York Times, 10/03/17)
- **September 2017:** "EPA chief Pruitt met with many corporate execs" (Washington Post, 09/23/17)

Below is an on-the-record statement from EPA's Chief of Staff Ryan Jackson:

"Kevin Chmielewski left EPA and has since been spreading deliberately false information. Despite continued false accusations from Mr. Chmielewski there are no secret calendars or schedules. EPA has released the meetings and events Administrator Pruitt has attended – which the media has already reported as meetings with industry – and to report anything else would be categorically false." - EPA Chief of Staff, Ryan Jackson

BACKGROUND ...

Chmielewski falsely claimed that he was fired because he refused to retroactively approve first-class travel. "A former top EPA staffer has told Democratic lawmakers that the agency fired him after he refused to retroactively approve the first-class travel of one of Administrator Scott Pruitt's closest aides, according to letters made public Thursday." (Politico, 04/12/18)

- **In a memorandum dated before the trip, the career EPA Acting Deputy Chief of Staff approved Ms. Dravis flights to Morocco.** "Ms. Dravis will also be travelling from Morocco to Washington, D.C. on December 13, 2017, a flight that is in excess of 14 hours. The Office of the Administrator has authorized its representatives to travel in business class based on the exemptions allowed under the

Federal Travel Regulations (41 C.F.R. 301-10.125a). Total flight time including the layover from Morocco to Washington, D.C. is 16 hours and 55 minutes." (EPA Memorandum, See Attachment, 12/08/17)

Chmielewski falsely claimed there was no reason for a person to fly first class, but GSA's federal travel policy says otherwise. "The Trump campaign veteran says he believes he started being pushed out after he refused to sign off on first-class flights for one of Pruitt's aides. Chmielewski said there was no reason for that person to fly first class."

- **GSA's Federal Travel Regulations for flights longer than 14 hours.** "301-10.124 When may I use business-class airline accommodations? Only when your agency specifically authorizes/approves your use of such accommodations, for the reasons given under paragraphs (a) through (i) of this section. ... (h) Where the origin and/or destination are OCONUS, and the scheduled flight time, including stopovers and change of planes, is in excess of 14 hours. (In this instance you will not be eligible for a rest stop en route or a rest period upon arrival at your duty site.)" (GSA's Federal Travel Regulations, Accessed 01/01/04)

Chmielewski falsely claimed that EPA was paying leases for artwork on loan from the Smithsonian Institution. "One thing Chmielewski told Democrats was that EPA was 'paying leases for art on loan from the Smithsonian Institution' to furnish Pruitt's office. Chmielewski's also claimed Pruitt 'spent well beyond the $5,000 allowed by law to decorate' his office, which included 'refinishing an antique desk, purchasing an additional standing desk.' Smithsonian Institution's chief spokeswoman, however, told the New Republic's Emily Atkin they don't lease artwork to federal agencies." (The Daily Caller, 4/13/18)

- **The Smithsonian Institution said there was no charge for artwork on loan.** "[Smithsonian Institution] Spokeswoman Linda St. Thomas 'we do not charge' for artwork on loan. Atkin noted '[p]aintings and sculptures not on view in the museums are routinely loaned to members of Congress, the Supreme Court, and the White House, she said.' St. Thomas said 'President Barack Obama's EPA administrators also loaned paintings from the Smithsonian American Art Museum,' Atkin reported." (The Daily Caller, 4/13/18)

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: Ex. 6 - Personal Privacy
Work Email: wilcox.jahan@epa.gov

DRAFT

SENATE APPROPRIATIONS—HOT TOPICS

- **General**
  - Axios recently reported that your "inner circle" has been limited to a handful of staffers who are under the age of 30. Is this true?
  - Axios also reported that from April 27-May 4 that many of your senior staff has "virtually no idea of [your] whereabouts". They also claimed that they did not receive your daily schedule for nearly two weeks. **Why are you being secretive with your staff?**
  - The White House is conducting several investigations related to your spending habits. Have you or your staff been interviewed by White House staff?

  - I disagree with that assessment. I rely on the advice and counsel of all my staff from my immediate office as well as the various program offices.
- **Zinke**
  - Recent reports claim that one of your press staffers, Michael Abboud, attempted to distract from your troubles by planting stories that would reflect poorly on Secretary Zinke. **Did you or anyone on your staff instruct Mr. Abboud to engage in such behavior? Do you approve of Mr. Abboud's behavior?**
  - The White House reportedly reached out to EPA to see if Michael Abboud is a Schedule C or an Administratively Determined position to determine what disciplinary actions could be taken. Given that Abboud it AD, no actions were taken. Also, Abboud's uncle, Andy Abboud, reportedly called the White House to save his nephew's job. Andy Abboud is a long-time advisor to Sheldon Adelson, a major donor to President Trump. **Given all of Michael Abboud's protections, do you plan to discipline him?**

  - The only information I know about this story is what I have read in the press reports. Mr. Addoud has denied these allegations and I have no reason to question him.

- **Oklahoma Office**
  - Shortly before he became your chief of staff, Ryan Jackson was the chief of staff for Senator Jim Inhofe of Oklahoma. In that role, Mr. Jackson directed EPA staff to consider opening an office in your hometown of Tulsa—and that EPA staffers believed that the request was "coming directly from Administrator Pruitt". **Did you ask for such a request to be made?**

  - I am not familiar with any of these conversations.

Threats/First Class

  - The former chief of your security detail, Eric Weese, was reluctant to sign off on requests for you to travel in first class based on security concerns. Mr. Weese was replaced with Nino Perratto who has no concerns with signing off on your use of first class. Do you think the following "threats" justify your 24/7 security or flying first class?

DRAFT

- One of the threats, made in March, consisted of someone drawing a mustache on your face on the cover of Newsweek and taping the magazine inside of an elevator at an EPA building.

- Another incident characterized as a threat was made on Nov. 8, 2017, by an 85-year-old who sent a letter to the agency on the back of Department of Veterans Affairs letterhead that was riddled with expletives.

  "Just read your denial of global warming recently released by the National Academy of Sciences," the person wrote. "Hope that you & your kind die and choke to death of cancer of the guts, slowly in agony, & rot forever in a toxic sewer in hell forever!"

➢ I trust and rely on my security team to make the appropriate assessments as it relates to my security.

- At an April 26th hearing in the House, you said that an EPA Inspector General assessment justified spending taxpayer money on first class travel—which the IF refuted that day, saying that it never signed off on the document. Why did you cite the IG without verifying this claim?

  ➢ Again, I trust and rely on my security team to make the appropriate assessments as it relates to my security.

- On trips back to Oklahoma you flew in coach; however, when you flew on official business, you flew in first class. How can you justify flying in first class when the tax payer if footing the bill, but flying in coach when you are paying?

  ➢ On most of my personal flights back to Oklahoma I fly Southwest Airlines, which only offers one class of travel.

- Has your agency turned over the waivers required by law to book first-class flights reserved for you, which were requested by Trey Gowdy?

  ➢ This agency is fully cooperating with Chairman Gowdy and his staff.

- **Rose Bowl**

  - Who paid for your tickets to the Rose Bowl?

- **Italy**
  - Leonard Leo not only planned and accompanied you on your trip to Italy—he also bought you pricey dinner in Italy. You claim you have reimbursed Mr. Leon—did you reimburse him for the full amount? Can you provide with committee with proof that you reimbursed Mr. Leo?

DRAFT

- Did Mr. Leo pay for anything else on the trip?

  - Mr. Leon was reimbursed

- Newly released documents showed that you **only spent four hours** of official business during your two-day trip to Rome. It was also revealed that you spent more than twice that amount of time in private meetings. **Why was so much time on this official trip devoted to private interests?**

  - Like my predecessors, I participated in the G7 Ministerial Meeting and engaged in bilateral discussions with my G7 counterparts.

- **Morocco**
  - Was it necessary to spend $40,000 to take 10 staffers to Morocco on a two-day trip with two one-hour public meetings?

    - The staff that accompanied me to Morocco were both career and political staff who served vital functions.

  - Did Richard Smotkin accompany you in meetings with government officials in Morocco?
  - What was the purpose of Mr. Smotkin accompanying you?

  - Did you know Mr. Smotkin was a registered lobbyist?

  - Did you play a role in Mr. Smotkin receiving a retroactive lobbying contract for the Moroccan government?

  - Did you approve a first-class ticket for Samantha Dravis to fly with you on your return trip from Morocco?

    - I do not approve staff travel. This is done by career staff.

  - Did Kevin Chmielewski refused to retroactively approve the first-class ticket for Ms. Dravis, despite being pressured by you?

    - I do not recall any of those conversations.

- **Phone Booth**
  - On April 16, 2018, the GAO issues a legal opinion that found the EPA violated federal law when the agency obligates federal funds totaling $43,238.68 on the installation of a soundproof privacy booth in your office. These obligations violated both the

DRAFT

Antideficiency Act—which prohibits agencies from incurring obligations more than legally available amounts. Section 710 of Division E of the Consolidated Appropriations Act, 2017, which requires advance notification to the Committees on Appropriations of the House and Senate for obligations or expenditures more than $5,000 to furnish or redecorate the office of the head of an agency.

- Several weeks have passed, and the EPA has not transmitted the statutorily-required Antideficiency Act report regarding this violation, nor has the agency fulfilled related notification requirements regarding other expenditures made to furnish or redecorate your office (biometric locks, Captain's Desk). **When do you plan to fulfill your statutory requirements?**

- After the GAO concluded that this expenditure violated the Financial Services and General Appropriations Act, an EPA spokesman disagrees that the expenditure required notice to Congress. **Why does the agency disagree?**

➢ The agency is addressing GAO's concern, and will make appropriate notifications.

- **Australia**
  - What was the intended purpose behind your planned trip last year to Australia?

  - What role did Matthew Freedman—who has ties to Paul Manafort—play in planning your trip?

  ➢ This trip was cancelled.

- **Travel (General)**
  - Did you pick travel destinations based on your personal desires and did you ask your staff to "find me something to do" to justify the use of taxpayer money?

  ➢ I have set a robust travel agenda to hear directly from individuals across this country who have been impacted by EPA's overreach during the Obama administration.

  - Did you instruct your staff to only book your flights on Delta, despite cheaper more direct flights being available?
    - For example—on July 6th you took a trip to Birmingham, Alabama and flew on Delta and connected through Atlanta. You booked this flight despite US AIRWAYS flying almost hourly, direct flights to Birmingham. Why was this arrangement made?

      ➢ I do not handle to logistics of my travel arrangements.

  - Did you ask staff to find reasons for you to travel back to Oklahoma?

DRAFT

- Why did you frequently stay in hotels that exceeded the allowable U.S government per diem and even the 300 percent cap permitted in exceptional circumstances—and get reimbursed even as members of your security detail were not?

  - I do not handle to logistics of my travel arrangements.

- Why does your scheduling office put "travel" on your schedule instead of the details related to your travels?

  - I am not aware that is the case; however, my schedule is made public on EPA's website and is updated regularly.

- **Retaliation**
  - Was your chief of staff uninvited from scheduling meetings when he raised concerns about your travel? Does he attend your scheduling meetings now?
  - Kevin Chmielewski has said that he was "100% forced out" after raising concerns about your spending and for not retroactively approving Samantha Dravis' first class ticket. The agency claims Mr. Chmielewksi resigned; however, he claims he was fired. Which is it? Do you know why Mr. Chmielewski is no longer with the agency?

    - I am not familiar with the circumstances that led to Mr. Chmielewski's departure from the agency; however, I believe performance played a factor.
- **Condo**
  - Did your daughter stay with you at the condo? If so, did she use a second room? Was rent paid for use of the second room?

  - Did you leave your belongings at the apartment when you were not using the apartment?

  - Was your rent always paid on time?

  - Could you provide this committee with bank statements to show your checks were timely and cashed?

  - Why did you not consult with lawyers or ethics officials <u>before</u> renting an apartment from the wife of an energy lobbyist?

  - You claimed that Steve Hart never lobbied the agency; however, emails released from FOIA prove your claim to be false. He in fact recommended someone to serve on EPA's Science Advisory Board.

  - Why is Steve Hart's name crossed off the lease?

DRAFT

- In emails with Sydney Hupp, Mr. Hart mentions that he has contacted you via text. Did you ever text with Mr. Hart on your personal or official telephone?
    - I have made all documents related to my lease, and payment, available to Congress and to the public.

- **Personal Business on Official Time**
    - Did Millan Hupp, Sydney Hupp or any other EPA employees assist in your search for an apartment?
    - Did any EPA employee contact a realtor on your behalf?
    - Did any EPA employee accompany you and your realtor at any rental property?
        - The notion that government resources were used to assist in finding housing is categorically false. My wife and I looked at numerous housing options.

- **Pay Raises**
    - What did Sarah Greenwalt and Millan Hupp do to merit raises of $57,000 and $28,000, respectively?
        - Both employees had and continued to perform multiple roles.
    - Were you aware that the White House rejected the request to increase their pay?
        - As I have stated, I was unaware of the process.

- **Samantha Dravis**
    - As you know, on of your most trusted aids—Samantha Dravis—is being investigated by the IG for time and attendance fraud. **Did Samantha Dravis report to work during the months of November 2017—January 2018?**
    - Can you account for her whereabouts during this period?
    - If you cannot answer definitively—do you believe Ms. Dravis accurately accounted for her time and attendance?
        - Given the IG's ongoing investigation, I should not comment.
    - A media report suggests that Ms. Dravis may have provided internal EPA information to WH staffer, Rob Porter. Did the EPA investigate this allegation to see if any information was disclosed contrary to federal law?
    - The story also alleges that some of the leaks about allegations of improper activity by you may have come from Porter. Is the agency investigating?
        - Ms. Dravis is no longer an EPA employee.

DRAFT

- When Trey Gowdy's committee asked to speak to Ms. Dravis she reportedly backdated her resignation by a full week to avoid appearing before the committee. Would you encourage Ms. Dravis to cooperate with Mr. Gowdy's investigation? Do you approve of her actions?

    - Ms. Dravis is no longer an EPA employee.

- **Legal Defense Fund**
    - Who will administrator the fund?
    - Will contributions be public?
    - Will donations from entities with business before the EPA be refused?

DRAFT

Message

From: Ringel, Aaron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1654BDC951284A6D899A418A89FB0ABF-RINGEL, AAR]
Sent: 4/11/2018 4:24:21 PM
To: Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Leopold, Matt [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; White, Elizabeth [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f8af641a6306479c9026142ef3b02bd7-White, Eliz]
Subject: RE: New HOGR Ltr
Attachments: 2018-04-11 TG to Pruitt-EPA - Travel Follow-up due 4-25.pdf

Just got the new letter (attached) from Chairman Gowdy. Reaffirms their request from the first letter on travel documents for waiver authorization for premium travel and threat assessments that we had not provided. It also and includes a new section asking for ethics information and documents on the condo lease agreement. They set an April 25th deadline in the letter.

-Aaron

-----Original Message-----
From: Baptist, Erik
Sent: Wednesday, April 11, 2018 12:19 PM
To: Ringel, Aaron <ringel.aaron@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Leopold, Matt <Leopold.Matt@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>
Subject: RE: New HOGR Ltr
Importance: High

Attached please find a draft supplemental letter that we would send to HOGR, along with the Concur authorization requests/approvals that Beth is pulling from the system.

I would also recommend sending Nino's memorandum and Jeanne Conklin's memorandum, which are also attached. Finally, I would propose offering HOGR staff to review Samantha Dravis's redacted travel vouchers (attached) at EPA, in response to the committee's request for information/documents regarding those who traveled with the Administrator in first class.

This response should complete our production - regardless of what HOGR sends today.

We should discuss the proposed response in the near future.

Thanks,

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

-----Original Message-----
From: Ringel, Aaron
Sent: Wednesday, April 11, 2018 11:48 AM
To: Lyons, Troy <lyons.troy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Leopold, Matt <Leopold.Matt@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Subject: New HOGR Ltr

Just got a call from Caroline with the committee, they are sending another Gowdy letter on travel today and also the condo lease. Should receive shortly and I'll forward along.

Sent from my iPhone

Message

From: Wong, Lela [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=57680E71C0B849A8B47B403F475D6633-WONG, LELA]
Sent: 7/10/2018 1:05:21 AM
To: Wooden-Aguilar, Helena [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=991ab84f64be4b6b9dd10a68c81887b0-HAWodd]
CC: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Conklin, Jeanne [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=481fa3d82ac8418496c9ca2d96a93785-JConklin]; Trent, Bobbie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08b98c62c53442cf8e6eee9a1d5c648b-BTrent]; Christensen, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f4892056f1f4cfb998b2cd434052686-Christensen, Kevin]; Trefry, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6aa5b5a5d80445cbc0ca0ee1a7c6cc4-Trefry, John]; Bennett, Angela [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=203e519e98b54e0e92824491db6edee4-Bennett, Angela]
Subject: Follow-up Questions re: Agency Response to Discussion Document on the Administrator's Travel Audit
Attachments: Attachment - Objective 1 lw.xlsx

Hi Helena,
Per our meeting today, attached is the revised Attachment 1 to Audit Objective 1 with the OIG's comments/questions regarding M&IE charges and cost comparison added. The Agency's original information is in black font. All other colors are the OIG's comments/questions. Please see the bottom of the spreadsheet for a legend for the highlights.

In addition, here is a listing of the items which you requested more detail on:

1) Audit Objective 1 – page 2, WH4 –
   The Agency wants to delete the word "generally" from "generally did not incur M&IE and lodging". We disagree. It looks like there were occasions where the Administrator charged M&IE on his personal days. See below for detail:
   - April 12 trip included two weekends, one is Eastern weekend. Based on his private calendar, it looks like there were no official business. Private calendar had it marked as "family time", but the Agency's Attachment 1 shows no personal activity. See additional notes/questions in the attached Excel file.
   - Aug 2 trip – Agency's Attachment 1 shows Fri-Mon as his personal days, but he did charge M&IE. Agency had it marked as "zeroed out" – not sure what that means. I did not see it zeroed out in the voucher.
   - May 19 trip (5/19 to 5/22 Fri to Mon) – he claimed full per diem on Saturday, partial on Fri & Mon, nothing on Sunday. Agency had 5/22 Monday as his personal day. Not sure what his business on Saturday was.

2) Audit Objective 1 – page 4, WH7 –
   Documents received on June 15 show a few more invitations than previously provided by Millan, but still no invitation the following Tulsa related trips: March 6, March 8, March 23, May 4, May 19, May 25, July 26, August 2, August 30, November 30.

3) Audit Objective 1 – page 4, WH 10 to 12 –
   - After reviewing the information in Concur and the additional documents provided by the Agency on June 15, we still have some questions/issues with the cost comparison. See attached Excel

spreadsheet for trips started on March 6, March 8, April 12, May 11, August 2, August 30, September 14, October 4, October 27 & November 30.

Agency said cost comparison worksheet was recommended in the EPA travel policy, but not required (WH 11). Section V of RMDS 2550B, Submission of Travel Related Documents section (page 23), states "*Employees must scan or fax into the E-Gov Travel Service system all documents used to justify claims for reimbursement, in addition to specific required receipts, such as lodging and common carrier expenses. Examples of travel related documents:….A copy of the travel cost comparison worksheet….*"

4) Audit Objective 2 – Finding 1 –
The Agency believes that Delegations 1-17A and 1-17B already provided the delegations for approving the Administrator's TAs and vouchers. We did not see the delegation. Delegations 1-17A and 1-17B addressed special items, like exceeding per diem, use of military or charter flights, etc., but not the approval of his overall voucher and TA. The Executive Approval Framework also does not address the approval of the Administrator's overall voucher & TA.

5) Audit Objective 2 – Finding 3 – Samantha Dravis issue
The approval memo & the additional documents received on June 15 only stated that the flight *exceeded 14 hours* and that the *roundtrip airfare on American Airline, the designated contract carrier, is $7,468.86*. No other constructive costs were mentioned. The supporting emails only said she *got the last seat*, and no mention of the other constructive costs. The FTR does allow upgrade if exceeding 14 hours and approved by Agency official. However, travel/flight time alone is not sufficient to justify the upgrade under both the FTR & RMDS 2550B. FTR requires the employees to be reporting to duty immediately after the trip, in addition to exceeding 14 hours of travel time, in order to justify upgrade. See Criteria cited in the finding outline.

6) Audit Objective 2 – Finding 4 –
The Agency believes the FTR does not require written justification for first class contract carrier and fare selection. The FTR requires travelers to use "*the lowest cost for the same service unless the use of higher-cost service is more advantageous to the government*" Multiple airlines provide first class fare for a certain route (*same service*), therefore, we believe the Agency needs to justify why the carriers/flights selected were the *most advantageous to the government*.

If you have any questions, please call me at (415) 947.4531, or my manager Angela Bennett at (404) 562.9844. Please do not distribute any of the information in this email and the attachment outside of the Agency.

Thanks!
Lela

Message

From: Allen, Reginald [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=799C3B0558E14130B17C66B2533548BA-ALLEN, REGI]
Sent: 7/29/2017 8:42:24 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Chmielewski, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a8c269da515e475d9705f091dd2713f6-Chmielewski]
Subject: AO/IO Travel Budget Update
Attachments: Attachment 1 - IO FY 17 Travel Estimate.xlsx; ATT00001.htm

Ryan

Kevin mentioned you asked about travel dollars. Working with Kevin and the travel team I've attached our estimate for the remainder of FY17 and current available balance. Bottom line we estimate about $120K shortfall.

Actions we are taking:

- Some of the other offices in AO have travel dollars so we are working with them to determine what they can donate around their requirements. Note that any remaining travel dollars are two year dollars and given FY18 funding uncertainty they are understandingly fugal in their spending to ensure they can meet their requirements.

- Met with OCFO yesterday to discuss travel and other AO budget issues. OCFO is looking at options to support.

Factors bearing on situation:

Travel for FY 17 was funded at only $313K. We were able to maintain solvency this long due to the fact that we had a lull in travel from Nov 16-Feb 17. If FY 18 travel continues at current levels we estimate we would need ~1.3 Mil for FY18.

Travel costs are high due to the following factors:
- High Volume
- Upgraded seating due to security concerns
- Use of MILAIR and charter flights
- Average travel party of 4-7 travelers
- Higher ticket cost for late bookings
- International travel costs

Way-ahead:

- Help ourselves internally (believe we will get part of the shortfall for FY 17 from AO offices)
- Work with OCFO to cover any remaining FY17 shortage after internal sweeps.
- Work with OCFO to increase funding for travel (in the op plan) for FY 18 to come closer to projected FY18 travel dollar requirement.

No assistance needed now but will keep you informed. Please let me know if you have any questions.

Best

Reggie

Reginald E. Allen, SES
Assistant Deputy Chief of Staff
U.S. Environmental Protection Agency
Office 202-564-0444
Direct 202-564-1029

Administrator Travel Estimate Remainder of FY17 (8 Weeks)				
International Air Travel Cost Estimate				**Methodology**
Australia				
			Australia (3 locations)	
Administrator (business class)		$13,500.00	$ 13,500.00	Avg airfare cost ($13,500)
6 Personnel (business class)		$15,000.00	$ 90,000.00	Avg airfare cost ($15,000) X 6 personnel - 14 hr upgrade rule
			$ 103,500.00	
Per Diem				
Australia				
7 Personnel (other rate)		$ 389.00	**$ 27,230.00**	Lodging ($240)+ Meals ($149) X 7 personnel X 10 days
Mexico				
			Mexico City, Mexico	
Administrator (business class)		$ 684.98	$ 684.98	Avg airfare cost ($648.98)
6 Personnel (economy class)		$ 316.60	$ 2,216.22	Avg airfare cost ($316.60) X 6 personnel
			$ 2,901.20	
Per Diem				
Mexico				
7 Personnel		$ 362.00	**$ 5,068.00**	Lodging ($244) + Meals ($118) X 7 personnel X 2 days
International Subtotal			**$ 138,699.20**	
Domestic Travel Cost Estimate to Include Per Diem				
Administrator (business class)		$ 3,082.48	**$ 24,659.82**	Avg trip cost ($3,082.48) X 8 trips
Support Staff Average		$ 1,023.05	**$ 49,106.21**	Avg trip cost ($1,023.05) X 8 trips X 6 personnel
Domestic Subtotal			**$ 73,766.03**	
Grand Total			**$ 212,465.24**	As of 26 July 17, $94,000 available in IO travel funds
Projected Shortfall				**$118,465.24**

[Date][Time]

Sydney Business Class	Sydney Economy Class	Mexico City Business Class	Mexico city economy Class
$ 6,147.36	$ 1,683.86	$ 683.98	$ 306.48
$ 6,147.36	$ 1,683.86	$ 683.98	$ 306.48
$ 6,147.36	$ 1,683.86	$ 685.48	$ 313.86
$ 6,147.36	$ 1,683.86	$ 685.48	$ 313.86
$ 6,147.36	$ 1,508.76	$ 685.48	$ 322.98
$ 6,147.36	$ 1,976.96	$ 685.48	$ 335.96
$11,110.46	$ 1,978.36	$ 4,109.88	$ 1,899.62
$11,110.46	$ 3,345.36	$ 684.98	$ 316.60
$ 9,650.36	$ 15,544.88		
$11,457.96	$ 1,943.11		
$80,213.40			
$ 8,021.34			

Country Name	Post Name	Season Begin	Season End	Maximum Lodging Rate	M & IE Rate	Maximum Per Diem Rate	Footnote	Effective Date
AUSTRALIA	Sydney	1-Jan	31-Dec	240	149	389	N/A	6/1/2017
MEXICO	Mexico City, D.F.	1-Jan	31-Dec	244	118	362	N/A	4/1/2013

17	TO 1711A7T152	PRUITT, EDWARD SCOTT	TDY	7/6/2017	7/6/2017	$2,622.96	$0.00	$2,622.96	$2,622.96	$0.00	$2,622.96	BIRMINGHAM, AL	TAA04NKI
18	TO 1711A7T153	PRUITT, EDWARD SCOTT	TDY	7/7/2017	7/7/2017	$1,962.72	$0.00	$1,962.72	$1,962.72	$0.00	$1,962.72	COCHRAN, GA	TAA04NOH
19	TO 1711A7T172	PRUITT, EDWARD SCOTT	TDY	######	7/20/2017	$5,789.29	$5,789.29	$0.00	$5,789.29	$5,789.29	$0.00	SALT LAKE CITY,	TAA04PPJ
20	TO 1711A7T176	PRUITT, EDWARD SCOTT	TDY	######	7/25/2017	$2,114.09	$2,114.09	$0.00	$2,114.09	$2,114.09	$0.00	CHARLESTON, SC	TAA04PT9
21	TO 1711A7T189	PRUITT, EDWARD SCOTT	TDY	######	7/29/2017	$2,923.33	$2,923.33	$0.00	$2,923.33	$2,923.33	$0.00	TULSA, OK	TAA04RAP
						$15,412.39	$10,826.71	$4,585.68	$15,412.39	$10,826.71	$4,585.68		
						$3,082.48							

11	TO 1711A7T149	FERGUSON, LINCOLN RO	TDY	7/6/2017	7/6/2017	$550.90	$550.90	$0.00	$550.90	$550.90	$0.00	BIRMINGHAM, AL	TAA04NJF
12	TO 1711A7T157	FERGUSON, LINCOLN RO	TDY	7/7/2017	7/7/2017	$563.45	$563.45	$0.00	$563.45	$563.45	$0.00	ATLANTA, GA	TAA04OKA
13	TO 1711A7T170	FERGUSON, LINCOLN RO	TDY	######	7/20/2017	$2,766.93	$2,766.93	$0.00	$2,766.93	$2,766.93	$0.00	SALT LAKE CITY,	TAA04PXM
14	TO 1711A7T181	FERGUSON, LINCOLN RO	TDY	######	7/25/2017	$581.05	$581.05	$0.00	$581.05	$581.05	$0.00	NORTH CHARLESTO	TAA04QW7
15	TO 1711A7T185	FERGUSON, LINCOLN RO	TDY	######	7/30/2017	$652.90	$652.90	$0.00	$652.90	$652.90	$0.00	TULSA, OK	TAA04REI
						$5,115.23							
						$ 1,023.05							

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Budget Hearing: Environmental Protection Agency
June 15, 2017

Questions for the Record – Administrator of the Environmental Protection Agency

Questions from Mr. Calvert ***(OA/OP with OAR & OW)***

Rewriting Several Rules per Executive Orders: WOTUS, Clean Power Plan, and Methane

I was pleased to see two early actions from the President to issue:

- Executive Order 13778 on *Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the United States" rule*, and

- Executive Order 13783 on *Promoting Energy Independence and Economic Growth.*

I have a number of concerns with the WOTUS rule's flawed history -- it was originally proposed before the scientific studies were complete, the Small Business Association believed EPA should have conducted a Small Business Advocacy Review Panel prior to releasing the rule, and in December 2016 the GAO determined that EPA had violated the law by expending funds on a social media campaign to promote rule.

In my opinion, the only clarity that the WOTUS rule offered was that more Federal permits would be required under an Administration that was not approving permit applications. It was a clear example of Federal overreach.

The FY17 Omnibus included language asking EPA (and the Department of the Interior) to keep the Committee apprised of actions to comply with the Executive Order to promote energy independence and economic growth. For EPA, there were a number of specific directives within the Executive Order related to the Clean Power Plan, the methane rule, and other regulations.

Calvert Q1: Please provide an update on what steps the Agency is taking to comply with these Executive orders.

Answer: The EPA, the Army, and the Army Corps of Engineers (ACOE) are pursuing a two-step approach for the Waters of the U.S. rule:

Step 1: Formally withdraw the 2015 rule and recodify the prior regulations
Step 2: Initiate a rulemaking to revise the definition of waters of the U.S. consistent with the February 28, 2017 Executive Order.

Executive Order 13778 directs the EPA to review the final 2015 WOTUS rule. In response, Administrator Pruitt issued a Federal Register notice of review (82 FR 12532) on March

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6, 2017. On June 27, 2017, the Administrator signed a proposed rule to rescind the definition of WOTUS in the 2015 rule. This proposal re-codifies the definition that existed prior to the 2015 rule and that is currently in place as a result of the U.S. Court of Appeals for the Sixth Circuit's stay of the 2015 rule. In a second action, EPA plans to propose a new definition interpreting the jurisdictional bounds of the Clean Water Act, taking into consideration the principles that Justice Scalia outlined in the *Rapanos* plurality opinion.

Executive Order 13783 directs the EPA to undertake a number of actions, including reviews of: 1) the Clean Power Plan (CPP) and related rules and actions, and 2) the oil and gas sector emission standards for new, reconstructed, and modified sources ("oil and gas methane rule").

On March 28, 2017, the President signed the Executive Order on Energy Independence. In order to comply with the President's action, EPA issued Federal Register notices related to review of the Clean Power Plan, the 2016 Oil and Gas New Source Performance Standards for New, Reconstructed, and Modified Sources, and Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Generating Units. For more information, please refer to the following website: https://www.epa.gov/Energy-Independence.

On March 28, 2017, Administrator Pruitt signed notices to review the CPP and the NSPS for EGUs, and at the same time withdrew the suite of proposed federal rules associated with the CPP (the federal plan, model trading rules, and the framework for the Clean Energy Incentive Program). We currently have a CPP review proposal at OMB undergoing interagency review.

On March 28, 2017, Administrator Pruitt also signed a notice to review the oil and gas rule. EPA has administratively stayed upcoming requirements for fugitive emissions, pneumatic pumps, and professional engineer certification for an initial three months, and has proposed to stay these requirements for an additional two years while the agency considers appropriate final action for the rule.

Calvert Q2: Where is the agency in the process with respect to each of those rules?

Answer: The EPA, the Army, and the Army Corps of Engineers (ACOE) are pursuing a two-step approach for the Waters of the U.S. rule:

Step 1: Formally withdraw the 2015 rule and recodify the prior regulations
Step 2: Initiate a rulemaking to revise the definition of waters of the U.S. consistent with the February 28, 2017 Executive Order.

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Superfund and Brownfields: Budget Request vs. Needs - *OLEM*

The 2018 budget proposes a 31% reduction for the Superfund program, a $327 million decrease from the FY17 enacted level. This includes a $203 million decrease for direct Superfund cleanup activities, which would prevent new cleanups from starting and slow ongoing cleanups.

For Brownfields, the 2018 budget proposes an $11 million reduction for the project grants, and a $14 million reduction for the categorical grants.

Both of these programs support land cleanup, job creation and economic redevelopment. I understand the overall pressure that the targets in the President's budget put on your Agency, so I'm not going to hold your feet to the fire on this. Further, I think it's safe to say on behalf of our full committee Chairman that we will take this proposal in a much different direction.

I understand you've created a Task Force to review Superfund contracts and program implementation to identify efficiencies as a way to further your commitment "to accelerate the

pace of cleanups". That is a goal that I know we both share as we have over 1,300 sites on the National Priority List that need to be cleaned up.

We often cite the needs associated with water infrastructure because those are well-documented (roughly $1 trillion).

Calvert Q3: Does EPA have similar estimates for what is required to cleanup all of the Superfund sites currently on the National Priority List?

> **Answer:** Remedial activities at Superfund National Priorities List (NPL) sites are funded with annually appropriated funds out of the Superfund: Remedial program project where special account funding from settlements with responsible parties is not available and responsible parties are not directly cleaning up the site. Approximately one-third of NPL sites are solely financed by potentially responsible parties (PRPs) and PRPs are not required to report their expenditures to the EPA. The remainder of sites require appropriated funding. The mix of funding sources complicate the estimation of costs.
>
> In 2010, the Government Accountability Office (GAO) analyzed responses to a survey of the EPA regional officials and estimated that, as of September 30, 2009, the cost to conduct remedial construction at non-federal NPL sites in 2015 and beyond was $3.036 billion. (GAO Report 10-380, p.20 – May 2010). Since that time, we have added another 121 sites to the NPL and will incur additional significant costs for these sites.

Superfund Special Accounts -- $3.2 billion Waiting to Spend on Cleanups *(OLEM)*

EPA has roughly $3.2 billion in settlement agreements from responsible parties. These funds reside in Special Accounts for the cleanup of individual Superfund sites. That's nearly 5 times the budget request for the program.

Calvert Q4: What, if anything, is required to accelerate the use of these funds so that we can make progress cleaning up some of the most toxic sites?

> **Answer:** Superfund special account funds are used before annually appropriated funds for response actions at sites identified in the terms of the settlement agreements. The EPA's Special Accounts Senior Management Committee comprises agency senior managers responsible for the management and use of special accounts, and monitors the use of special account funds to ensure the agency uses the funds as quickly and efficiently as possible to conduct cleanups at Superfund sites. In addition, the new Superfund Task Force is examining how to improve the management of special accounts.
>
> Funds retained in special accounts must be used site specifically, and are not available for use at sites outside the scope of the settlement agreement. As of the end of FY 2016, the EPA has spent more than $3.6 billion of special account funds for response actions at specific sites, of which more than $1 billion has been spent in the last 4 fiscal years. The

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EPA has multi-year plans to spend the approximately $3.28 billion remaining in special account funding for site-specific response actions as outlined in each individual settlement agreement. However, work at Superfund sites often takes several years to complete. It's important to note that in some instances when special accounts funds are received, work may not be immediately initiated due to other circumstances, including the specific requirements for fund use as set forth in the negotiated settlement agreement, the stage of site cleanup, and the nature of the site contamination. Additionally, our successful enforcement efforts to recover costs from potentially responsible parties adds to the total amount of outstanding deposits in special accounts for future response costs.

Special accounts are crucial to EPA's ability to continue to fund construction projects at sites across the country and save tax payer dollars for those sites where no viable or cooperating responsible party has been identified.

Questions from Mr. Simpson:

TMDL - *OW*

I am pleased that you mentioned TMDL's in your opening statement and a commitment from EPA to work with states and localities. I have met with Mayor's and city council members, and there is real fear in regards to the financial stress around and how these communities can meet and/or pay for costly upgrades to facilities. For example, Twin Falls recently invested $38 million to upgrade their water treatment facility. However, the last Administration proposed lowering their TMDL for phosphorous by 98.5%. This would result in the city needing to upgrade their facilities again. The cost is estimated to be between $60 and $100 million.

Now, this is just the start of this issue. I met with Mayor's in the smaller towns near Twin Falls - Buhl, Jerome, Ammon, and Filer – and they surely can't afford these types of upgrades as these towns have smaller populations.

We did have success in Boise, Idaho, with a project called Dixie Drain that saved tens of millions of dollars by using a flexible innovative model to reduce phosphorous levels. This was a common sense approach that didn't hammer taxpayers with costly regulations. I hope this is a model we can use to help Twin Falls and other communities avoid massive rate increases.

Simpson Q1: Can we work together – along with Idaho Department of Environmental Quality - to review the TMDL process along the Mid-Snake and see what can be done to help these communities?

Answer: The Idaho Department of Environmental Quality (Idaho DEQ), with the support of the local Watershed Advisory Group (WAG), is now working to revise the Mid-Snake TMDL. The EPA is eager to collaborate with Idaho DEQ, the WAG, and all stakeholders in the mid-Snake to help DEQ produce a revised TMDL that will support protection of water quality in efficient and cost-effective ways.

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Simpson Q2: What are some of the approaches we can take to ensure these communities reach a solution that doesn't bankrupt ratepayers?

> **Answer:** A revised TMDL, that is flexible while consistent with the Clean Water Act, is the best path forward to ensure that ratepayers will not be required to pay for unnecessary treatment. As part of TMDL development, the EPA encourages consideration of least-cost options to achieve TMDL goals, such as water quality trading or treatment plant offsets such as the Dixie Drain used in the Lower Boise River.
>
> With regard to the City of Ammon, the agency recently advised the City that, if they believe they need an extension to the compliance schedule under their permit, they should submit a letter to the EPA requesting such an extension and describing why it is needed. Their request and justification for a permit modification would need to be reviewed and published for public comment for 30 days. To date, the agency has not received such a request for an extension.

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P.O. Box 1907 321 Second Avenue East Twin Falls, Idaho 83303-1907 Fax: (208) 736-2296

Office of the Mayor (208) 735-7287

September 16, 2016

Mr. Mike Simpson
US House of Representatives
2312 Rayburn Building
Washington, DC 20515

Re: SUMMARY OF THE CITY OF TWIN FALLS CONCERNS AS TO DRAFT NPDES PERMIT

Congressman Simpson:

The City of Twin Falls owns and operates a wastewater treatment plant that sends its treated effluent to the Middle Snake River. The Middle Snake River is not meeting water quality standards for nutrients. To address that issue, the State, working through its stakeholder Watershed Advisory Group, established a Total Maximum Daily Load (TMDL) for the river, which provided specific loading allocations for various discharging entities, including the City of Twin Falls. In the TMDL, the City is provided an allocation of 710 pounds of phosphorus per day. The TMDL was submitted to USEPA, and approved; the most recent version of the TMDL was approved by USEPA in 2005.

The TMDL allocation for the City was incorporated into the City's NPDES permit for the treatment plant. The most recent permit was issued in 2009. Since that permit was issued, the City has spent over $32 million to make major improvements in the treatment plant, resulting in substantial reductions in the plant's nutrient discharge. The plant has always complied with its TMDL allocation; in fact, the plant currently discharges at levels that are roughly half of that allocation. During this time period, there has been substantial progress in implementing the TMDL, with many dischargers reducing their phosphorus levels being sent into the river.

Now, EPA is moving to issue the next NPDES permit for the City. In doing so, EPA has indicated that even though the TMDL is still EPA-approved, it will disregard the TMDL allocation for the City of 710 lbs/day, and instead impose a new limit of only 10 lbs/day. This new restriction will impose new costs on the City of $60 to $100 million, in a situation where the City has no readily available means to obtain that funding. Moreover, this action by EPA has larger policy implications; it will severely damage the TMDL program, and undermine the stakeholder-led process that Idaho and other States have used to develop and implement TMDLs. The overall effect will be counterproductive for the environment, as well as to the residents of Twin Falls and any other community that suffers similar treatment.

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The basis for EPA's action, according to Agency staff, is that the current EPA-approved TMDL is "flawed," and therefore, EPA cannot rely on the TMDL allocations to develop limits for the City's new permit. Logic would indicate that if the TMDL is indeed "flawed," that EPA would tell the Idaho DEQ that the TMDL needs to be redone. However, EPA staff has stated that the Agency lacks the legal authority under the Clean Water Act to require the State to redo a "flawed" TMDL. In fact, EPA has done exactly that in a similar situation. When the State of Vermont developed a TMDL for Lake Champlain, EPA initially approved the TMDL. Then, after an environmental group filed suit against EPA, challenging the approval of the TMDL, EPA reversed itself, and announced that it would now withdraw its approval. As a result, a new TMDL had to be performed. EPA could do the exact same thing here; if the Agency honestly believes that the TMDL is "flawed," then the proper action to take is to withdraw the 2005 approval of the TMDL, and require that the State reassess the TMDL and make any needed revisions.

In fact, though, EPA's claim that the TMDL is "flawed" is itself flawed. It appears that EPA has two reasons for stating that there are problems with the TMDL. The first is a claim that the reductions in loadings called for in the TMDL will not be sufficient to bring the Middle Snake into attainment of standards. However, that claim ignores the substantial progress that has already been made in moving toward that goal. It was always understood that reaching attainment would take time; that was part of the discussion when the TMDL was developed. So the fact that the Middle Snake is not yet in attainment is not relevant to whether the TMDL is adequate; nobody expected the waterbody to be in attainment by this point. Moreover, the kinds of testing that need to be done to assess the biological health of the stream is being done right now, by the State. Those results will help the stakeholders better evaluate progress and determine if something more needs to be done, beyond what is already called for in the TMDL. EPA's claim that the TMDL is inadequate is, at best, premature, and at worst, simply inconsistent with the extended timeline that was always going to be needed to bring the Middle Snake River into attainment.

EPA's other claim of "flaws" is even more questionable. The Agency now states that the river flow on which the TMDL was based is incorrect. EPA wants to reduce the river flow estimate substantially from the one that was used in the TMDL. This makes a major difference in the loading reductions that will be required from the City; in fact, it accounts for most of the reduction in the allowed loading from 710 lbs/day to 10 lbs/day. But this change is problematic, for several reasons. For one thing, EPA wants to move to a very low flow estimate, similar to those that are used in estimating impacts of toxic pollutants. Using that low flow is appropriate for toxics, which have more impact when there is little water in the steam, and can have very short-term, acute impacts in those situations. But that is completely wrong to do for nutrients, whose impacts are much more watershed-based and long-term. EPA itself has allowed use of annual averages to calculate permit limits for nutrients in waters such as Chesapeake Bay, so requiring a low-flow estimate in the Middle Snake River simply makes no sense. Moreover, this change in policy by EPA amounts to a radical change in the assumptions used to develop the EPA-approved TMDL, and changing it through an individual permit, rather than by reexamining the TMDL, is the wrong way to make such an important policy change.

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Even if, as EPA argues, there are "flaws" in the TMDL that is no reason to discard the TMDL process and instead impose new requirements in the City's NPDES permit. As noted above, if EPA honestly believes that the TMDL needs to be redone, then the Agency can withdraw its approval of the TMDL and require that it be redone. That process could be done quickly, by Idaho DEQ and the Watershed Advisory Group for the Middle Snake – probably within 2 years. During that time, the City could continue to operate under its existing permit – and continue to implement actions to further reduce its nutrient discharges. To instead issue a new permit, with a drastically reduced loading limit of 10 lbs/day (forcing the City to appeal that permit to the EPA Environmental Appeals Board and, possibly, to Federal court) would be unnecessary, as well as unfair. The unfairness stems from the fact that, instead of involving the entire stakeholder group, and fully reevaluating all aspects of the TMDL with full public input, EPA would be redoing the TMDL's loading limits for one discharger, in a process that involves only that entity and whoever else is interested in filing comments on that individual permit. Any new approach mandated by EPA for the City would not be applied consistently to all dischargers - unless EPA issues similar mandates for all permits, in which case one wonders why it would not be better to reopen the TMDL and deal with all at once, in the same forum, open to all.

Even more than being unfair, though, EPA's new mandate on the City would be illegal – simply contrary to the Agency's own rules. Those regulations (in 40 CFR 122.44(d)) require that permit limits must be "consistent with" the "assumptions and requirements" in a TMDL. The limits that EPA is proposing for the City would be blatantly inconsistent with those assumptions and requirements. The Agency would be reducing the City's allocation by 98.5%. Moreover, it would be fundamentally altering the flow basis on which all of the TMDL's loading allocations were derived. It is hard to see how those decisions are "consistent" with the assumptions and requirements in the TMDL. EPA's only defense appears to be that in a case years ago, the Agency's own Environmental Appeals Board allowed EPA to give the town of Moscow, Idaho less than its full allocation, since the full allocation would not be needed until a future expansion. That case is completely different from the Twin Falls situation, where EPA is claiming the authority to completely depart from the TMDL allocations and fashion entirely new, much more stringent limits for the same treatment plant that received the original TMDL-based limits.

Beyond being illegal, EPA's action would also be extremely counterproductive as a policy matter, because it would do serious damage to the TMDL program itself. States and stakeholders invest substantial time and effort in studying waterbodies and then developing and implementing TMDLs to restore those waterbodies. All of those parties understand, and rely on, the fact that the allocations arrived at in the TMDL process will form the basis for binding, enforceable permit limits for point sources. Yet here, EPA is claiming the authority to blithely disregard the allocations in a TMDL – without ever taking action to withdraw its approval of that TMDL - and then develop new permit limits itself, imposing those new requirements directly on just one of the many sources in the watershed. If that is the way that EPA is going to run the permits program going forward, why would any parties participate in a TMDL process? It would be clear from the outset that the TMDL process is irrelevant, since EPA could disregard its results at any time – even right after issuing its approval of the TMDL. If EPA truly wants the TMDL program to continue, and to encourage stakeholders to participate in that process, then it needs to honor the results of that process – particularly when it has approved the TMDL itself.

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For all of the reasons laid out above, EPA needs to move away from its current direction as to the Twin Falls permit. Instead of imposing new, drastically lower phosphorus limits in the City's permit, EPA should focus its attention on working with Idaho DEQ and the Watershed Advisory Group to consider the Agency's concerns as to the TMDL and to make any necessary revisions to that TMDL – and to the loading allocations that are contained there. Once that process is complete, it would be appropriate to reissue permits for the City and other sources in the Middle Snake watershed, incorporating any revisions in allocations that result from reevaluation (and, if necessary, revision) of the TMDL. That is the appropriate process to follow under the Clean Water Act, and the City would plan to be an active and positive participant in that process going forward.

Sincerely,

Shawn Barigar
Mayor
City of Twin Falls

cc: James Neill
Legislative Assistant to Congressman Simpson
James.Neill@mail.house.gov

Travis Rothweiler
City Manager
City of Twin Falls

CITY OF Ammon
2135 South Ammon Road, Ammon, Idaho 83406
(208) 612-4000 email: scolettl@cityofammon.us

May 9, 2017

Senator Mike Crapo
239 Dirksen Senate Office Building
Washington, D.C. 20510

Senator James E. Risch
483 Russell Senate Office Building
Washington, D.C. 20510

Congressman Mike Simpson
2084 Rayburn House Office Building
Washington, D.C. 20515

Dear Idaho Senators and Congressman,

I am writing on behalf of the Eastern Idaho Regional Waste Water Authority (EIRWWA), which operates the Oxbow Wastewater Treatment Plant located in Shelley, Idaho. There are four members of EIRWWA, namely, the City of Ammon, the City of Shelley, Bonneville County, and Bingham County. I serve on the board of EIRWWA associated with my role as a member of the Ammon City Council.

The purpose of this letter is to request that EIRWWA receive your assistance in working with the regional office of the Environmental Protection Agency (EPA), located in Seattle, Washington.

By way of quick background, EIRWWA obtained its discharge permit effective June 1, 2014. In that permit, EPA gave EIRWWA a phosphorus compliance schedule for cessation of discharge or partial cessation of discharge. The compliance schedule required certain actions to be taken according to a very strict timeline.

It is also important for you to understand that EIRWWA is a regional authority and not a taxing district, and therefore has no ability to obtain additional financing or incur debt to fulfill the requirements set by the EPA. Accordingly, EIRWWA is also considering a plan to become a sewer district, but the timeline and requirements for doing that are also very time consuming and will require much effort.

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In 2015, EIRWWA came to the realization that it needed more time from EPA to satisfy its phosphorus requirements, given that it also needed to move toward a district. Representatives of EIRWWA contacted the EPA representative, John Drabek, on several occasions between May 1, 2015 and April 4, 2017, but the EPA has not been quick to respond or provide EIRWWA with any guidance. Mr. Drabek did call the EIRWWA engineer once in April of 2016 and said that he would speak with others in his agency about what they could do, but EIRWWA never heard anything back. In short, dealing with the EPA has been extremely difficult. A copy of the written correspondence to the EPA is enclosed with this letter, for your reference.

As a result, we felt that our only option was to request assistance from our elected representatives. We are asking for your assistance in helping us communicate with and come to some resolution with the EPA concerning this issue. As you are aware, sewer and septic systems are of critical importance to Idaho towns and cities. It is imperative that we are able to communicate effectively with the EPA to be able to serve those citizens we represent.

I am copying your regional office managers on this letter, as I spoke with them over the past two weeks and they requested that I write you this letter directly.

As this matter is of urgent importance, we ask for your quick assistance. Please contact me anytime at 208-520-9856, or at scoletti@cityofammon.us.

Very Truly Yours,

Sean J. Coletti

Cc: Kathryn Hitch, Amy Taylor, Ethan Huffman

Enclosures

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CITY OF FILER

6 June 2017

Office of the Mayor

Dear Congressman Mike Simpson

We, the city council members, want to thank you for your help with arsenic issue for the City of Filer. Even though we will still need to build a plant, your help softened the impact it had on our citizens.

This letter is in response to your request at our last meeting 10th of May on the EPA and the current phosphorous rule . We need to get some realistic figures on the phosphorous issue.

Phosphorous is such a common naturally occurring element that any small amount of discharge from rural communities will have such a minimal effect on the overall scheme of things.

Even though time maximum daily limits (TMDL) have not been changed at this time, there is talk that the EPA is considering reducing the current TMDL by 95%. Our resources tell us that current technology isn't available to accomplish these levels.

No one wants to destroy the environment but in the future TMDL should be based only on facts.

Here are some thoughts on how to fix the out of control EPA.

1. Creating more Districts in smaller communities not just within large cities. The smaller communities under 40,000 people are impacted more financial than large cities.
2. Resend Executive Order 13693 dated March 19, 2015 as soon as possible that has just turned EPA loose to do what they want.
3. No rules should be made without at least a 20 yrs studies by independent research groups or universities on any type of environment study where there are cycles of nature involved .
4. New limits set will have to come before a panel of seven. For example, one member from the EPA, State Agency, local farmer, the Mayor, and/or other members that are involved with the issue. Both by health hazard and economical impact. Then forwarded to congress for a final judgment.
5. All limits set must be achievable by current technologies. The EPA shouldn't have the power to force unfunded mandates on cities.

The environment is important to people and shouldn't be destroyed, but real facts and understanding of issues should be considered before forcing cities with tasks that they aren't able to accomplish, either financially or physically.

Sincerely,
The City Council of Filer

Rick Dunn, Mayor | Ruby Allen, President Council | Bud Sheridan, Council Member

Christina Hatch, Council Member | Gary Deitrick, Council Member

500 MAIN ST. • P.O. BOX 140 • FILER, IDAHO 83328
(208) 326-5000 • FAX: (208) 326-5002

THE CITY OF FILER IS AN EQUAL OPPORTUNITY PROVIDER. TO FILE A COMPLAINT OF DISCRIMINATION WRITE USDA, DIRECTOR, OFFICE OF CIVIL RIGHTS, 1400 INDEPENDENCE AVENUE S.W. WASHINGTON, DC 20250-9410 OR CALL (800) 795-3272 (VOICE), OR (202) 720-6382 (TDD).

Ecolabels - *OCSPP*

In the 2017 Consolidated Omnibus Appropriations Bill, we asked for the agency to provide a report on the Ecolabel program within 60 days of enactment, asking that as you develop the guidelines and evaluate ecolabels for federal purchasing in building construction that the process be fair, transparent, and consistent with other product requirements.

I'm most interested in the part of the process that looks at labels associated with forest management. I want to ensure that our federal government's procurement system includes recognition of forest products from the millions of acres of responsibly managed forests across the US. Unfortunately, as I understand it, the former administration's EPA issued 2015 procurement recommendations that excludes forest products from 83 million acres of private and state forestlands, as well as several hundred million acres of other private and public forestlands including the entire National Forest System, from participation in federal procurement efforts by discriminating against two recognized and credible forest certification standards - the Sustainable Forestry Initiative (SFI) and the American Tree Farm System (ATFS). And all this, despite the fact, that the only statutory authority any agency has is USDA, through its Bio-preferred Program authorized by Congress, which sets mandatory purchasing requirements for federal agencies and puts all certification programs on a level playing field. In December 2016, EPA said this recommendation was "under review". I remain concerned about further actions that EPA will take on its program.

Simpson Q3: Can you provide us with a status update on the report called for in the Consolidated Omnibus Bill?

> **Answer:** The agency has been working to meet this new requirement. The report is currently in draft and undergoing EPA management review. Interagency review is required before the report is finalized.

Simpson Q4: What steps can you take to ensure your agency's efforts on the Ecolabel program avoids creating conflicting federal procurement policies and doesn't exclude US grown and manufactured forest products?

> **Answer:** 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. The Fiscal Year 2018 President's Budget eliminates all funding for the Pollution Prevention program; the program-project under which Ecolabels activities are funded.

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Questions from Mr. Stewart:

Serious Non-attainment Areas *(OAR)*

Recently, much of Northern Utah was classified as a serious non-attainment area. As you know, once a region is designated as serious non-attainment it's almost impossible to shed that designation – even if air quality improves to meet minimum federal standards.

Stewart Q1: Under your leadership, will EPA demonstrate to the states how they can exit non-attainment and serious non-attainment?

> **Answer:** This Administration is prioritizing attainment of air quality standards. The EPA has established guidelines for attainment demonstrations for areas that can attain by the statutory attainment date, and "impracticability" demonstrations for areas that cannot practicably attain by the statutory attainment date.

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Questions from Mr. Amodei:

State Obligation (Office of Budget)

Amodei Q1: If the cuts to state grant funding contained in the EPA's FY18 budget proposal are adopted, does EPA also intend to proportionally adjust the required obligations on states to implement federal environmental programs?

> **Answer:** It is essential for the EPA to work cooperatively with state and tribal governments to provide the environmental protection our laws demand and the American people deserve. The environmental needs of communities differ widely, and the EPA looks to provide flexibility to address these important priorities. The EPA is working to engage in meaningful discussion about how shared environmental goals can best be achieved.

Amodei Q2: If not, what is EPA's proposed solution for addressing this policy and funding the discrepancy? Does EPA expect state and local governments to make-up for the shortfall?

> **Answer:** The EPA administers statutes outlined by Congress, and regulation beyond those statutes constitutes regulatory overreach beyond the agency's mission. The EPA will work with states and tribes to target resources to core statutory work and provide flexibility to address particular environmental priorities and concerns.

Comprehensive Environmental Response, Compensation and Liability Act - *OLEM*

Nevada is the U.S. leader in responsibly regulating mining activities that adequately protect the environment while supporting a thriving mining industry. This successful framework creates tangible opportunities for the EPA to demonstrate a commitment to cooperative federalism. A key near-term opportunity under this model is EPA's proposed regulations under CERCLA to ensure financial responsibility for operating hard rock mines. Nevada has outpaced the EPA in this area through the Nevada Division Environmental Protection comprehensive mining financial assurance program.

Amodei Q3: How does the EPA plan to recognize and ensure the continued success of Nevada's pre-existing state-based program?

> **Answer:** The EPA proposed CERCLA section 108(b) financial responsibility requirements for hardrock mining facilities that were designed to complement, not duplicate or disrupt, existing state and federal closure and reclamation programs. The proposed rule accounted for risk-reducing regulatory requirements of those programs in determining the financial responsibility amount for a facility.
>
> The EPA also solicited comment on whether the rule should allow a program deferral approach, which would provide for adjustments in situations where the state or other program meets the requirements for deferral of section 108(b) requirements. The comment

period for the proposed rule is scheduled to close on July 11, 2017. The EPA will consider comments received on the proposal as it develops the final action. The EPA has appreciated the opportunities over the course of the development of the rulemaking to engage with Nevada and other states and learn about their programs.

Waters of the United States *(OW)*

Because states are primary implementers of federal rules, state input into rulemaking early in the process, well before a rule is formally proposed, is critical to an effective and efficient regulatory program. EPA's review of the Water of the United States rule is key example.

Amodei Q4: Does the EPA plan to include state environmental agencies as co-regulators in the development of a new WOTUS definition to ensure effective implementation if a final rule is pursued?

> **Answer:** On April 19, 2017, the EPA initiated a formal process known as Federalism consultation, which requires agencies to conduct preproposal discussions with elected state and local officials and their associations where a rule may have implications for the distribution of power and responsibilities among federal, state, and local governments. The EPA and the Army Corps of Engineers recently completed the formal Federalism consultation process with states and local governments and consultation with tribes, to inform potential approaches to the rulemaking to revise the definition of "Waters of the United States." The EPA also sent letters to every governor requesting their views and comments on the best way to define the waters of the U.S. The agencies are carefully reviewing the responses from the governors and other state comments as we begin developing the proposal. The agency also will continue to engage with state co-regulators. The written comment period for the consultation period has closed and the agencies will consider all comments received under this processes as the new WOTUS definition is being developed.

Renewable Fuel Standards *(OAR)*

Regarding renewable fuel standards, there was a petition filed with the EPA to move the point of obligation for blending renewable fuel from refineries and importers to the marketers who operate the pumps. I've been informed from several marketers in my state, most of which are family-owned businesses, that this would severely impact their operations and cause significant job loss. I've also heard this effort is being led by one major refinery in particular.

Amodei Q5: Can you tell me how the EPA views this petition now that the comment period has closed, and if changing the obligated parties from big refiners to the mom-and-pop marketers is something the EPA is considering?

> **Answer:** The EPA is still evaluating comments submitted during the comment period, and is considering next steps.

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Amodei Q6: Under the same policy – RFS point of obligation – does EPA make a distinction between obligated parties and position holders?

> **Answer:** Several commenters suggested that the EPA should place the point of obligation on "position holders." The current RFS obligated parties are refiners and importers of gasoline and diesel fuel. While some position holders currently are obligated parties because they also meet the definition of refiner or importer, the EPA is not currently obligating position holders who are not refiners or importers.

I have seen estimates that there are currently 200 obligated parties under the RFS. Now, merchant refiners have suggested that we should expect about 1000 obligated parties were the point of obligation to be moved. Obviously, Nevada has terminal operators that could certainly become obligated parties. Some of those terminal operators also have multiple other "position holders" that would also become obligated parties under such a change. In my example, as far as EPA is concerned from a compliance standpoint: (1) unobligated terminal would become (4) new obligated parties because of the three "position holders" that use the terminal. If you multiply this across the country, instead of 1,000 points of obligation as merchant refiners contend, you could actually have 4,000 or more.

Amodei Q7: Given the President's budget proposal, can the EPA effectively and economically manage a program that could potentially become more complicated by a factor of x 10?

> **Answer:** The EPA is evaluating the number and nature of potential obligated parties and will consider this factor in its decision making process.

Renewable Fuel Standard (RFS) Blend Wall - *OAR*

There is scientific evidence showing ethanol blends above 10 percent can harm vehicles and is incompatible with the existing retail gasoline infrastructure.

Amodei Q8: What is EPA doing to ensure that the annual RFS-mandated volumes protect the current U.S. vehicle fleet and existing retail infrastructure?

> **Answer:** Protection of vehicles and retail infrastructure are separate issues from the RFS-mandated volumes. There are existing mechanisms already in place through Clean Air Act Section 211 for the EPA to ensure that fuels introduced into commerce do not cause or contribute to air quality and public health problems. Renewable fuels introduced into commerce in response to the RFS or otherwise, must comply with these requirements. In addition, the EPA continually participates with industry in various forums, such as American Society for Testing and Materials (ASTM), which ensures that fuels introduced into commerce are fit for purpose.

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Fuel compatibility issues are a concern for owners and operators of retail gas stations and other underground storage tanks storing fuel. Industry has reported instances of corrosion and other damage to underground storage tank (UST) systems (i.e. retail infrastructure - tanks, piping, gaskets, seals etc.). At present, EPA is working collaboratively with interest groups in the biofuel, petroleum, equipment, servicing, and retail sectors to understand the causes and solutions to these challenges. Some examples of EPA's work in the area are: updating protocols to ensure leak detection equipment functions properly in current and emerging fuel blends and studying the corrosion in underground tanks storing diesel fuel.

ENERGY STAR Program - *OAR*

The FY18 President's Budget proposes eliminating the ENERGY STAR program from the EPA's budget and states these types of programs can be administered by the private sector. Privatizing the program would increase the cost and scope of the program and reduce its credibility to the public. For example, multiple organizations could manage the brand for differing products and have differing objectives. These private organizations also would not be cost conscious because there would be no competition. They could force manufacturers to pay high fees and require burdensome and expensive testing. For home appliances, ENERGY STAR is effectively mandatory in the marketplace. Instead of privatizing the program, we should reform it, right size it and make it more efficient. The first way you can do this is to move home appliances, which are regulated by DOE for the minimum energy standards, back to DOE for the ENERGY STAR program. DOE has historically managed most of the ENERGY STAR program for home appliances because this agency has the expertise and knowledge of the products. However, in 2009, the ENERGY STAR program for home appliances were transferred from DOE to EPA to be managed, while DOE continued to manage the test procedures.

Amodei Q9: Will you work with the committee on this matter and commit to moving the entire ENERGY STAR program home appliances to DOE immediately?

Answer: In the FY 2018 President's Budget, funding for ENERGY STAR is eliminated. The EPA will explore options for the potential transfer of the ENERGY STAR program to non-governmental entities.

Refrigerator Refrigerant Charge Size

On December 20, 2011, the EPA's Significant New Alternatives Policy (SNAP) program allowed the use of Isobutane in household refrigerators. The final rule included a use condition that limits the refrigerant charge to 57 grams or less for each sealed refrigeration system (i.e., compressor, condenser, evaporator, and refrigerant piping). The charge size is the amount of refrigerant that is allowed in each sealed refrigerant system within a refrigerator. The SNAP rule based the charge size amount on the Underwriters Laboratories safety standard for household refrigeration end-use, which limited the quantity of the refrigerant (i.e., ''charge size'') in a

refrigerator or freezer to 57 grams. In EPA's final rule, the agency stated that they do not have sufficient information to support a charge size limit different from one based on UL 250, such as the 150-gram limit in IEC 60335–2–24. The final rule stated EPA understands that the limit in UL 250 may change in the future. If that occurs, and if the appropriate safety testing data is submitted to EPA supporting safe use of a larger charge, EPA stated it would consider modifying the use conditions.

Based on testing and lengthy analysis, on April 28, 2017, the maximum charge size allowance in the UL standard was changed and increased from 57 grams to 150 grams. During the approval process of this update, the Consumer Product Safety Commission (CPSC) staff stated that they do not oppose the proposal to increase the maximum flammable refrigerant charge size in household refrigerators to 150 grams from 57 grams. They stated that standards in Latin America, Europe, and other countries allow household refrigerators to use up to 150 grams of flammable refrigerant.

It is my understanding that EPA has sent the rule to OMB to update the SNAP use condition to increase the allowable charge size to match the most recent safety standard, which is 150 grams. I am appreciative of your quick action on this important matter; however, we need to make sure it gets out of OMB quickly. I wanted to be sure that you were aware of the importance of this matter to expedite this technical change. Appliance manufacturers need certainty in this area to start planning and designing their products to meet the EPA required date of 2021 when HFCs are banned for use in refrigerators.

OAR

Amodei Q10: Can you please continue to make sure this is a high priority action for OMB to complete?

> **Answer:** The EPA is aware of the importance of this action for appliance manufacturers and their need for certainty as they plan and design products.

Questions from Mr. Jenkins:

National Ambient Air Quality Standards *(OAR)*

Recently, EPA announced it would be extending the timeline for the 2015 ozone standards. In making that decision, the EPA cited several issues in need of further review.

Thank you for this action and your consideration of these issues.

All counties in West Virginia now meet the 2015 standards, and we are proud of that progress. Despite this fact, potential EPA actions threaten affordable, reliable energy in West Virginia.

It is my understanding that the decision does not change several other implementation steps and actions that states must still undertake.

Petitions from other states would require West Virginia electricity generators to address nonattainment areas in those states or join the Ozone Transport Commission, despite the fact EPA does not require those areas to address their contributions first.

States like West Virginia, while meeting the standard, would still submit a state plan to address its "Good Neighbor" obligations by October 2018.

Jenkins Q1: What actions will EPA be taking to address state concerns regarding these interstate modeling results?

> **Answer:** The Administrator has determined that there is insufficient information to complete area designations for the 2015 ozone standards and is extending the deadline by one year, until October 1, 2018. Taking additional time will allow the EPA to evaluate a host of complex issues regarding the 2015 ozone NAAQS and its implementation, such as understanding the role of background ozone levels and appropriately accounting for international transport; to develop additional flexibilities for states to comply with the ozone NAAQS; to consider completely all designation recommendations provided by state governors, including full consideration of exceptional events impacting designations; and to provide new agency officials time to complete their review of the 2015 ozone standards.

Jenkins Q2: Do you agree that States, through the State Implementation Plan process, should be able to address interstate pollution?

> **Answer:** Clean Air Act Section 110(a)(2)(D)(i)(I) requires each state, in its State Implementation Plan, to prohibit emissions that will significantly contribute to nonattainment of a NAAQS, or interfere with maintenance of a NAAQS, in a downwind state. The EPA, working with states, has decades of success under the Clean Air Act in achieving NO_X emission reductions through implementation of programs like the NO_X Budget Trading Program and the Clean Air Interstate Rule and Cross-State Air Pollution Rule (CSAPR). Since 1997, power plants affected by these programs, along with other regional and state NO_x emission control programs, have cut ozone season NO_X emissions by over 75 percent, a reduction of almost 2 million tons. During the time period of 2000 to 2015, average ozone concentrations across the U.S. have fallen by approximately 17 percent.

The budget calls for approximately $100.4 million for NAAQS.

OAR

Jenkins Q3: How much of that funding is to assist counties with achieving 2015 standards?

Answer: The budget requests $100.4 million across the EPA's headquarters and 10 regional offices to provide federal support for all activities that support integrated state and local air quality management across the U.S. Achieving clean air is a state-federal partnership that benefits from local, state, regional and national efforts. The EPA will provide direct technical assistance to states and local air agencies for developing State Implementation Plans (SIPs) that meet applicable Clean Air Act (CAA) requirements and NAAQS. The specific NAAQS addressed in SIPs varies by locality and states.

Jenkins Q4: How much is being proposed to assist with State Implementation Plans and other administrative efforts?

Answer: The budget requests $100.4 million across the EPA's headquarters and 10 regional offices to provide federal support for all activities that support integrated state and local air quality management across the U.S. Achieving clean air is a state-federal partnership that benefits from local, state, regional and national efforts. The EPA will provide direct technical assistance to states and local air agencies for developing SIPs that meet applicable CAA requirements and NAAQS.

Questions from Ms. McCollum:

Implementation of FY 2017 Enacted Budget - *OARM*

It has come to the Committees attention that EPA notified unions representing Agency employees that EPA is halting funding for fitness subsidies during FY 2017.

The FY 2017 budget request did not propose such a reduction. Rather, the FY 2018 budget proposes to cut "support for employee wellness and worklife initiatives, such as federal cost sharing for fitness centers, health wellness and CPR/AED training services and libraries."

It is wholly inappropriate for EPA to execute new FY 2018 budget proposals before Congress has had the opportunity to act on them.

Congress provided funding for these programs in the FY 2017 enacted bill. Bill language states that rescissions to the Science and Technology and Environmental Programs and Management account were to be applied to program project areas to, "to reflect changes to funding projections due to routine attrition during fiscal year 2017." Therefore, it was not the intent of Congress to terminate funding for employee wellness and worklife initiatives.

McCollum Q1: The Reprogramming Guidelines for programs and activities funded in our bill specify that agencies should notify Congress of any significant departure from what has been described in the agency's budget justification. The FY 2017 enacted anticipated fitness subsidies would be provided as part of the employees wellness package. If your intent is to do otherwise, why wasn't Congress notified?

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Answer: The agency will be phasing out the fitness subsidy in FY 2017. Negotiations will be handled on a local basis, per the agency's notification to its labor unions. Timing also is dependent upon when obligated resources are spent and contracts are closed out. The agency does not provide a subsidy at every location, and those facilities with equipment on-site will continue to maintain equipment for employee use as part of the wellness program. EPA continues to maintain other parts of the wellness program, such as "Walk to Wellness," Health Fair, Employee Assistance Program among other activities.

McCollum Q2: The leading causes of death and disability in the United States are not only preventable but also responsive to workplace interventions. Worksite health and wellness programs help employees move toward an optimal state of wellness, and the U.S. Office of Personnel Management, in accordance with the authorization under 5 U.S.C. 7901, encourages agencies to develop and sustain programs that address the current and future needs of their employees to produce the healthiest possible workforce. What is the justification for eliminating the funding for fitness subsidies halfway through the fiscal year?

Answer: The agency does not provide a subsidy at every location, and those facilities with equipment on-site will continue to maintain equipment for employee use as part of the wellness program. EPA continues to maintain other parts of the wellness program, such as "Walk to Wellness," Health Fair, Employee Assistance Program among other activities.

McCollum Q3: How does halting the funding for fitness subsidies impact the collective bargaining agreement reached with unions representing EPA employees? What response have you received from the unions from your notification?

Answer: The agency has provided the union notification in accordance with our Collective Bargaining Agreements and will continue to follow those requirements throughout the process. Any negotiations on this issue will be conducted at the local level.

McCollum Q4: How will EPA spend the funds that would have otherwise been used for fitness subsidies?

Answer: The amounts involved for fitness subsidies are well below the reprogramming limits. Costs for facilities, including rent, utilities, maintenance and repairs, continue to climb, along with direct employee costs such as salaries, while the agency's appropriations have been flat or declining for a number of years.

McCollum Q5: What other reductions proposed in the FY 2018 budget request is EPA implementing in FY 2017?

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Answer: EPA is not proposing to eliminate any other employee benefit services in FY 2017.

Administrator Pruitt's Undisclosed Email Accounts *(OA)*

When I referred to a recently discovered official email address – esp@oag.ok.gov – that Administrator Pruitt used while Attorney General of Oklahoma but did not disclose despite repeated requests during his confirmation process, he volunteered this explanation "If I may, both in my oral testimony, as well as there's a letter actually that I submitted to the EPW Committee in May that recognized multiple state email accounts… so we've informed Committee, that was consistent with my oral testimony."

McCollum Q6: Please provide the relevant excerpt(s) from Administrator Pruitt's oral testimony and the letter he referenced. Additionally, please provide the relevant questions for the record and his responses.

Answer: Administrator Pruitt's oral testimony is available at https://www.epw.senate.gov/public/_cache/files/1291a5e0-b3aa-403d-8ce3-64cb2ef86851/spw-011817.pdf (page 242). Also attached is the May 5, 2017 letter to Senate Environment and Public Works Chairman John Barrasso and Ranking Member Tom Carper.

McCollum Q7: Administrator Pruitt committed to provide our committee with the email addresses and information about other forms of electronic communication that he is using as EPA Administrator. Please provide those details.

Answer: The agency maintains a primary email account to contact the Administrator, pruitt.scott@epa.gov. EPA staff has also established secondary accounts in the agency's Outlook email system that are used for calendaring, scheduling, and internal communications. All of which are eligible under the Freedom of Information Act to be requested.

Congressional Inquiries *(OA/OCIR)*

McCollum Q8: What is the policy at the Department with regard to responses to congressional inquiries?

Answer: The EPA's policy is to respond to all congressional inquiries as appropriate.

McCollum Q9: More specifically, is there a policy or guidance that would prohibit or delay responses to Ranking Members of Congressional Committees or Subcommittees of jurisdiction?

Answer: The EPA's policy is to respond to all congressional inquiries as appropriate.

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McCollum Q10: Is there a policy or guidance that would prohibit or delay responses to Democratic Members of Congress?

Answer: The EPA's policy is to respond to all congressional inquiries as appropriate.

McCollum Q11: If such policies or guidance are in place to prohibit or delay responses to Ranking Members or all Democratic Members, was such developed in consultation with the White House or the Office of Management and Budget?

Answer: The EPA's policy is to respond to all congressional inquiries as appropriate.

Overview (Office of Budget)

The FY 2018 Budget request for the Environmental Protection Agency is $5.66 billion, a reduction of $2.4 billion or 30% below the FY 2017 enacted level as well as reduction of one quarter of the staff. These cuts address almost every program for clean air and water and threaten the health of children and the elderly.

McCollum Q12: Administrator Pruitt has stated he wants EPA to go back to the basics of protecting our air, water, and land, but the budget makes major cuts in air, water, waste, chemical safety, pesticides, enforcement, and research, not to mention the reductions you propose in categorical grants to states. How can a budget like this not jeopardize the health and well-being of Americans as well as all who inhabit the Earth?

Answer: The Agency's positive environmental agenda builds on cooperative federalism between the federal government and implementing partners, better engagement with communities through technical assistance, and optimization of the regulatory and permit process. This agenda is designed to strengthen the EPA's ability to faithfully execute and administer environmental laws, as outlined in the statutes, in order to protect human health and the environment for all Americans.

McCollum Q13: Can Administrator Pruitt assure the Committee that he does not want to see this Nation's environmental progress rolled back?

Answer: The Administrator supports a healthy environment, with clean air, water and land for all Americans. The EPA maintains a vital role in environmental protection, but must do so within the bounds of its legal authority.

McCollum Q14: What analysis did EPA do to determine the impact of the proposed reductions on health and environmental protection?

Answer: Analysis was done to ensure resources support our core mission of protecting human health and the environment, and not on activities beyond the scope of the EPAs regulatory authority or those that can be led by state and local partners.

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McCollum Q15: How many more deaths, heart attacks, hospitalizations and lost work days Americans will suffer as a result of these reductions?

> **Answer:** The FY 2018 President's budget request focuses resources on improving America's air quality, restoring states' roles in the regulation of water, cleaning up contaminated land, ensuring the safety of chemicals in commerce, and enforcing environmental regulation to improve the environment and protect human health. This renewed focus returns the EPA to its core mission of protecting human health and the environment pursuant to the laws dictated by Congress.

McCollum Q16: If no specific analysis was done on these metrics of these reductions, what basis does the Agency have for saying EPA and states can adequately protect public health and the environment?

The budget also proposes to cut categorical grants to states by either 30% or zero them out completely, and eliminate 46 programs. EPA and the states together have made major progress in improving public health and environmental quality over the years.

> **Answer:** Protecting public health and the environment is a shared responsibility, and the EPA will uphold this mission in accordance with all applicable legal authority. To that point, states have unique environmental needs and the EPA will continue to engage in meaningful discussion about how shared environmental goals related to the regions can best be achieved.

McCollum Q17: On what basis did EPA decide what is and is not a core statutory responsibility, and how do the Agency reconcile such drastic cuts in core programs with Administrator Pruitt's previous statements about the mission of EPA?

> **Answer:** Core statutory obligations are established through laws passed by Congress and signed by the President, not unilaterally by the EPA. Any action by the EPA that exceeds the authority granted to it by Congress, by definition, cannot be consistent with the agency's mission. The FY 2018 budget identifies and eliminates programs, as outlined in responses below, so that the EPA can focus on its statutory mission, achieving greater value and greater results.

McCollum Q18: What type of analysis did EPA conduct on the 46 programs it proposes to eliminate?

> **Answer:** The FY 2018 President's budget eliminates programs that are mature, duplicative or those that can be absorbed into other programs or are state and local responsibilities.

McCollum Q19: Please provide that analysis to the Committee, specifically the data on the impact to the health of families and communities across this country that will result from these eliminations.

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Answer: The FY 2018 President's budget describes the basis for eliminating programs that are mature, duplicative or those that can be absorbed into other programs or are state and local responsibilities, so that resources are available to support the core mission of the agency.

McCollum Q20: Please include information on the other agencies or programs will do this work in the absence of federal funding.

Answer: The agency will work to partner with EPA counterparts in state, local and tribal governments, as well as non-governmental groups, to further environmental goals. Additionally, the EPA is committed to partnering with other federal agencies to collectively achieve goals surrounding clean air, clean water, clean land, ensuring chemical safety, and enforcement and compliance assurance programs.

McCollum Q21: If the Agency has not done any detailed analysis, on what basis does EPA justify its decision to eliminate these programs?

Answer: The FY 2018 President's budget describes the basis for eliminating programs that are mature, duplicative or those that can be absorbed into other programs or are state and local responsibilities, so that resources are available to support the core mission of the agency.

(OA/OP)

McCollum Q22: What is Administrator Pruitt's view about how science should inform policy?

Answer: Administrator Pruitt believes that sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies.

McCollum Q23: Does Administrator Pruitt see himself as the arbiter of what science is acceptable and if so, on what basis and with what training?

Answer: Science provides the foundation for EPA's policies, actions, and decisions made on behalf of the American people. EPA research incorporates science and engineering that meets the highest standards for integrity, peer review, transparency, and ethics. The process of incorporating high-quality science into Agency decision-making is coordinated by science organizations within the Agency. It is guided by EPA's scientific integrity policies. In addition, the Agency's stringent scientific peer review processes are designed to ensure that all EPA decisions are founded on credible science and data.

McCollum Q24: If not, why is the Administrator choosing to dismiss the science of his own agency in regards to climate change?

Answer: Administrator Pruitt believes that sound science is the backbone of the EPA's rule-making process.

ORD

McCollum Q25: Can Administrator Pruitt assure the Committee that he will uphold scientific integrity policies at the EPA, allow EPA scientists to do their work unimpeded and guarantee that Americans will have access to the research and information they have paid for?

Answer: Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies.

As Administrator, I commit to supporting the agency's Scientific Integrity Policy. Scientific Integrity is the adherence to professional values and practices when conducting, communicating, supervising, influencing, and utilizing the results of scientific research. It ensures objectivity, clarity, reproducibility, and utility; while protecting against bias, fabrication, falsification, plagiarism, outside interference, and censorship. The EPA's Scientific Integrity Policy is a roadmap to ensuring high standards of scientific integrity at the EPA. The policy details the components of a culture of scientific integrity and provides a framework for agency-wide compliance. The policy applies to all EPA employees including scientists, managers, and political appointees, as well as contractors, grantees, collaborators, and student volunteers.

The EPA also is deeply committed to transparency and access to research, especially because sharing information helps advance the science we need to protect human health and the environment. We are working rigorously to implement the Office of Science and Technology Policy (OSTP) directives in its 2013 memorandum titled, "Increasing Access to the Results of Federally Funded Scientific Research," through our agency's public access plan.

McCollum Q26: What assurance can EPA give the Committee that the EPA Office of Research and Development and EPA's science labs will be fully supported to conduct critical independent science that is the basis for protecting the public?

Answer: I am committed to ensuring that our laboratories and scientific enterprise are supported to the maximum extent provided by appropriations. The EPA will carefully review its laboratory space footprint and continue efforts to reconfigure the EPA's workspaces in order to release square footage and reduce long-term rent.

McCollum Q27: With EPA's current hiring freeze are key technical positions at the agency currently filled with qualified scientists free from conflict of interest?

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Answer: Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies.

Scientific Integrity is the adherence to professional values and practices when conducting, communicating, supervising, influencing, and utilizing the results of scientific research. It ensures objectivity, clarity, reproducibility, and utility; while protecting against bias, fabrication, falsification, plagiarism, outside interference, and censorship. The EPA's Scientific Integrity Policy is a roadmap to ensuring high standards of scientific integrity at the EPA. The policy details the components of a culture of scientific integrity and provides a framework for agency-wide compliance. The policy applies to all EPA employees including scientists, managers, and political appointees, as well as contractors, grantees, collaborators, and student volunteers.

McCollum Q28: Since 1970, EPA and states, working in partnership, have achieved major improvements in human health and environmental protection, but threats such as contaminated runoff that pollutes our waters, endocrine disruptors, and new emerging threats need to be addressed. How can EPA possibly have the necessary resources and staff to protect human health, the environment, and our economy?

Answer: The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners.

McCollum Q29: EPA is obligated to uphold specific statutory responsibilities to protect human health and the environment, how can EPA assure this Committee that with the draconian cuts proposed in this budget that it can meet those mandates, especially with more than a third fewer scientists and a 30% reduction in funding?

Answer: The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners.

In FY 2018, the EPA will prioritize science and research activities directly tied to statutory requirements and inquiries into environmental and human health sciences. Science and research will be streamlined to support the agency's program and will prioritize the most important work to protect human health and the environment.

(OAR)

McCollum Q30: In 2007 the Supreme Court ruled in Massachusetts v. Environmental Protection Agency that harms associated with climate change are serious and well recognized. How does the Agency interpret this ruling and EPA's role in regulating greenhouse gases that drive global warming, including carbon dioxide and methane?

Answer: The Supreme Court ruled in Massachusetts v. EPA that the EPA has the authority to regulate carbon dioxide as an air pollutant under the Clean Air Act.

McCollum Q31: How does the budget reflect EPA's obligation as outlined by the court?

Answer: The budget provides some resources to continue to implement the Greenhouse Gas Reporting Program. The budget also provides resources to support regulatory action consistent with the Presidential Executive Order on Promoting Energy Independence and Economic Growth dated March 28, 2017, including review of the Clean Power Plan. In addition, the request supports the agency's implementation of integrated criteria pollutant and greenhouse gas (GHG) mobile source programs.

McCollum Q32: Does the Agency recognize that EPA is legally required to regulate emissions of CO2 based on this ruling? If so, what is its plan to do so expeditiously, especially in light of stopping the implementation of the Clean Power Plan and methane regulations?

Answer: The Supreme Court ruled in Massachusetts v. EPA that the EPA has the authority to regulate carbon dioxide as an air pollutant under the Clean Air Act. Since 2009, the EPA and the National Highway Traffic Safety Administration (NHTSA) have taken coordinated steps to enable the production of a new generation of clean vehicles through reduced GHG emissions and improved fuel use from on-road vehicles and engines from the smallest cars to the largest trucks. We are currently revising all the regulatory actions.

(ORD/OECA)

McCollum Q33: Looking at the landscape of reductions this budget proposes why shouldn't one conclude this budget is an attempt to cut industry compliance costs by crippling the ability of EPA and states to develop scientific information and issue and enforce regulations regardless of the likely damage to public health and environmental protection?

Answer: Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies. The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners. In FY 2018, the EPA will rely on, to a greater extent, its state partners to achieve compliance and enforcement goals. The agency will focus resources on its direct implementation responsibilities, emphasizing violations with public health and environmental impacts.

Administrator's Schedule and Travel Budget

(OA)

McCollum Q34: Does the EPA plan to regularly release the Administrator's schedule to the public?

Answer: The Office of Public Affairs (OPA) was been directed to examine methods on how best to post the Administrator's schedule to the public.

McCollum Q35: To date, what are the total travel costs incurred by the Administrator including all support staff? What was the total travel costs per year for the Administrator for the last four years?

Answer: As of June 30, 2017 the total travel cost incurred by the Administrator and support staff is as follows:

Administrator	$32,456.38
Administrator Support Staff	$81,248.66
Grand Total	**$113,705.04**

The previous Administrator, Mrs. McCarthy's per year total travel cost is as follows:

FY 2013	$5,651.28
FY 2014	$53,577.85
FY 2015	$37,581.77
FY 2016	$49,616.55
FY 2017	$8,110.67
Grand Total	**$154,538.12**
Please note, total does not include support staff costs.	

McCollum Q36: How many times has Administrator Pruitt traveled to Oklahoma since becoming Administrator? For each trip made to Oklahoma using federal funds, provide the purpose of the trip and the purpose for any meetings the Administrator attended.

Answer: Administrator Pruitt has traveled to Oklahoma five times since becoming Administrator. The following are the dates, locations and purposes of each trip:

Travel Dates	Location	Purpose
03/23/2017 to 03/27/2017	Oklahoma City, Oklahoma	To receive an award and give speech at the National Stripper Well Association's Energy Gala.
05/05/2017 to 05/08/2017	Tulsa, Oklahoma	To meet with the CEO of National Rural Water in Tulsa.
05/19/2017 to 05/22/2017	Tulsa, Oklahoma	To tour the Brainerd Chemical Company.

05/25/2017 to 05/29/2017	Tulsa, Oklahoma	To tour the Bird Creek contamination site in Osage County.
06/22/2017 to 06/26/2017	Tulsa, Oklahoma	Invitation from Ardagh for a tour and meeting.

(OECA)

McCollum Q37: From what program projects is protection of the Administrator funded and what are the FY 2017 and FY 2018 requested levels? Provide the costs of the security detail provided to Administrator Pruitt and provide the last four years of security costs for Administrator protection.

Answer: The Office of Enforcement and Compliance Assurance (OECA) receives funding for the Administrator's Protection Services Detail (PSD) in the Facilities Infrastructure and Operations program project. The actual PSD costs for fiscal years 2013-2016, the FY 2017 request and enacted levels, as well as the FY 2018 request levels, are included in the table below.

Resources (dollars in thousands)

	FY 2013 Actuals	FY 2014 Actuals	FY 2015 Actuals	FY 2016 Actuals	FY 2017 Request	FY 2017 Enacted	FY 2018 Request
Dollars	$2,036	$2,228	$2,138	$1,751	$2,312	$4,364	$5,706
FTE	8.4	8.4	7.7	5.6	8.0	15.5	20.0

(OA)

McCollum Q38: Does Administrator Pruitt fly first class at the federal tax payers' expense? If so, what is the justification for the upgraded travel? Did prior Administrators use this justification and, if so, which ones?

Answer: Administrator Pruitt flies either Premium Business Class or First Class due to security reasons. The Administrator has left the assessment of his security needs to the professionals at the EPA who have experience in that area. It was determined after reviewing related documentations that his request complied with criteria outlined in the Federal Travel Regulation (FTR). Prior Administrators have not used this justification, but have used other justifications allowed by FTR.

Voluntary Programs ***(OAR)***

McCollum Q39: The budget calls for eliminating all of the voluntary partnership programs for reducing greenhouse gases and other air pollution. These programs, which have bi-partisan and industry support, are proven to lower emissions. How will you make up for the emission benefits that are lost?

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Answer: The EPA will explore options for the potential transfer of these programs to non-governmental entities.

Hydrofluorocarbons *(OAR)*

McCollum Q40: The budget states that the EPM account for the GHG Reporting Program is being cut to "streamline", among other things, the use and emissions of the greenhouse gases, hydrofluorocarbons, under the Clean Air Act SNAP program. What does EPA mean by "streamlining" the program? What would change about the very important work this program does?

Answer: Through streamlining of various programs in that account, the agency will be able to focus on core work areas. The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners.

U.S. Global Change Research Program *(ORD)*

McCollum Q41: Also being "streamlined" as part of the budget cuts to the GHG Reporting Program is the technical support EPA provides to the U.S. Global Change Research Program. What do is meant by "streamlining" that support? Describe what support has EPA provided to date and how will that support change.

Answer: The EPA has historically played a leading role in conducting scientific assessments of the effects of global climate change in the United States, as required by Section 106 of the Global Change Research Act of 1990. The Office of Research and Development's (ORD) research on models and observations of environmental changes, related to climate change, is critical in supporting the EPA's mission to improve and maintain clean air, water, and healthy ecosystems, as well as the USGCRP. ORD's core science efforts, as it relates to this program, will be streamlined to focus on statutory obligations surrounding these activities.

Water pollution -

OW

McCollum Q42: The budget proposes to eliminate state grants for non-point source pollution programs, when contaminated runoff and other non-point pollution is a principle cause of water quality problems. It also proposes to cut other state water grants, surface water and marine protection funding for EPA, and eliminate the national estuaries program. How is cutting EPA and state capacity consistent with improving the quality of our nation's waters?

Answer: The FY 2018 President's Budget request reflects the EPA's role in a model of cooperative federalism that emphasizes strong cooperative state and tribal partnerships and is guided by Congressional direction in core environmental statutes. This Administration

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recognizes that states and tribes understand their water quality problems the best and can lead efforts to develop solutions to protect America's waters. The EPA will encourage states to continue work in restoring our estuaries and protecting aquatic and marine resources throughout the country, and will work with our partners to provide flexibility to address local priorities.

OW

McCollum Q43: In April, Administrator Pruitt paused clean water protections against coal plants dumping toxic metals such as arsenic and mercury from power plants into public waterways that can infiltrate community drinking water intakes. How much of this coal ash sludge is safe in the drinking water supply?

Answer: The EPA regulates drinking water and has established drinking water standards in accordance with the Safe Drinking Water Act for over 90 contaminants including arsenic and mercury. These standards do not apply to untreated source water. Public Water Systems must perform monitoring and treatment, as necessary, to assure the water they supply to their customers is in compliance.

McCollum Q44: EPA's postponement is being challenged in a federal court and Administrator Pruitt has been criticized for only focusing on the potential costs of the rule while ignoring its benefits and endangering wildlife and exposing families that live near coal plants to heavy metals that can cause problems with cognitive development in children. Why did EPA disregard years of peer-reviewed studies, input from health experts and public comments supporting these protections?

Answer: The EPA is currently reviewing the rule and has not made a final determination. The agency decided to reconsider the rule in response to two administrative petitions, one from the Utility Water Act Group and one from the Small Business Administration Office of Advocacy.

McCollum Q45: How is the Agency reconciling the difference in the impacts on jobs associated with compliance as estimated by EPA with the impact purported by the industry's analysis?

Answer: The information provided by industry (the Utility Water Act Group) to the EPA in their administrative petition for reconsideration did not present any analysis of the impacts on jobs associated with compliance with the Steam Electric Rule. Rather, they asserted that the Effluent Limitation Guidelines cost "contributes to the threat of job losses, particularly when it is added on top of the impacts of other rules." To the extent that the EPA reconsiders the underlying technology basis for any of the 2015 rule requirements, the EPA also plans to evaluate the impact of such changes on jobs.

Office of Water - *OW*

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McCollum Q46: The FY 2018 budget cuts clean drinking water programs by 18% for Human Health and 16% for Water Quality. Why should American's be subjected to decreases in Water Quality due to lack of investment?

> **Answer:** The EPA will continue work to revise the Lead and Copper Rule, providing certainty to states and Tribes, and to develop regulations to implement the Water Infrastructure Improvement for the Nation Act and the Reduction of Lead in Drinking Water Act. In addition, the EPA will continue work with states to develop the Next Generation Management and Reporting tool that will be used by the majority of state drinking water programs. The new Safe Drinking Water Information System tool will provide the following benefits: improvements in program efficiency and data quality, greater public access to drinking water data, facilitation of electronic reporting, reductions in reporting burdens on laboratories and water utilities, reductions in data management burden for states, and ultimately reduction in public health risk.
>
> Additionally, the FY 2018 President's Budget requests $175 million for Surface Water Protection and $18.1 million for Wetlands. The FY 2018 President's Budget request supports the following core Surface Water Protection program components: water quality criteria, standards and technology; National Pollutant Discharge Elimination System (NPDES); water monitoring; Total Maximum Daily Loads (TMDLs); watershed management; water infrastructure and grants management; core wetlands programs, and Clean Water Act Section 106 program management.

Air Pollution - *OAR*

The Administration budget calls for steep cuts in two accounts that fund activities at the heart of Clean Air Act implementation. One account funds EPA's work to review and update national air quality standards and national emissions standards. The second account funds a multitude of EPA activities to support state and tribal air programs for meeting national air quality standards, reducing toxic air pollution, assuring that new sources have state-of-the-art controls, and protecting visibility.

McCollum Q47: How can the huge cuts in these two key air program accounts be achieved while meeting EPA's responsibilities under the Clean Air Act?

> **Answer:** The EPA will continue to meet its responsibilities, under the Clean Air Act, by working to develop a more efficient approach to meeting its statutorily-required National Ambient Air Quality Standards (NAAQS) reviews. The EPA also will continue its Clean Air Act mandated responsibilities to administer the NAAQS by reviewing state plans and decisions consistent with statutory obligations, taking federal oversight actions on State Implementation Plan (SIP) submittals, and by developing regulations and policies to ensure continued health and welfare protection during the transitions between existing, new and/or revised standards. The EPA will continue to look for ways to improve the

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efficiency and effectiveness of the SIP process, including its own review process, in partnership with state and local air agencies.

McCollum Q48: Has EPA identified what specific activities would be eliminated or reduced by the proposed reductions? If so, please provide an accounting that explains for each of these budget categories (federal stationary source regulations, federal support for air quality management) the activities that will be cut back, and the savings in dollars and personnel from each one.

Answer: The EPA will work to develop a more efficient approach to meeting its statutorily-required National Ambient Air Quality Standards (NAAQS) reviews. In FY 2018, the EPA also will continue its Clean Air Act mandated responsibilities to administer the NAAQS by reviewing state plans and decisions consistent with statutory obligations, taking federal oversight actions on State Implementation Plan (SIP) submittals, and by developing regulations and policies to ensure continued health and welfare protection during the transitions between existing, new and/or revised standards. The EPA will continue to look for ways to improve program efficiency and effectiveness across the suite of its core responsibilities with a focus on streamlining activities.

McCollum Q49: How will the proposed budget reductions impact EPA's ability to meet its existing obligations under the Clean Air Act and take on the new work required to carry out the January 24 Presidential Memorandum, "Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing," Executive Order 13777, "Enforcing the Regulatory Reform Agenda," and Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs."?

Answer: The EPA will need to pursue opportunities to meet multiple Clean Air Act requirements for stationary sources in more integrated ways in FY 2018 in order to fulfill its statutory and court-ordered obligations more efficiently. In aligning this effort with Executive Orders 13777 and 13771, the EPA will look for ways, as appropriate, to repeal, replace, or modify existing regulations to reduce burden while meeting statutory obligations.

Accessibility to Data and Data Acquisition -- *OA/OPA*

McCollum Q50: Is all the scientific data associated with climate change that was available under the Obama Administration on the EPA website still accessible today?

Answer: The EPA has archived the climate change web content from the previous administration. This information is still publicly accessible in the EPA's web archive

McCollum Q51: Since taking office, what guidelines has Administrator Pruitt issued for determining what information will be available?

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Answer: At this time, the Administrator has not issued guidelines for determining what information will be available.

McCollum Q52: Will there be any data loss as a result of the budget's proposed program eliminations in FY 2018? If so, what date and how will this impact EPA's ability to have the continuity of data necessary to make projections into the future with a high degree of confidence?

Answer: Data will not be lost. Any data that may be removed for reasons such as program elimination will be archived and available to the public.

Science Advisory Board

Outside scientific advisory boards provide feedback and evaluation of the science used by the EPA to develop guidance, regulations, and make important management decisions.

(OA/SAB)
McCollum Q53: What timeframe has Administrator Pruitt set to make his determination about the appropriateness of these boards and committees and their membership?

Answer: A Federal Register Notice (FRN) was published on June 27, 2017 requesting nominations of qualified candidates to serve on the Clean Air Scientific Advisory Committee (CASAC), SAB and six SAB standing Committees. The FRN requests nominations by July 27, 2017. The names and biographies of qualified nominees identified by respondents to the FRN, and additional experts identified by the SAB Staff Office, will be posted in a List of Candidates on the SAB website. Public comments on each List of Candidates will be accepted for 21 days from the date the list is posted. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates. The Administrator will select members after nominations have been evaluated.

McCollum Q54: While every administration reviews the composition of these advisory bodies, what percentage of current members has Administrator Pruitt decided to terminate?

Answer: No decisions will be made until the evaluation of all qualified nominees has been completed.

(OA/ORD)
McCollum Q55: What is the basis for Administrator Pruitt's decision to not renew the appointments of nine Board of Scientific Counselors (BOSC)?

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Answer: The EPA is taking an inclusive approach to filling future BOSC appointments and welcomes all applicants from all relevant scientific and technical fields.

(ORD)

McCollum Q56: It has come to the Committee's attention that you are asking all members of the BOSC to reapply for their positions as their first terms expire. Has the Agency changed the long standing practice of renewing BOSC members for a second term if they are willing to serve? If so, is the Agency concerned about the loss of institutional knowledge and decreased familiarity with the structure and operation of the boards that would come if all members serve only one term? What criteria does the Agency intend to use to evaluate the members' application to serve an additional term if they do reapply?

Answer: The EPA is taking an inclusive approach to filling future BOSC appointments and welcomes all applicants from all relevant scientific and technical fields. The EPA will use the same criteria to evaluate the members who are reapplying to serve an additional term as all other applicants. BOSC members are identified through an outreach plan that includes an open solicitation of potential candidates. Members are selected based on their: 1) scientific and/or technical expertise, knowledge, and experience; 2) diversity including work sector, geographical location, gender, ethnicity, and viewpoints; 3) availability to serve and willingness to commit time to the committee; 4) absence of financial conflict of interest; 5) absence of an appearance of a lack of impartiality; and 6) skills working on committees and advisory panels.

McCollum Q57: On May 8, 2017, Administrator Pruitt's spokesman said "EPA received hundreds of nominations to serve on the board and we want to ensure fair consideration of all the nominees." His office also stated ""EPA received hundreds of nominations to serve on the board, and instead of reappointing nine people who have already served their three-year term, we want to ensure fair consideration of the other nominees and a carry-out a competitive nomination process," This was misleading, as it sounds as if hundreds of people are lined up, hoping to get on this board. In fact, nominations are only received when there is a call for nominations made in the Federal Register, and the "hundreds of nominations" referred to by Administrator Pruitt's office in these two statements in fact were from an FRN notice in 2013 (so nominations on this list are more than 4 years old). Is Administrator Pruitt planning to select from this old list? Is he going to add the "old list" to the list of nominations he receives from his recent FRN call-for-nominations (FRN 5/25/17)? Or just select from his new list?

Answer: BOSC members will be selected from the pool of those who applied to the call-for-nominations in the FRN published on May 25, 2017. BOSC members are identified through an outreach plan that includes an open solicitation of potential candidates. Members are selected based on their: 1) scientific and/or technical expertise, knowledge, and experience; 2) diversity including work sector, geographical location, gender, ethnicity, and viewpoints; 3) availability to serve and willingness to commit time to the committee; 4) absence of financial conflict of interest; 5) absence of an appearance of a lack of impartiality; and 6) skills working on committees and advisory panels.

McCollum Q58: The BOSC does not review or advise or comment on regulations, and only advises on the basic science conducted within the Office of Research and Development yet Administrator Pruitt has stated he believes people on this board should understand the impact of regulations on the regulated community. What kind of expertise are is Administrator Pruitt looking for that does not reside with the current membership?

> **Answer:** Members of the BOSC are recognized experts in various scientific, engineering, and social science fields. The EPA will consider nominees from industry, business, public and private research institutes or organizations, academia, government (federal, state, local, and Tribal) and non-government organizations, and other relevant interest areas. Members are appointed by the EPA Administrator for a period of three years and serve as special government employees. The EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, the EPA encourages nominations of women and men of all racial and ethnic groups.
>
> For more detail on the experience and expertise the EPA is looking for, please see the FRN at https://www.federalregister.gov/documents/2017/05/25/2017-10672/request-for-nominations-of-experts-to-the-epa-office-of-research-and-developments-board-of

McCollum Q59: Does Administrator Pruitt want to replace these scientists with more members from regulated industry and would these people be active researchers or managers with a science degree?

> **Answer:** The agency will continue to appoint BOSC members who are distinguished scientists and engineers, and are recognized experts in their respective fields. They come from academia, industry/business, federal, state, and local governments, non-governmental and environmental organizations, research laboratories, and other relevant entities. All BOSC members must comply with annual ethics reporting and training requirements; and must not possess conflicts of interest or an appearance of being unable to provide impartial advice.
>
> BOSC members are identified through an outreach plan that includes an open solicitation of potential candidates. Members are selected based on their: 1) scientific and/or technical expertise, knowledge, and experience; 2) diversity including work sector, geographical location, gender, ethnicity, and viewpoints; 3) availability to serve and willingness to commit time to the committee; 4) absence of financial conflicts of interest; 5) absence of an appearance of a lack of impartiality; and 6) skills working on committees and advisory panels.

McCollum Q60: Why isn't Administrator Pruitt concerned this will marginalize the future role for objective, knowledgeable science advisors that aren't influenced by politics?

> **Answer:** BOSC members are distinguished scientists and engineers who are recognized experts in their respective fields. They come from academia, industry/business, federal,

state and local governments, non-governmental and environmental organizations, research laboratories, and other relevant entities. All BOSC members must comply with annual ethics reporting and training requirements and must not possess conflicts of interest or an appearance of being unable to provide impartial advice.

BOSC members are identified through an outreach plan that includes an open solicitation of potential candidates. Members are selected based on their: 1) scientific and/or technical expertise, knowledge, and experience; 2) diversity including work sector, geographical location, gender, ethnicity and viewpoints; 3) availability to serve and willingness to commit time to the committee; 4) absence of financial conflict of interest; 5) absence of an appearance of a lack of impartiality; and 6) skills working on committees and advisory panels.

McCollum Q61: The BOSC is an 18 member advisory committee. What is the current membership?

Answer: The BOSC is comprised of an Executive Committee, which includes approximately 20 members, and is supported by subcommittees and workgroups for any purpose consistent with the BOSC's charter. Such subcommittees or workgroups may not work independently of the chartered Executive Committee, and must report their recommendations and advice to the BOSC for full deliberation and discussion. Subcommittees and workgroups have no authority to make decisions on behalf of the BOSC, nor can they report directly to ORD. There are currently 46 members of the BOSC. Thirty-eight of these members are eligible for a second term and may apply.

McCollum Q62: BOSC was initially designed, and has been administered, as an advisory committee that reports to the Assistant Administrator of ORD, not to the Administrator. Why did Administrator Pruitt's office get involved in the membership process of BOSC? Is he planning on having the Administrator's Office take a direct, hands-on approach to selecting the new members of BOSC?

Answer: It has been agency policy that the Administrator and/or the Deputy Administrator appoints and signs letters of invitation, reappointments, and letters of appreciation for those members whose terms have ended for the EPA Tier 1 (Parent) Committee and Tier 2 (Subcommittee) members.

(OA) -

McCollum Q63: Why has Administrator Pruitt not named an Assistant Administrator for ORD (or most of the other Program Offices)? Does he plan to name a qualified scientist, as has been the case throughout EPA history? Why has Administrator Pruitt not named a Science Advisor? Does he plan, as previous administrators have done (both democratic and republican), to have the AA for ORD also serve as Science Advisor to the Administrator?

Answer: The Administrator intends to nominate and fill all open positions at EPA and is in the process of finding the best candidates for all open positions.

(ORD)

McCollum Q64: The budget proposes to cut the ORD scientific staff by 42%. Who will replace this void in generating science information for the Agency, given that ORD is doing the research that it does because no one else is doing it? Is EPA indicating that science evidence is not important, not needed for the Agency to meet its mission? How will EPA meet state needs, given that much of ORD's research is requested by the Regional Offices to help states? Does EPA intend to not assist the states with scientific information in the future?

Answer: Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies. We will support the needs of the states, consistent with the level of appropriated funding.

In FY 2018, the EPA will prioritize science and research activities directly tied to statutory requirements and inquiries into environmental and human health sciences. Science and research will be streamlined to support the agency's program and regional offices will prioritize the most important work to protect human health and the environment.

(OA/OAR)

McCollum Q65: Congress established the Science Advisory Board (SAB) and the Clean Air Scientific Advisory Committee (CASAC) to provide independent scientific and technical advice to the Administrator. They provide this important advice on a very modest budget ($646,000). By law, both of these independent advisory groups hold public meetings to deliberate and take public comments. The FY 2018 budget proposes to cut these two critical groups by about 20% and severely limit both the SAB and CASAC in their meetings, despite all the many complex scientific issues they must advise you on. How does EPA reconcile this cut with the CASAC's legal responsibility under the Clean Air Act to review the science EPA uses to reassess National Ambient Air Quality Standards every 5 years?

Answer: The SAB Staff Office will continue to prioritize CASAC and SAB activities to meet statutory requirements and agency priorities.

(OA)

McCollum Q66: The SAB and CASAC are Federal Advisory Committee Act (FACA) EPA advisory boards. Will it be Administrator Pruitt's policy to not renew members of science boards such as this for a second term? In other words, will your policy be for all appointees to only serve one term? Will this apply to the new members you appoint?

Answer: All nominees will be evaluated including those eligible for a second term. Appointments will be made after the evaluations have been completed.

(OAR) (note – for consistency we have used OA responses for these)

McCollum Q67: Without this science review, how will EPA ensure it is keeping air standards current and up to date?

> **Answer**: Scientific review will continue. The SAB Staff Office will continue to prioritize CASAC and SAB activities to meet statutory requirements and agency priorities.

McCollum Q68: Specifically, how will EPA see that it completes a major scientific review for particulate matter that was scheduled for 2017, and other criteria pollutants that are overdue for their review?

> **Answer:** The SAB Staff Office will continue to prioritize CASAC and SAB activities to meet statutory requirements and agency priorities.

(OA/ORD)

McCollum Q69: How does EPA propose the SAB provide scientifically sound advice and peer review on health assessments for high-priority chemicals, that state environmental programs, not just EPA, rely on to inform clean-up decisions, permits, and regulatory actions? How will the SAB meet its legal responsibility under the Environmental Research and Development Demonstration Authorization Act to advise EPA on its plans for research and development (R&D)?

> **Answer:** The SAB will continue to meet its legal responsibility under the Environmental Research and Development Demonstration Authorization Act to advise the EPA on its plans for research and development. The SAB will continue to provide independent scientifically sound advice and peer review to the Administrator on a range of scientific and technical matters underlying key environmental policies and risk management decisions.

McCollum Q70: The SAB and BOSC have different purposes. Will Administrator Pruitt be using different criteria for appointing members to the BOSC than to the SAB, and how will those criteria differ?

> **Answer:** The Federal Register Notice published on June 27, 2017 requesting nominations for members of the CASAC, SAB and six standing committees outlines the existing criteria for selecting committee members.

(ORD)

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McCollum Q71: How will EPA ensure key technical positions at the agency are filled with qualified scientists free from conflict of interest?

> **Answer:** Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies.
>
> Scientific integrity is the adherence to professional values and practices when conducting, communicating, supervising, influencing, and utilizing the results of scientific research. It ensures objectivity, clarity, reproducibility, and utility; while protecting against bias, fabrication, falsification, plagiarism, outside interference, and censorship. The EPA's Scientific Integrity Policy is a roadmap to ensuring high standards of scientific integrity at the EPA. The policy details the components of a culture of scientific integrity and provides a framework for agency-wide compliance. The policy applies to all EPA employees including scientists, managers, and political appointees, as well as contractors, grantees, collaborators, and student volunteers.

McCollum Q72: How can EPA maximize and effectively target its limited research dollars, if these groups of outside scientists cannot meet to advise EPA, share research results, and identify strategies to reduce redundancy and costs?

> **Answer:** The Board of Scientific Counselors provides the EPA with access to independent advice from non-EPA experts who are nationally renowned in their disciplines. It does so in a transparent manner with opportunities for public input through advance review of meeting agendas, meeting documents, and charge questions. These experts provide advice, information, and recommendations to the EPA on their science and research to ensure it provides the strong, scientific foundation that informs the agency's work to protect human health and the environment. The lack of renewal of these members will delay the process of review of the EPA's research until the committees can be reconstituted, expected in late 2017 or early 2018. Once the Committee is reconstituted, the review of the EPA's research will begin as soon as possible. However, the EPA's research will continue in the interim.

(OA)

McCollum Q73: About one third of the terms of SAB and CASAC members, experts in their respective technical fields, will expire this fall. Each April for the past nine years, the SAB Staff Office has published a Federal Register notice seeking nominations for new scientists, economists and other technical experts to join the SAB and CASAC. This begins a multi-month process, resulting in recommendations for qualified nominees to submit to the EPA Administrator. Why has no Federal Register notice yet been published this year seeking nominations for the SAB and CASAC?

> **Answer:** The Federal Register Notice soliciting nominations for members of the CASAC, SAB and six standing committees was published on June 27, 2017.

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McCollum Q74: How will EPA ensure that there will continue to be the necessary quorum of members with the appropriate qualifications to serve on the committees? Will EPA commit to continued public involvement in the membership process?

> **Answer:** The EPA is seeking nominations of qualified experts in response to the FRN published on June 27, 2017. As indicated in the FRN published on June 27, 2017, the public has opportunities to nominate candidates as well as to provide comments on the List of Candidates.

Categorical Grants for States and Tribes (Office of Budget)

The budget proposes to cut the categorical grants to states and tribes by 44 percent. States rely heavily on these grants. According to a report from the Environmental Council of the States, federal funds account for, on average, 27 percent of state environmental budgets. Congress designed Federal environmental programs so that they would be administered at the states and local levels where possible. But EPA has a responsibility to provide national environmental leadership by establishing minimum national pollution standards and providing technical support to states.

McCollum Q75: How will these proposed cuts affect the states' abilities to implement environmental programs? Will it have consequences for their staffing levels?

> **Answer:** The EPA is committed to a more effective cooperative federalism approach to environmental protection. The President's budget does not propose any reduction to State environmental staffing levels.

McCollum Q76: How will this affect EPA's ability to conduct appropriate oversight and provide technical assistance to ensure that states have good environmental management practices?

> **Answer:** The budget provides over 5,400 FTE in the regions to continue to provide leadership and technical expertise to the regulated community, and to partner effectively with states and tribes.

McCollum Q77: How is this consistent with improving the quality of our nation's waters or protecting the air we breathe?

> **Answer:** By prioritizing resources to support the agency's mission, the budget supports a renewed focus on achieving its statutory responsibilities to protect the Nation's air and water quality.

McCollum Q78: How does EPA recommend that states make up for this funding shortfall?

> **Answer:** The FY 2018 President's budget does not propose how states should generate state funding. The agency will work with its state and local partners to identify shared priorities and make progress in achieving them.

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Staffing and Employee Morale

The March 2017 Executive Order directs the reorganization of the Executive Branch.

Office of Budget **with OARM**

McCollum Q79: In light of the 30% reduction in EPA's FY 2018 Budget request and the proposal to reduce approximately 3,800 FTEs from the FY 2017 enacted level, how is EPA approaching developing such a plan and how will the Agency be transparent and keep employees informed?

> **Answer:** The EPA submitted Near Term Workforce Actions in compliance with OMB Memo 17-22 "Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce". EPA's plan will be part of a larger comprehensive Government-wide Reform Plan for publication in the President's FY 2019 Budget.

McCollum Q80: EPA's proposed workforce, the smallest since 1984, is still task with administering 7 major congressionally mandated programs including new workload such as the Toxic Substances Control Act. How will a reduction of this many staff not affect productivity?

> **Answer:** The EPA will be examining our programs and processes to eliminate inefficiencies and streamline our processes. Primary criteria will include effectiveness and accountability. The EPA is focused on greater value and real results.

McCollum Q81: In FY 2017, Congress provided funding to maintain staff capacity to conduct work necessary to meet EPA's mandated responsibilities. The FY 2018 budget reduces funding for those very programs. Can EPA assure Congress that none of the actions it is taking in FY 2017 violate the Impoundment Act?

> **Answer:** In FY 2017, the agency continues to maintain staffing capacity and work responsibilities consistent with the agency's FY 2017 appropriation. No funding will be impounded.

McCollum Q82: The budget proposes to cut support for employee wellness and worklife initiatives, such as federal cost share for fitness centers, health wellness, and CPR/ AED training services and libraries.

> **Answer:** The EPA proposed reducing these services in the agency's FY 2018 budget request in order to focus more closely on our statutory obligations.

Staff Reductions

EPA has carved out $12 million in staff buyouts for the current fiscal year.

McCollum Q83: Will a Reduction in Force be necessary to reach EPA's proposed staffing level? If so, for how many positions and will EPA apply the Reduction in Force equally across both headquarters and regional offices? If not, what formula will the Agency use to do this?

> **Answer:** The agency plans to rely on a hiring freeze, attrition and VERA/ VSIP authority as primary tools for workforce reshaping.

McCollum Q84: When a person loses their job thru a RIF they are entitled to severance pay, which can, depending on age and service time, easily be a full year's salary. How has the Agency calculated that cost?

> **Answer:** The agency plans to rely on a hiring freeze, attrition and VERA/ VSIP authority as primary tools for workforce reshaping.

McCollum Q85: The FY 2018 budget proposes a new program project titled Workforce Reshaping which includes $11 million in Science and Technology and $47 million in Environmental Program and Management to support organization restructuring.

> **Answer:** The agency anticipates the need to offer VERA/VSIP as part of the workforce reshaping effort. Funding will be used to support VERA/VSIP costs.

McCollum Q86: How does EPA propose to spend this money?

> **Answer:** The agency anticipates the need to offer VERA/VSIP as part of the workforce reshaping effort. Funding will be used to support VERA/VSIP costs.

McCollum Q87: What programs did you cut in FY 2018 budget to find the resources for this new program project?

> **Answer:** The FY 2018 budget details the funding decisions made by the Agency.

McCollum Q88: If Congress agrees with the Administration's proposal for these significant staff reductions, how will EPA prioritize cuts in personnel so that the Agency can still fulfill its important charge to safeguard human health?

> **Answer:** The EPA will streamline existing business processes and eliminate unnecessary redundancies to utilize staff in line with the FY 2018 budget and with the agency's top human health priorities.

McCollum Q89: Will EPA consider the risks to human health and the environment from staff reductions in particular program areas?

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Answer: Yes, the agency will prioritize staff and resources in line with the FY 2018 budget and with the agency's top human health and environmental priorities.

McCollum Q90: How will EPA maintain the scientific and technical expertise needed to do this essential human health work when so many seasoned professionals opt to retire early?

Answer: Over the past several years, the EPA has focused on succession planning and a future workforce. EPA will streamline existing business processes and eliminate unnecessary redundancies to prioritize retaining critical scientific and technical expertise.

McCollum Q91: How will EPA enforce our environmental laws if EPA regional offices, who have primary responsibility for enforcement, are closed?

Answer: The FY 2018 budget does not propose closing any regional offices.

Regulation Review

(OA/OP)

Executive Order 13783 on Promoting Energy Independence and Economic Growth requires a review of all regulations.

McCollum Q92: How is EPA going about conducting this review and what scientific evidence and economic assumptions or models is the Agency relying on for the basis of its decisions?

Answer: Pursuant to EO 13777, the EPA held multiple public meetings and opened a docket for public comments about regulations that may be appropriate for repeal, replacement, or modification. The EPA is planning to draw from that information as we consider which regulations may unduly burden the development of domestic energy resources. Regulations identified for possible repeal, replacement, or modification would be subject to standard rulemaking procedures, including additional public comment, and at that time more details on the basis for the regulatory action would be provided.

McCollum Q93: Environmental regulations already undergo a rigorous analysis of costs and benefits as they move through the regulatory process. In its annual accounting to Congress last year, OMB found that benefits of major rules EPA officially adopted from 2005-2015 exceed their costs by up to 13 times (OMB 2016). A 2011 peer-reviewed EPA assessment of the long term benefits and costs of the Clean Air Act and its implementing regulations found that its middle estimate of annual benefits exceeds costs by 30 to one--that's $2 trillion in net benefits vs. $65 billion in costs. Which specific EPA regulations does EPA believe are overly stringent and in need of scaling back?

Answer: The EPA has begun to take action on some regulations, such as those identified in Executive Orders 13783 and 13778. The EPA is still considering which additional regulations may unduly burden the development of domestic energy resources.

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McCollum Q94: Administrator Pruitt has expressed concern about the compliance costs of particular industries, please provide an estimate of the change in net benefits to the American public from rolling any regulations back.

> **Answer:** Such estimates will be part of the rulemaking record for any individual rules that are revised or rescinded.

McCollum Q95: Has the Agency considered the additional cost to industry of facing a patchwork quilt of different state requirements instead of one federal standard?

> **Answer:** Within the statutory boundaries, there are a number of factors to consider when revising federal rules, including costs, implementation issues, and the appropriate balance between state and federal authority. The EPA will consider each of those factors, and others, as appropriate, when revising rules.

McCollum Q96: What steps has the EPA taken to implement President Trump's Executive Order on Reducing Regulation and Controlling Regulatory Costs?

> **Answer:** EO 13771 directs all agencies to repeal two existing regulations for each new regulation issued in FY 2017 and thereafter, and also directs agencies that the total incremental costs of all regulations should be no greater than zero in FY 2017. Executive Order 13777 on Enforcing the Regulatory Reform Agenda further directs federal agencies to establish a Regulatory Reform Task Force and to evaluate existing regulations and make recommendations regarding their repeal, replacement, or modification. Consistent with these Executive Orders, the EPA established a Task Force and has been taking a hard look at existing EPA regulations to help identify regulations that may be appropriate for repeal per EO 13771, in order to develop recommendations for the Administrator. The EPA also has initiated the delay or reconsideration of multiple regulations finalized by the previous administration that have led to cost savings that may further EO 13771 implementation.

McCollum Q97: How is EPA choosing which two regulations to repeal for every new regulation promulgated?

> **Answer:** In April, OMB released guidance clarifying implementation of EO 13771. The EPA is still developing our internal process to fully implement that guidance.

(OGC)

McCollum Q98: In EPA's regulation review has the Agency consistently adhered to the requirements of the Administrative Procedures Act, specifically the notice-and-comment period that gives the public time to respond to any proposed changes by the government?

> **Answer:** EPA is in the process of conducting its E.O. 13783 review and, to the extent that the Administrative Procedures Act requires the EPA to engage in notice and comment rulemaking as part of that process, EPA intends to do so.

(OCSPP)

McCollum Q99: How does EPA justify delaying the effective date for the companion rule for Pesticide Applicator Protection for an additional year to May 22, 2018?

Answer: The effective date of the Certified Pesticide Applicator (CPA) rule is being extended to May 22, 2018, to give recently arrived agency officials the opportunity to conduct a substantive review of the rule in accordance with the Presidential directives as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review," and the principles identified in the April 25, 2017, Executive Order "Promoting Agriculture and Rural Prosperity in America." At this time, the EPA has only one Senate confirmed official, and the new administration has not had the time to adequately review the January 4, 2017, CPA rule. The effective date extension will prevent the confusion and disruption among the regulated community and stakeholders that would have occurred if the CPA rule became effective, displacing the existing regulation, and then was substantially revised or repealed as a result of administrative review. The 12-month extension also provides time for the EPA to consider revisions to the certification rule based on input received through the Regulatory Reform Agenda effort.

OCSPP

McCollum Q100: Is EPA proposing any changes to its plans for assessing the risk of pesticides for endangered species?

Answer: The EPA, National Marine Fisheries Service (NMFS), and Fish and Wildlife Service (FWS) (the Services) are currently involved in discussions exploring possible options for streamlining the interim methods and process we have been following based on the recommendations of the National Academy of Sciences (NAS) in its April 2013 report[1]. The NAS recommendations for assessing risk from pesticide exposure to threatened and endangered species involves a 3-step process that integrates ecological risk assessment methods with Endangered Species Act (ESA) consultations. The EPA, NMFS, FWS, and USDA held several workshops to develop those interim methods, which were intended to be part of an iterative process that continues to evolve as the EPA and the Services gain experience with the process. We used those interim methods in the biological evaluations for chlorpyrifos, diazinon, and malathion, which were released in January 2017.

The current schedule for completing the initial set of biological evaluations has not changed. The EPA released the biological evaluations for chlorpyrifos, diazinon, and malathion in January 2017 and their biological opinions are scheduled to be completed at

[1] For more information about implementing recommendations found in the NAS report: https://www.epa.gov/endangered-species/implementing-nas-report-recommendations-ecological-risk-assessment-endangered-and

the end of 2017. Biological opinions for methomyl and carbaryl are scheduled for December 2018. Effects determinations and initiation of consultation for atrazine, simazine, propazine, and glyphosate are scheduled for 2020.

The EPA also is currently considering a petition asking that the first three biological evaluations be remanded to allow for further refinement of the interim process.

McCollum Q101: Does the FY 2018 budget provide the staff and resources needed to adequately assess the risk of pesticides for these species?

Answer: Yes, the FY 2018 President's Budget provides the staff and resources needed to adequately assess the risk of pesticides to endangered species. Currently, the registration user fees can cover a portion of the costs associated with the assessment of risks to endangered species. If PRIA 4 passes, it also will have language that will explicitly cover allowing the use of maintenance fees funding to cover the costs of endangered species activities; although currently, under FIFRA, nothing prevents the EPA from using maintenance fees for endangered species activities.

(OAR)

McCollum Q102: EPA extended the effective date for emissions standards, record keeping, and labeling provisions for formaldehyde emissions until March 22, 2018. How is this not creating an unfair advantage for foreign imports over North American manufacturing of composite wood products?

Answer: The EPA received requests from the composite wood industry and support from other stakeholders requesting the extension of the compliance dates. EPA has not yet extended the compliance dates. EPA published a Direct Final Rule (DFR) on May 24, 2017, to extend the compliance dates. Because EPA received relevant, adverse comment on the DFR, EPA is in the process of withdrawing this action. To save time in the event of such adverse comment, EPA also published a companion Notice of Proposed Rulemaking (82 FR 23769). EPA will proceed with this proposed rule through the normal rulemaking process and will consider all comments received prior to finalizing this action. The EPA does not believe the extension of the compliance dates provides any meaningful advantage for imported products over domestically produced products. The agency's proposed extension of the compliance date for the formaldehyde emissions standards, recordkeeping, and labeling provisions, and any benefits that extension may provide are equally applicable to all regulated entities under the rule. After that compliance date, like North American-manufactured composite wood products, imported composite wood products and imported finished goods and component parts made of composite wood products will have to comply with the formaldehyde emission standards and other provisions in the final rule.

In the economic analysis supporting the final rule, the EPA estimated that the majority of composite wood products, both domestic and imported, are already meeting the TSCA

Title VI emissions standards because they currently comply with the California Air Resources Board (CARB) formaldehyde emission standards, which are identical to the TSCA Title VI emission standards. While some panel producers do not sell composite wood panels in California, many intermediary entities (*e.g.*, fabricators of finished goods, distributors, importers, retailers, etc.), choose to purchase only CARB-compliant products so that they do not need two supply streams, or one for products that may be sold or supplied in California and one for products that are not.

(OA/OP)

McCollum Q103: How does EPA plan to defend the many inevitable lawsuits it will face from rolling back environmental regulations? Is this really the most effective way for EPA to fulfill its mission?

Answer: The EPA is effectively fulfilling its mission by ensuring the agency issues sensible regulations that protect the environment based on our statutory authority and allow for economic growth. We often face litigation in response to regulatory decisions, given the broad range of stakeholders we serve, who care deeply about the work we do. The EPA will continue, as we always have, to work with the Department of Justice to vigorously defend against lawsuits brought against the agency.

McCollum Q104: Executive Order 13777 required the head of each agency to designate a Regulatory Reform Officer to oversee the implementation of regulatory reform initiatives and policies to ensure agencies effectively carry out regulatory reforms, consistent with applicable law.

Answer: The EPA is aware of the requirements of Executive Order 13777.

McCollum Q105: Who have you appointed as the Regulatory Reform Officer for EPA and what are their credentials?

Answer: Administrator Pruitt designated Samantha K. Dravis, Senior Counsel and Associate Administrator for the Office of Policy to serve as the EPA's Regulatory Reform Officer. Ryan Jackson, EPA Chief of Staff serves as Chairman. Regulatory Reform Task Force members include Byron Brown, EPA Deputy Chief of Staff for Policy; and Brittany Bolen, EPA Office of Policy Deputy Associate Administrator.

Chesapeake Bay - *OW*

Chesapeake Bay is the nation's largest estuary in which 18 million people live and work; there are 3,600 types of fish, wildlife and plant life that underpin the economic value of the ecosystem; and where in a voluntary partnership with other federal, State, local, and NGOs, academic institutions, private businesses and individual citizens, 10 Goals for restoring the ecosystem have been set to be met by 2025.

McCollum Q106: Just when the Chesapeake Bay is beginning to show improvement the FY 2018 budget cuts the funding across for all Geographic Programs, including the $73 million for the Chesapeake Bay. Who will step into the role EPA has played of coordinating all the partners in this exemplary effort?

> **Answer:** This program elimination is part of the administration's overall goal to return the responsibility for regional and local environmental work to state and local entities. The TMDL agreed upon between the six states and District of Columbia in the Chesapeake Bay watershed is a true model of "cooperative federalism" and the type of state and local collaboration that is essential to transboundary environmental restoration. The EPA encourages states to continue to use collaboration, coordination, and consensus to make multi-jurisdictional decisions. The EPA will continue to engage in meaningful discussions about how shared environmental goals related to this region can be achieved, and will strive to support the implementation of the Chesapeake Bay TMDL.

McCollum Q107: Efforts to restore the Chesapeake Bay are seen as a national and international model for sustainable use of coastal regions. What message are we sending about our leadership and commitment when we reduce funding to such an exemplary project from which recovery lessons can be duplicated in coastal regions worldwide?

> **Answer:** The restoration of the Chesapeake Bay would not be possible without state and local collaboration. The message this administration is sending is the centrality of state and local collaboration for local environmental work. The Chesapeake Bay TMDL is the model of cooperative federalism that the EPA would like to promote for multi-jurisdictional environmental restoration, which is why the EPA encourages states and local entities to continue to use collaboration, coordination, and consensus to restore the Bay. The EPA will continue to engage in meaningful discussions about how to continue state-led restoration work in the Chesapeake Bay through its role in representing the Federal government on the Chesapeake Executive Council.

Environmental Justice – *OECA and OA*

The budget eliminates all resources for the Environmental Justice program. The budget claims that EPA will incorporate EJ work within the Integrated Environmental Strategy program within the Office of the Administrator; however, no there is no associated funding requested.
The budget also eliminates the lead program, which works to reduce disparities in blood lead levels between low income children and non-low income children.

McCollum Q108: What Environmental Justice work will be discontinued as a result of the elimination?

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Answer: The agency remains committed to working with communities to develop solutions to the environmental and public health challenges they face. Although the EPA is not requesting funds for this program in FY 2018, considerable progress has been made in incorporating environmental justice considerations into the agency's core programs through the efforts of the EJ program. This progress has greatly enhanced the EPA's ability to protect the health and environment of our most vulnerable communities. Environmental Justice will continue to be considered within the work done at EPA also will be specifically incorporated into future policy work within the agency's Integrated Environmental Strategies program in the Office of the Administrator.

McCollum Q109: How much funding in the FY 2018 budget is dedicated for Environmental Justice work in the Integrated Environmental Strategy program?

Answer: Zero dollars are explicitly tagged for Environmental Justice in the FY 2018 budget in the Integrated Environmental Strategies program. Although the EPA is not requesting funds for EJ, the agency remains committed to working with communities to develop solutions to the environmental and public health challenges they face.

McCollum Q110: How many staff will be reassigned or terminated due to the elimination?

Answer: Twenty four FTE at headquarters and 16 FTE in the regions will be eliminated.

McCollum Q111: How will EPA identify and track low income and minority communities that are disproportionately burdened by pollution?

Answer: The EPA will continue to use EJSCREEN as the primary tool to screen for communities with environmental justice concerns.

McCollum Q112: The recent tragedy in Flint, Michigan, in which low income minority children were poisoned by lead in their drinking water, reminded the country of the danger of lead poisoning. How will EPA ensure that all children are protected, even in states that do not have their own lead program?

Answer: Protecting children from exposure to lead is a top priority for the EPA. The agency will continue to coordinate with states, tribes, and territories to enforce not only the Lead and Copper Rule, but all Safe Drinking Water Act national primary drinking water regulations. The EPA will continue its work with our co-regulators to ensure that owners/operators of public water systems address noncompliance in a timely manner, prioritizing those systems with the most serious or repeated violations. In particular, the EPA will continue to focus on working with states to optimize corrosion control treatment to minimize exposure to lead. The EPA will also continue to focus on small systems by strengthening and targeting financial assistance, in coordination with state infrastructure programs, to support rehabilitation of the nation's infrastructure. The agency also will look for ways to promote partnerships among water systems to build capacity and work with states and tribes, as well as with utility associations, third-party technical assistance

providers and other federal partners, to promote the sustainability practices that are the foundation for building technical, managerial, and financial capacity.

Enforcement

Office of Budget

McCollum Q113: Thanks to the work of this office, settlements were negotiated from EPA actions with Volkswagen AG and BP PLC spill that have resulted in funds going to states and communities. Given the proven success of this office, why does the FY 2018 budget propose to cut Enforcement by 23%?

> **Answer:** The EPA reduced resources in areas where states have enforcement authority and significant progress has been made. The EPA will focus enforcement (including criminal) and compliance resources on direct implementation responsibilities, the most egregious cases, and in areas that address the most substantial impacts to human health and the environment.

McCollum Q114: The budget justification states that EPA will focus the civil enforcement program's resources on "programs that are not delegable [to states] or where a state has not sought or obtained the authority to implement a particular program." Does this mean that EPA will no longer take any enforcement actions against polluters violating federal environmental rules that a state has authority to enforce? Under EPA's approach, what would happen if a state -- due to lack of resources or political pressure -- fails to enforce a federal environmental rule against a violating polluter?

> **Answer:** The EPA will continue to work in partnership with state and Tribal agencies to assure compliance, protect public health and the environment, and ensure a level playing field for regulated companies.

OECA

McCollum Q115: What will be the impact of the proposed cuts to enforcement on the number of state and federal facility inspections, the amount of compliance assistance, and the number of enforcement actions that states and EPA have the capacity to pursue?

> **Answer:** The EPA works in partnership with state and tribal agencies to assure compliance, protect public health and the environment, and ensure a level playing field for companies that follow the rules. The agency will focus our resources on direct implementation responsibilities and the most significant violations. For FY 2018, the number of federal inspections and evaluations is projected to be 9,500. The agency also is projecting that 1,750 federal civil, judicial, and administrative enforcement cases will be initiated in FY 2018.

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Energy Star and Water Sense – *OAR and OW*

Through EPA's Energy Star and Water Sense programs, Consumers can save money by reducing their energy and water use while helping to protect the environment. These programs have motivated private sector investments, and moved the goal post on efficient technologies in the market place.

McCollum Q116: With a history of bipartisan support and immense value-added for businesses and consumers alike, what is EPA's rationale for throwing out 25 years of investment in these programs in the coming fiscal year? Isn't it a good thing when Americans can lower their energy bills and drinking water costs, reduce pollution, and help implement EPA's statutory mandates for clean air and water, all at the same time?

> **Answer:** The President's FY 2018 budget request for the EPA reflects the success of environmental protection efforts, a focus on core legal requirements, and the important role of federal-state partnerships in implementing the nation's environmental laws. The voluntary Energy Star and WaterSense programs are reduced in the President's Budget (WaterSense is proposed for elimination) as part of the overall effort to better target and prioritize the EPA's activities.

McCollum Q117: Does Administrator Pruitt believe these programs represent an appropriate role for a federal agency? If not, how does he envision that the private sector will continue to develop product guidelines in partnership with a patchwork of state and local governments and competing businesses?

> **Answer:** President Trump's administration is focusing on core statutes across the federal government. The FY 2018 budget request renews EPA's focus on core legal requirements.
>
> The EPA will explore options for the potential transfer of these programs to non-governmental entities to ensure that the benefits of these programs are maintained.

McCollum Q118: What private organization might take on the breadth and complexity of these programs, is unbiased, can hire and gear up quickly to set up the networks and infrastructure necessary to manage these programs? If none currently exist, isn't it premature to cut the budget of respected and valued programs with great consumer and environmental results?

> **Answer:** The federal government's budget situation requires prioritization in order to accomplish the most important functions. The agency's FY 2018 budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection obligations.
>
> The EPA will explore options for the potential transfer of these programs to non-governmental entities to ensure that the benefits of these programs are maintained.

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Toxics and peer review *(OCSPP/ORD)*

Many state and local governments rely heavily on US EPA's office of research and development's assessments of hazardous chemicals like the Integrated Science Assessments under the Clean Air Act or the IRIS program for toxics to set their clean up levels for hazardous pollutants like known neurotoxins such as lead and carcinogens such as benzene. The current president's budget targets these scientific functions for large cuts.

McCollum Q119: How will EPA increase its support to state and local agencies to perform those scientific assessments on a case-by-case basis?

> **Answer:** Assessment of chemicals, and the authority to manage hazardous chemicals, is now a mandated requirement with the June 22, 2016 passage of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, amending the Toxic Substances Control Act (TSCA). On June 22, 2017, the EPA announced the finalization of a number of procedural framework rules related to chemical prioritization, risk evaluation, and risk management activities. See: https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act-5. Pursuant to these rules and its new authority under TSCA, the EPA expects to engage states and local governments, as well as the general public, on prioritizing chemicals for risk evaluation and conducting risk evaluations in an open, transparent manner consistent with the best available science. In addition, hazard and exposure data, previously held confidential and not available to states, will now be accessible to these governments.
>
> The EPA's Integrated Risk Information System (IRIS) helps the EPA, states, local agencies, and Tribal nations make smart, informed, and thoroughly-researched decisions to protect people's health. Through IRIS, the EPA develops comprehensive, rigorously peer-reviewed scientific assessments. The EPA scientists also produce Integrated Science Assessments (ISAs) that accurately and concisely evaluate a large number of peer-reviewed publications that reflect the latest and most advanced scientific knowledge. These ISAs provide the scientific foundation for the National Ambient Air Quality Standards (NAAQS). They go through a very rigorous and independent peer-review and a public comment period. The EPA's Office of Research and Development will continue to conduct ISAs and IRIS assessments.

McCollum Q120: How will EPA ensure that adequate health protection that follows the health evidence results for all Americans including vulnerable populations like pregnant women, infants, children, and seniors to protect them from these known and emerging hazards?

> **Answer:** The 2016 amendments to TSCA explicitly require the EPA to consider risks to vulnerable populations as part of the process to evaluate chemicals under TSCA. The recently finalized procedural rule on Risk Evaluation reflects this statutory mandate, specifically requiring that the EPA "integrate and assess available information on hazards and exposure for…the chemical substance, including information on specific risks of injury

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to health or the environment and information on potentially exposed or susceptible subpopulations." See preamble, page 6. As defined in TSCA, "potentially-exposed or susceptible subpopulations" means a group of individuals within the general population identified by the EPA who, due to either greater susceptibility or greater exposure, may be at greater risk than the general population of adverse health effects from exposure to a chemical substance or mixture, such as infants, children, pregnant women, workers, or the elderly." 15 U.S.C. 2602(12).

Hazardous Substance: Superfund Account

OAR

McCollum Q121: The budget eliminates funding for Radiation: Protection and states that the EPA will explore alternatives to manage potential radiation risks at Superfund and hazardous waste sites to meet requirements and will explore alternatives to meet its statutory obligation, as mandated by Congress, to implement regulatory oversight responsibilities for Department of Energy activities at the Waste Isolation Pilot Plant facility. Where is this work funded in FY 2018? If there is no funding proposed in the budget, how will EPA meet its regulatory responsibilities?

Answer: As noted, funding in the Radiation: Protection program has been eliminated, and the agency will explore alternatives to address continuing obligations.

McCollum Q122: What is the impact of this work not being done in FY 2018? What are the risks to human health if this work is not done?

Answer: Under this program, the agency will explore alternatives to address continuing obligations. The WIPP program already has protocols in place to protect human health.

OECA

McCollum Q123: The budget states that the Superfund: Enforcement program protects communities by ensuring that responsible parties conduct cleanups. What will be the impact of this cut? How many responsible parties and cleanup sites does the Superfund: Enforcement program identify each year?

Answer: The proposed budget reflects the streamlining of the agency's identification of Potentially Responsible Parties (PRPs), settlement negotiations for cleanup and the recovery of costs when the agency has expended funds for cleanups. The EPA will focus its enforcement resources on the most egregious cases and on sites that most substantially impact human health and the environment. Since the beginning of the program in 1980, the EPA has identified and taken enforcement actions with an average of approximately 1,900 PRPs annually.

OCFO

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McCollum Q124: The budget states that the timeline for modernization of the Superfund Cost Recovery Package Imaging and On-Line System (SCORPIOS) is extended as a result of the budget cut. What is the revised date of completion as a result of the funding cut? How long is the delay? What is the total cost of this project and how much has been funded to date?

> **Answer:** At the funding level requested in FY 2018 President's Budget, SCORPIOS modernization will be completed by Spring 2021, an additional two years from the current anticipated date. The total cost of the project is $4 million of which $760 thousands have been funded for development.

OECA

McCollum Q125: The budget eliminates EPA's financial support to the Department of Justice to assist EPA in prosecuting remediation cases. What is the amount of associated funding that will be eliminated? Will DOJ continue this work without EPA's financial support? How many matters related to remediation cases is DOJ involved with on an annual basis. How many cases of this nature is DOJ currently involved in and what will be the impact of the funding elimination on those cases?

> **Answer:** The amount of funding proposed for elimination is $20.145 million. Under the proposal, DOJ support for Superfund Enforcement would come from DOJ's resources. The EPA may seek to increase use of unilateral administrative orders to achieve cleanups to account for a potentially limited ability to sue potentially responsible parties in federal court. In FY 2016, the DOJ supported 629 enforcement cases. The EPA will work with DOJ to prioritize the most egregious cases.

McCollum Q126: The budget states that there are 174 federal facility Superfund sites, which include many of the Nation's largest and most complex cleanup projects, yet this program is eliminated. How will EPA ensure that appropriate oversight is conducted at these sites? Will the funding elimination affect the timeline of the cleanups and, if so, by how long?

> **Answer:** The EPA has not eliminated the Superfund Federal Facilities Enforcement or the Superfund Federal Facilities Restoration and Reuse programs. The Federal Facilities Enforcement program's resources have been merged with the Superfund Enforcement account and work will continue under that consolidated program project. The Superfund Federal Facilities Restoration and Reuse program, which oversees and provides technical assistance for the protective and efficient cleanup and reuse of Federal Facility National Priorities List (NPL) sites, will continue to work closely with our federal partners to address sites with the most substantial impacts to human health and the environment.

OLEM

McCollum Q127: How much funding does the budget cut for support for the headquarters and regional Emergency Operations Centers? What is the specific impact of these cuts? Will the

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EOCs be staffed by fewer employees? Will the Agency's operational readiness be affected by the resulting impacts to the EOCs and, if so, how?

Answer: Over the last few years, the EPA has invested and remains committed to having agency Emergency Operations Centers (EOCs) remain resilient despite variable budgets. Headquarters and Regional EOCs expect to continue to maintain current response personnel/assets and readiness, although future EOC enhancements and field response equipment upgrades will require additional evaluation before purchase.

McCollum Q128: The budget states that the proposed reduction to the Homeland Security: Preparedness, Response, and Recovery program project will cause the Agency to have to reevaluate the need to use PHILIS and ASPECT for emergency response activities. ASPECT is the nation's only airborne real-time chemical and radiological detection, infrared and photographic imagery platform and it is available to assist local, national, and international agencies supporting hazardous substance response radiological incidents, and situational awareness in the US. PHILIS is the EPA's mobile laboratory asset for the on-site analysis of chemical warfare agent and toxic industrial compound contaminated environmental samples Is EPA considering discontinuing ASPECT and PHILIS? Does the budget request impact operation of ASPECT and PHILIS? If discontinued, how would EPA fill this gap, what platform would conduct this work? How would states and local governments obtain these services?

Answer: The EPA will continue to meet requirements of Homeland Security Presidential Directives. The agency will evaluate PHILIS and ASPECT and will investigate with our partners the availability and suitability of other analytical assets to continue Chemical, Biological, Radiological and Nuclear (CBRN) preparedness and response work.

McCollum Q129: How will this affect workplace morale? Is discontinuing these services consistent with the rest of the federal government?

Answer: The EPA remains committed to its response responsibilities in the event of emergencies. The EPA is not in a position to determine whether this is consistent with other agency budget proposals.

McCollum Q130: The budget cuts $34 million from the Superfund: Emergency Response and Removal program project. How will this cut affect EPA's ability to respond to emergency response actions, removal assessments, and time critical response actions? What won't get done as a result of this reduction?

Answer: The EPA will continue to prioritize and respond to all-hazard cleanups, as required under the Comprehensive Environmental Response, Compensation, and Liability (CERCLA) with resource priority given to emergency response actions. The agency may prioritize non-emergency time-critical and non-time-critical actions.

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McCollum Q131: The budget proposes to cut $167 million or 33% from the Superfund: Remedial program and as a result will have to prioritize resources on NPL sites that present the highest risk to human health. How many NPL sites will not receive funding as a result of the cut? How many new sites will not be listed or have the cleanup process initiated as a result of the cuts?

> **Answer:** The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection with respect to statutory and regulatory obligations. The agency is still in the process of determining what additional sites may be ready to initiate new construction work in FY 2018. In recent years, there has been a dozen or so NPL sites awaiting cleanup funding. In order to speed the pace of cleanups, a Task Force has been created to review best practices and new approaches in dealing with successfully restoring sites to productivity. The Task Force will outline steps to be taken in the near term to more expeditiously and effectively handle remediation of sites.

Leaking Underground Storage Tanks - OLEM

McCollum Q132: The budget request cuts $16 million from LUST Cooperative Agreements, which support states in managing, overseeing, and enforcing cleanups at LUST sites. The budget request also eliminates fund for LUST Prevention. What will be the resulting cut to each state? How many fewer LUST cleanups will occur due to the cuts? How much of a states' budget for LUST cleanups does this funding represent? How many fewer inspections will occur?

> **Answer:** The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection with respect to statutory and regulatory obligations. The EPA will work with state partners to provide flexibility to address priorities. The amount of change for each state varies with the overall allocation received. Each state determines its individual contribution to the effort and the agency does not have visibility into those amounts. LUST funding changes will be part of the grant workplan development when our final FY 2018 funding is in place.

Pollution Prevention - OCSPP

The budget proposes to eliminate work in several EPA offices authorized under the Pollution Prevention Act, which was enacted in 1990 to focus industry, government and public attention on reducing the amount of pollution through cost effective changes. It also eliminates EPA's pollution prevention work under the Clean Air Act, Section 7401(c), of which the "primary goal is to encourage or otherwise promote … actions…for pollution prevention."

McCollum Q133: The budget justifies significant reductions and program eliminations as the Agency refocusing on core work. Under Administrator Pruitt's leadership, does EPA consider pollution prevention part of EPA's core statutory work?

Answer: The EPA has made great strides in carrying out the intent of Congress to encourage reductions in the generation, use and release of hazardous substances while helping businesses reduce operational costs. While resources and FTE have been proposed for elimination for the Pollution prevention program in the FY 2018 President's budget, based on previous investments in P2 solutions, partners are expected to be able to continue to share best practices and seek additional pollution prevention solutions. Within the EPA, programs implementing environmental laws will continue to pursue approaches that prevent pollution at the source. For example, pollution prevention has, and is expected to be, a key tool in implementing the Toxics Substances Control Act, as amended in 2016, which requires the EPA, in promulgating rules to mitigate unreasonable risk, to consider technically and economically feasible alternatives that benefit health or the environment (TSCA Section 6(c)(2)C),

Marine Pollution - **OW**

The budget proposes to eliminate the Marine Pollution Program. EPA is responsible for managing, along with the Army Corps, ocean disposal of sediments dredged from our ports, harbors and shipping channels to maintain the safe passage of military, commercial, and recreational vessels. EPA helps to ensure that radioactive waste, toxic chemicals, and sewage sludge that directly affect human health are not dumped into our coastal and ocean waters.

McCollum Q134: What is the impact of this proposed elimination on the health of the marine ecosystem? By how much will the percent decline of active dredged material ocean dumping sites achieving environmentally acceptable conditions?

> **Answer:** The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection. This budget provides the direction and resources to return the EPA to its core mission of protecting human health and the environment. The EPA will seek opportunities to continue to meet statutory mandates, including those of the Marine Protection, Research, and Sanctuaries Act (MPRSA), to the extent possible within the Surface Water Program.

McCollum Q135: How will the proposed cuts affect data collection and maintenance?

> **Answer:** The EPA will seek opportunities to continue to meet statutory mandates, including activities pursuant to the MPRSA such as development of site management and monitoring plans, to the extent possible within the Surface Water Program.

McCollum Q136: State and local governments will be directly impacted by degradation of their coastal resources, however, these entities do not have authority over ocean dumping in marine waters. If the marine program is eliminated as requested, how will EPA prevent, monitor, and control pollution in those waters?

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Answer: The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection. This budget provides the direction and resources to return the EPA to its core mission of protecting human health and the environment. The EPA will seek opportunities to continue to meet statutory mandates, including those of MPRSA, to the extent possible within the Surface Water Program.

Drinking Water - OW

Just last year we had a public health disaster in Flint, Michigan, where local residents were exposed to dangerously high levels of lead in their drinking water. Yet, the budget proposes to cut the drinking water program funding by 17 percent and the Public Water System Supervision Categorical Grant program by 30 percent.

McCollum Q137: How will these proposed reductions impact the States' abilities to provide technical assistance to owners of public water systems?

Answer: While funding is reduced for the Public Water System Supervision program, the EPA will work with states and tribes to target the remaining funds to core statutory requirements while providing states and tribes with flexibility to best address their particular priorities. In FY 2018, the EPA will provide funds to support state and Tribal efforts to assist water systems in meeting existing drinking water regulations and in working to develop the financial and managerial capacity needed to protect federal investments that remedy aging or inadequate infrastructure (e.g., pipe replacement to prevent failures in distribution systems; installation of treatment to remove harmful drinking water contaminants). The EPA will encourage states to use grant funds to focus, to the extent possible, on the most immediate challenges public water systems are facing today that impede their ability to properly operate and maintain their infrastructure to protect public health and achieve long-term sustainability. These challenges include difficulties achieving readiness to obtain financial assistance, limited access to well qualified and experienced utility personnel, and lack of technical expertise and managerial capacity.

McCollum Q138: How will the proposed cuts affect data collection and maintenance?

Answer: Funding in the FY 2018 President's Budget request supports the completion of Safe Drinking Water Information System (SDWIS) modernization with the release of SDWIS Primacy Agency (Prime) and the initiation of support for state and Regional transition to SDWIS Prime.

In FY 2016, the EPA released the Compliance Monitoring Data Portal (CMDP) enabling drinking water utilities and laboratories to report data electronically to primacy agencies with fewer errors and in a more efficient manner. The portal will increase data accuracy and completeness and could decrease the overall reporting burden for primacy agencies by hundreds of thousands of hours. Primacy agencies can use the portal-reported data to make

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more informed decisions about water system compliance and focus their limited resources on preventing and responding to public health problems. In FY 2017, the EPA is assisting primacy agencies in transitioning to and utilizing CMDP, and will continue this assistance in FY 2018.

In FY 2018, the EPA will continue work with states to develop SDWIS Prime. SDWIS Prime is a centralized infrastructure technology system that will replace SDWIS State (the management and reporting tool used by 43 state drinking water programs) and other systems that are hosted and operated separately by each primacy agency. The EPA also will work with states to initiate their transition to SDWIS Prime. Benefits of this transition to SDWIS Prime include improvements in program efficiency and data quality, greater public access to drinking water data, facilitation of electronic reporting, reductions in reporting burdens on laboratories and water utilities, reductions in data management burden for states, and ultimately reduction in public health risk.

McCollum Q139: What will be the impact of the reductions on laboratory certification and sample analysis?

Answer: States have the primary responsibility for certification and oversight of the commercial and municipal laboratories that generally analyze compliance-monitoring samples for PWSs. Some states also operate their own laboratories for the analysis of compliance-monitoring, investigatory-, and incident-response samples. Public Water System Supervision grants provide states with resources to assure timely and accurate compliance monitoring, respond to violations that may impact public health, and share results with the public. States will determine the relative support to provide to their areas of responsibility such as laboratory certification and sample analysis. Additionally, funding for the Unregulated Contaminant Monitoring Rule (UCMR) is not reduced and provides critical implementation support for emerging-contaminant occurrence data collection. This includes support to labs that conduct Unregulated contaminant occurrence monitoring (UCMR) and sample analyses for the nations' small public drinking water systems (PWS), as well as support training for Regional and State Certification Officers and technical support/troubleshooting to Regions, states, and laboratories.

McCollum Q140: How will the proposed cut impact EPA's training and technical assistance to States, tribes, and public water systems for compliance with Safe Drinking Water Act regulations?

Answer: The FY 2018 budget assumes that the EPA will streamline and prioritize support activities such as training and technical assistance to states, tribes, and public water systems for compliance with Safe Drinking Water Act regulations. The EPA will target its support as outlined: the agency will continue to work with states and tribes to implement requirements for all National Primary Drinking Water Regulations (NPDWRs) which require that systems install, operate, and maintain appropriate levels of treatment and effectively manage their distribution systems. In particular, the EPA will continue to focus

on working with states to optimize corrosion control treatment to minimize exposure to lead. The EPA also will continue to require states to report violations data at all public water systems for all rules, including requirements to protect against Cryptosporidium, to control disinfection byproducts, and to implement the Revised Total Coliform Rule.

In addition, the EPA will continue to focus on small systems by strengthening and targeting financial assistance, in coordination with state infrastructure programs, to support rehabilitation of the nation's infrastructure. The agency also will look for ways to promote partnerships among water systems to build capacity and work with states and tribes, as well as with utility associations, third-party technical assistance providers, and other federal partners, to promote the sustainability practices that are the foundation for building technical, managerial, and financial capacity, known as Capacity Development.

McCollum Q141: According to the budget request, in FY 2016, nearly ten percent of the population served by Community Water Systems received drinking water that did not meet all applicable health-based drinking water standards. How will these proposed cuts affect EPA's ability to address on-going compliance challenges? What activities will be reduced?

Answer: The 1996 Safe Drinking Water Act (SDWA) Amendments established a strong emphasis on enhanced water system management to achieve and maintain technical, managerial, and financial (TMF) capacity of the nations' drinking water systems. EPA resources and grants that states use to implement the drinking water program will primarily target small systems that lack the capacity to comply with health based drinking water standards. While most small systems consistently provide safe and reliable drinking water to their customers, many small systems face challenges with aging infrastructure, complying with regulatory requirements, workforce shortages and high staff turnover, increasing costs, and declining rate bases. In FY 2016, small community water system violations made up 94 percent of overall violations; however, in Indian Country, only 88 percent of the population served by CWSs received drinking water that met all applicable health-based standards. The EPA will continue to focus on small systems by strengthening and targeting financial assistance, in coordination with state infrastructure programs, to support rehabilitation of the nation's infrastructure. The agency also will look for ways to promote partnerships among water systems to build capacity and work with states and tribes, as well as with utility associations, third-party technical assistance providers, and other federal partners, to promote the sustainability practices that are the foundation for building technical, managerial, and financial capacity.

Research and Development - ORD

The EPA laboratories are resources for EPA as well as states, tribes, municipalities, and other federal agencies.

McCollum Q142: At the proposed funding levels in the FY 2018 budget request, how will EPA retain the expertise of the scientists at these laboratories? Does the Agency intend to close any of the labs?

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Answer: The EPA will endeavor to retain its workforce with the proper distribution of skills. In addition, the EPA will carefully review its footprint and continue efforts to reconfigure the EPA's workspaces in order to release square footage and reduce long-term rent. This also will include laboratory spaces.

National Vehicle and Fuels Emission Laboratory *(OAR)*

The National Vehicle and Fuel Emissions Laboratory (NVFEL), located in Ann Arbor, Michigan, is an integral part of the EPA Office of Transportation and Air Quality. Through this program EPA develops, implements, and ensures compliance with national emission standards to reduce mobile source related pollution and ensure air quality benefits and fair competition in the marketplace.

McCollum Q143: The budget request notes that there is an increased demand for the outcomes from this program, but proposes reducing the program by $17 million. Has EPA analyzed the resultant economic impact on manufacturers or the health and economic impact on consumers' from this proposed reduction of work?

Answer: The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners. The agency will continue to perform its compliance oversight functions on priority matters. In FY 2018, the agency will conduct compliance oversight tests where there is evidence to suggest noncompliance.

OAR

McCollum Q144: The Lab's work also protects industry by ensuring all automakers play by the same rules and to hold companies accountable that gain an unfair and illegal competitive advantage. Engineers at this Lab were instrumental in uncovering evidence on Clean Air Act violations that led to Volkswagen paying billions of dollars to their customers and to mitigate for pollution emitted from their cars and the current lawsuit against Fiat Chrysler and discrepancies in its auxiliary emission control devices. How would the proposed reduction impede the oversight that results from the work of this Lab?

Answer: In FY 2018, the agency will focus its efforts on certification decisions. The agency will continue to perform its compliance oversight functions on priority matters; and will conduct compliance oversight tests where there is evidence to suggest noncompliance.

McCollum Q145: In order to meet the demand from the auto industry, how will EPA fill the funding gap that would result from the proposed reduction? Does EPA intend to create new user fees for the lab above the ones that the industry already pay?

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Answer: In FY 2018, the agency will focus its efforts on certification decisions. The agency also will assess the capabilities of new and current vehicle technologies and focus efforts to detect violations of clean air standards in a more efficient matter. New user fees are not included in this budget request.

(OAR)

McCollum Q146: In March, EPA issued a notice of intent to reconsider the final determination on the appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards. At the proposed budget levels, how does EPA intend to conduct the analysis that this reconsideration will entail?

Answer: The EPA will utilize the available resources to conduct the reconsideration of the Model Year 2022-2025 standards Mid-term Evaluation Final Determination. The EPA will not only make use of its data and analysis, but also information from stakeholders, federal and state partners, and other resources to support the reconsideration process.

McCollum Q147: What are the next steps in the process?

Answer: The Administrator intends to make a new Final Determination no later than April 1, 2018; in accordance with the EPA's regulations governing the Mid-term Evaluation process.

McCollum Q148: Will EPA officially withdraw the final determination? If so, when?

Answer: The Administrator announced in March 2017, his intention to reconsider the January 2017 Final Determination and his plans to issue a new Final Determination no later than April 1, 2018.

McCollum Q149: Will there be another proposed determination and public comment period?

Answer: The Administrator intends to make a new Final Determination no later than April 1, 2018; in accordance with the EPA's regulations governing the Mid-term Evaluation process. The EPA will follow applicable notice and comment procedures.

McCollum Q150: Will EPA and NHTSA produce another Technical Assessment Report? If so, does the proposed FY18 EPA budget provide enough resources to ensure a robust assessment?

Answer: Through prioritization of activities, the EPA expects to have adequate resources to conduct the analysis that this reconsideration will require.

Eliminating Programs
Great Lakes - OW

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The Great Lakes support a $7B annual fishing industry and over 40 million people in this region depend on the Lakes for drinking water. Ecologically healthy lakes are necessary for the lakefront and recreational opportunities the Lakes provide for millions of people which contributes to local economies. Yet the FY 2018 budget shortsightedly proposes to eliminate $300 million for the Great Lakes Restoration Initiative. This reduction will impact cleaning up toxic algae, phosphorus from sewage treatment plants, and other pollutants that threaten water supplies and make it dangerous to eat the Lakes' fish. It is will also jeopardize the work of Federal agencies, states and stakeholders to address invasive species like Asian carp.

McCollum Q151: How does EPA justify eliminating this program, and the many other geographic programs like it that are critical for healthy regional ecosystems?

> **Answer:** This program elimination is part of the Administration's overall goal to return the responsibility for regional and local environmental work to state and local entities. The FY 2018 President's Budget request focuses on funding core programs with a national scope. The EPA will encourage the eight Great Lakes states, Tribal, and local entities to continue to make progress in restoring the Great Lakes from within core water programs.
>
> The Great Lakes are an important part of the U.S. fresh water supply, and the EPA is committed to improving environmental conditions and human health for Americans that live and work in the Great Lakes region. The EPA will continue to engage in meaningful discussions with Congress and with stakeholders in the region about how shared environmental goals related to the Great Lakes can be achieved.

McCollum Q152: Why aren't protecting these irreplaceable resources considered a basic function of EPA?

> **Answer:** The Great Lakes Restoration Initiative is a regional program that is designed to protect and restore a very important resource. The FY 2018 President's Budget request focuses on funding core programs with a national scope and returns the responsibility for regional and local environmental work to state and local entities.

McCollum Q153: The Great Lakes effort is a multi-state effort which benefits from federal funding and staff support. Absent federal participation which encourages a collaborative effort to clean up ecosystems that span more than one state, what does EPA envision these efforts will look like moving forward?

> **Answer:** The EPA will encourage the eight Great Lakes states, Tribal, and local entities to continue to make progress in restoring the Great Lakes from within core water programs while continuing to engage with Congress and stakeholders in the region about how shared environmental goals can be achieved.

McCollum Q154: If funding is eliminated as proposed, how will EPA handle projects which are and could be in the middle of sediment remediation? Is there any risk that halting work could result in an environment hazard more dangerous than if the work had not been initiated?

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Answer: The EPA anticipates that at least one project will be under active sediment remediation at the beginning of FY 2018. This ongoing phase of work is fully funded. The EPA will work to minimize costs and environmental risks as work on the project ramps down.

McCollum Q155: What would happen to projects which are recently completed but may be in the warranty work phase where habitat restoration or continued treatment for invasive species is being carried out? Sometimes these activities continue for 2-3 years. If this work is stopped, wouldn't the full benefit of the investment be lost?

Answer: The EPA anticipates that at least five projects will be in the warranty work phase at the beginning of FY 2018. This ongoing phase of work is fully funded. The EPA will work to minimize costs and environmental risks as work on the projects ramps down.

McCollum Q156: How would EPA manage the internal support contacts and the contract with Cetacean Marine associated with the maintenance and operation of the research vessels Lake Guardian and Mudpuppy II?

Answer: Unless the internal support contracts were terminated, which would be done through a negotiation process with contractors, the EPA would need to add to the workload of staff who already are fully engaged in management of other contracts.

McCollum Q157: What would be the associated costs of ceasing operations of the Lake Guardian and Mudpuppy II? Would the vessel be put into dry dock or would EPA dispose of it?

Answer: The EPA is still evaluating options for the Lake Guardian and the Mudpuppy II. Once final decisions are made, costs would be determined through a negotiation process with the contractors.

Managing Environmental Protection
Merging Regional Offices

Office of Budget with OARM, OLEM

It has been reported that EPA is conducting an analysis regarding merging regional offices that is due to the Office of Management and Budget on June 15, 2017.

McCollum Q158: How would EPA plan to continue the Agency's close working relationship with states, with less regional staff and more distance involved?

Answer: The EPA's FY 2018 budget request includes 5,400 FTE in the regions to continue to implement core environmental protection with respect to statutory and regulatory obligations. This can be accomplished by engaging with state, local, and tribal partners to create and implement sensible regulations that also work to enhance economic growth.

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EPA continues to prioritize its relationship with states and will continue to invest in this relationship.

McCollum Q159: What are the specific health impacts and environmental impacts of closing regional offices? How will these closures affect EPA's mission to enforce environmental laws and otherwise protect the environment and human health?

Answer: The FY 2018 budget request does not propose to close any EPA regional offices.

McCollum Q160: Please outline in detail the costs to close these facilities and how EPA expects to absorb these costs within the proposed budget, including both the real estate costs of facility closure and the costs of personnel separations.

Answer: The FY 2018 budget request does not propose to close any EPA regional offices.

McCollum Q161: How would EPA manage an immediate disaster response to a natural disaster, industrial accident, or terrorist attack affecting our environment that adequately and rapidly coordinates federal, state and local first responders, environmental agencies, law enforcement and others, in the total absence of a nearby regional EPA office?

Answer: The FY 2018 budget request does not propose to close any EPA regional offices.

McCollum Q162: How would EPA replace the on-the-ground knowledge, technical expertise and leadership in these regions, so essential to developing an acceptable resolution when a company is charged with a violation, to ensure that environmental compliance?

Answer: The FY 2018 budget request does not propose to close any EPA regional offices.

Combined Heat and Power Partnership - OAR

The Combined Heat and Power Partnership provides technical support, makes business-to-business connections, and issues achievement awards to its roughly 400 partners. Since its launch, the Partnership has been credited with supporting roughly one-third of CHP installations. These projects slash energy use and costs, making their hosts more competitive and cutting carbon emissions. They also make our energy infrastructure more reliable, since CHP projects can keep the lights on when the grid goes down.

More than 100 businesses, advocates and associations – including Ameresco, Siemens and Solar Turbines – have joined a letter reaffirming the great value of the CHP Partnership and of CHP itself.

McCollum Q163: Given the Administration's commitment to improving our industrial competitiveness compared to our international competitors – and the great support that the CHP Partnership has provided since 2002, why does the Administration want to eliminate it?

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Answer: The EPA will explore options for the potential transfer of the CHP Partnership Program to non-governmental entities

Environmental Monitoring - OAR

The EPA tracks changes in nitrogen deposition and sulfur deposition to assess the effectiveness of the Acid Rain Program and related programs. The agency also tracks changes in surface water acidity in lakes and streams in acid sensitive regions to assess the change in the number of chronically acidic water bodies. The Administration budget proposes that EPA close seven of 59 EPA-sponsored CASTNET monitoring sites (six on Tribal lands) and seven of EPA's 32 National Atmospheric Deposition Program sites.

McCollum Q164: How will this reduce EPA's ability to measure the results of the Acid Rain Program and related programs?

Answer: Under the proposed FY 2018 funding levels, the agency would close seven of 59 EPA-sponsored CASTNET monitoring sites including six on Tribal lands. The agency would also close seven of the EPA's 32 National Atmospheric Deposition Program sites. In both instances, the sites are newer, meaning long-term trend data will continue to be available. The EPA will base its assessment on the remaining monitoring sites.

Elimination of Alternative Dispute Resolution - OGC

McCollum Q165: What are the benefits of EPA's use of alternative dispute resolution, and what analysis has EPA done that indicates program offices are able to conduct ADR on their own, without support?

Answer: EPA's use of alternative dispute resolution (ADR) has been shown to save time and money, and result in improved outcomes. These benefits have been documented in a variety of studies and peer-reviewed literature. EPA Regional and program offices will continue to pursue ADR support services and training on an as needed decentralized basis.

Climate Change: GAO High Risk Area *(OAR)*

McCollum Q166: According to EPA's budget, in 2013, the Government Accountability Organization designated climate change as a "High Risk" area, noting that climate change poses management challenges for the federal government at large, and that the EPA will play a role in addressing this challenge. Since the budget request eliminates 91% of the climate change funding, what role will the Agency play in addressing this challenge?

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Answer: Through this budget, the EPA has laid out a strategy to maintain core environmental protection with respect to statutory and regulatory obligations. This budget provides the direction and resources to return the EPA to its core mission of protecting human health and the environment.

Clean Power Plan *(OAR)*

McCollum Q167: What is EPA's plan to provide the same level of greenhouse gas emissions reductions as the Clean Power Plan and other rules the Agency plans to reexamine?

Answer: The Supreme Court ruled, in *Massachusetts v. EPA*, that the EPA has the authority to regulate carbon dioxide as an air pollutant under the Clean Air Act. Congress as a body, however, has not weighed in on the question about whether the agency is obligated to regulate carbon dioxide.

Pursuant to the Presidential Executive Order on Promoting Energy Independence and Economic Growth, the agency is reviewing several regulations and, if appropriate, will initiate reconsideration proceedings to suspend, revise, or rescind these rules.

McCollum Q168: When does EPA anticipate its review of the Clean Power Plan will be completed as every passing month delays the important emission reductions this plan was designed to achieve?

Answer: The EPA is reviewing the Clean Power Plan and, if appropriate, will as soon as practicable and consistent with law, initiate provisions to suspend, revise, or rescind the rule.

McCollum Q169: Is EPA planning to extend the administrative stays of any other regulations that reduce greenhouse gases from stationary sources which it is currently reviewing?

Answer: The President has directed agencies to review existing regulations that potentially burden the development of domestic energy resources; and appropriately suspend, revise, or rescind regulations that unduly burden the development of U.S. energy resources beyond what is necessary to protect the public interest or otherwise comply with the law. The review is ongoing.

Ozone - OAR

McCollum Q170: Ozone is the main component in smog and has been scientifically proven to aggravate lung diseases, increase the frequency and severity of asthma attacks, and reduce lung function. EPA estimated that the benefit of an updated standard of 70 parts per billion will yield health benefits of $13 billion each year. However, Administrator Pruitt has delayed the compliance deadline by a year. What will be the health impact and additional cost to the public of this delay?

Answer: The Administrator has determined that there is insufficient information to complete area designations for the 2015 ozone standards and is extending the deadline by one year, until October 1, 2018. Additional time will allow the EPA to further evaluate a host of complex issues regarding the 2015 ozone NAAQS and its implementation, such as further understanding the role of background ozone levels and international transport; to develop additional flexibilities for states to comply with the ozone NAAQS; and to consider completely all designation recommendations provided by state governors, including full consideration of exceptional events impacting designations.

Chlorpyrifos *(OCSPP)*

Administrator Pruitt, during your testimony to our subcommittee you stated that the USDA had a differing opinion from the EPA's scientists on the dangers of chlorpyrifos. You sided with the USDA in that disagreement when you rejected the petition to revoke food tolerances of chlorpyrifos.

McCollum Q171: What scientific evidence and peer-reviewed studies were the basis of the USDA's conclusions? Do they have data that shows there is a safe level of exposure to chlorpyrifos, particularly for children and pregnant women? Who determined that the USDA's science is more reliable or valid than the EPA's, and what process or standards did they use to come to that conclusion?

Answer: The EPA received numerous comments raising concerns with the analysis EPA issued for public comment in November 2016 as part of the chlorpyrifos tolerance revocation rulemaking process. Among those concerns were comments submitted by the U.S. Department of Agriculture, available at: https://www.regulations.gov/document?D=EPA-HQ-OPP-2015-0653-0648. USDA's concerns mirrored similar comments submitted by other stakeholders, leading the EPA to conclude that, despite several years of study, the science addressing neurodevelopment effects remains unresolved and that further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos.

McCollum Q172: The EPA has historically consulted with the USDA on pesticide related issues, but your testimony indicated that the USDA now has the power to overturn the conclusions of the Agency's own scientists. Has the USDA been elevated to the role of overseeing any decisions on pesticides under the Trump Administration? If so, who issued and approved of this guidance.

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Answer: The EPA has historically consulted with the USDA on pesticide related issues and continues to do so. The EPA engages USDA, as well as its other Federal partners, in a collaborative manner to achieve regulatory decisions that reflect transparency and sound science. The EPA routinely seeks USDA's input on pesticide-related issues, and routinely uses USDA data (e.g., NASS use survey information) to inform our risk assessments and regulatory decisions.

OCSPP

McCollum Q173: The mission of the USDA is very different from the mission of the EPA. The USDA's mission is to provide leadership on food, agriculture, natural resources, rural development, nutrition, and related issues. The EPA's mission is to protect human health and the environment. Is the protection of human health and the environment still the mission that is guiding decisions on pesticide use under your leadership?

Answer: Yes, under the authorities of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); as amended by the Food Quality Protection Act of 1996, the Endangered Species Act (ESA), and the Pesticide Registration Improvement Renewal Act (PRIA), the protection of human health and the environment is still the mission guiding decisions on pesticide use.

Environmental Impact on Children's Health

It is estimated that 88% of the existing global burden of disease attributable to climate change occurs in children younger than 5 years old in both industrialized and developing countries. Climate change is currently affecting child health through increased heat stress, decreased air quality, altered disease patterns of some climate-sensitive infections, physical and mental health effects of extreme weather events, and food insecurity in vulnerable regions. Outdoor air pollution is linked to respiratory problems in children, including decreased lung function, coughing, wheezing, frequent respiratory illness, and asthma exacerbation. Children bear the burden of negative health outcomes resulting from exposure to pollutants across their lifespan.

(OAR)

McCollum Q174: The EPA has put a hold on efforts to make our air cleaner by pausing work on the ozone standard and the Clean Power Plan. Is the EPA calculating the costs to children and their families from all of the health effects of polluted air and accelerated climate change?

Answer: The EPA has paused several efforts in order to evaluate a host of complex issues. The Administrator has determined that there is insufficient information to complete area designations for the 2015 ozone standards and is extending the deadline by one year, until October 1, 2018. In addition, the EPA is reviewing the Clean Power Plan and, if appropriate, will as soon as practicable and consistent with law, initiate provisions to suspend, revise, or rescind the rule. Within the statutory boundaries, there are a number of factors to consider when revising federal rules, including costs, implementation issues, and the appropriate balance between state and federal authority.

(OA)

McCollum Q175: As the EPA Administrator overseeing this regulatory review, are you consulting with pediatric associations, patient organizations, or other representatives for children's health to determine the cost burdens that rolling back these regulations would place on impacted families and our health care system as a whole?

> **Answer:** The EPA has a Children's Health Protection Advisory Committee whose charter was renewed in June of 2017. The duties of this Advisory Committee are to provide advice and recommendations to EPA on policy issues associated with regulations, economics, and outreach/communications to address prevention of adverse health effects to children, and improve the breadth and depth of analyses related to these effects. Many of the members are from pediatric associations and other representatives of children's health.

McCollum Q176: How will the benefits to children of strong environmental regulations be weighed in comparison to the costs to some businesses of meeting those regulations in any final decisions?

> **Answer:** The EPA does not conduct benefit risk analyses specifically for children.

Tribal Treaty Rights and Tribal Consultation - OITA

In February 2016, the Agency finalized the "EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights". That Guidance begins with the statement that, "EPA recognizes the importance of respecting tribal treaty rights and its obligation to do so."

McCollum Q177: Does the Agency intend to continue to implement this Guidance under your leadership? Does the Agency continue to stand by the conclusion that you have an obligation to protect treaty rights and consult with tribal nations if those rights may be impacted by a proposed EPA action?

> **Answer**: The agency will continue to follow the law as it relates to tribal treaty rights and believes that the Guidance, which complements the EPA's existing tribal consultation policy, serves as a framework to inform the EPA's actions and decisions.
>
> The U.S. Constitution defines treaties as part of the supreme law of the land, with the same legal force as federal statutes.

McCollum Q178: The Guidance states that, "As part of its commitment, EPA will emphasize staff training and knowledge-sharing on the importance of respecting tribal treaty rights in order to better implement this Guidance". What training has been done for staff on this topic since you

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were confirmed as Administrator? Does the Agency intend to provide such training in the future?

> **Answer:** The EPA's American Indian Environmental Office, within the Office of International and Tribal Affairs, has hosted a number of trainings on the *EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* in 2017, and continues to work with our Regional and National offices to schedule more training opportunities for EPA staff.
>
> In addition to our specific training on treaty rights, the agency requires all staff to take a short training course every two years on "*Working Effectively with Tribal Governments*" which includes information on treaty rights. This training is required of all staff in FY 2017.

McCollum Q179: Is the Agency engaging in formal tribal consultation during the review of regulations that you are currently undertaking? What efforts is the Agency undertaking to evaluate the impact that any changes to existing regulations may have on tribal treaty rights throughout the nation?

Answer: The agency hosted two tribal-specific national outreach calls for tribal governments to provide their input into our regulatory reform agenda. The calls included EPA representatives from each of the major program offices. EPA also invited tribes to participate in the five other media-specific public meetings. As the agency continues to work through the input received from tribes and other stakeholders, the agency will work with the EPA's American Indian Environmental Office and other program offices on appropriate next steps.

McCollum Q180: Tribal nations rely on many EPA grants and programs to protect their treaty rights and maintain the environmental health of the ecosystems that support their hunting, fishing, and gathering rights. Has the Agency engaged with tribal nations following the release of the Fiscal Year 2018 budget about the decision to cut funding for programs across the Agency that tribes rely on such as the Indian General Assistance Program, the State and Tribal Assistance Grants, the Great Lakes Restoration and Puget Sound geographic programs, and others? Are you consulting with tribal leaders around planning for implementation of this budget? Are you seeking tribal input on investments needed to protect tribal treaty rights as you develop your Fiscal Year 2019 budget?

> **Answer:** Annually, the EPA's senior leadership, including the EPA Administrator, meets with the National Tribal Caucus (NTC) to discuss planning and budget priorities. The NTC is a national body of elected officials and other representatives of federally recognized tribes. Members are selected by tribes in each EPA region to represent the perspectives of tribes within their regions. The NTC's primary focus is to identify and address tribal environmental issues that are national in scope, cross-agency, or cross-media in nature, or that may be emerging or urgent. The NTC executive committee met

with Administrator Pruitt (April 2017) and plans are underway to have the full NTC meeting with the EPA's senior leadership this fall.

The agency is currently undergoing tribal consultation on the FY 2018-2019 National Program Guidance. These planning documents describe how the EPA will carry out the agency's strategic direction and annual budget by providing operational direction to the EPA regions, states and tribes on implementing environmental and human health protection programs.

McCollum Q181: Please provide the Committee with a detailed list of all efforts to engage in tribal consultation. Additionally, please provide the Committee with a detailed analysis of the current funding that the EPA distributes to tribal nations across all accounts and grants, and how the cuts proposed in the Trump Administration FY18 budget would affect it.

Answer: The EPA maintains a listing of all on-going tribal consultations on its tribal consultation web site, https://tcots.epa.gov. To date, EPA has engaged in over 400 consultations with tribal governments since the issuance of its consultation policy in 2011. Funding varies across programs depending on specific requirements of the statutes and allocations. OITA funding changes will be part of the grant work plan development when the agency FY 2018 funding is in place.

Questions from Ms. Pingree:

Brownfields - OLEM

An EPA program that is of vital importance to the communities of New England and Maine in particular, is the Brownfields program. The capital raised through Brownfields investments has been extremely effective in turning community liabilities into assets throughout the state. And EPA itself has told us that brownfields leverage $17 dollars for each dollar spent.

Pingree Q1: When you have publically supported the work of this program, why would this Administration turn away from the Brownfields program that leverages its funds so efficiently with a $17 to $1 return on investment?

Answer: The agency remains committed to this important program. Under the FY 2018 President's Request, approximately 834 sites will be assessed, 111 sites will be cleaned up, and 5,865 jobs and $1.1 billion will be leveraged. Additionally, grant supported state and Tribal response programs will oversee the cleanup at approximately 26,032 properties, making over 90,000 acres ready for reuse.

National Estuary Program - OW

One of the programs that you have at EPA that is relatively small in the scope of your budget, but that brings critical funds to coastal communities is the National Estuary Program. The work that they are doing on the ground in habitat restoration and protection helps in the 28 watersheds nationwide.

One of those critical watersheds is in Maine, the Casco Bay Estuary. They work with partners across Southern Maine to monitor our watershed in the Casco Bay and to use the data they find to help our fishermen, and our communities. But under your budget proposal, the program is proposed for elimination and the funds are not repurposed elsewhere but the work of this program will be entirely gone. On average, the NEPs raise $18 for every $1 provided by EPA.

Pingree Q2: Why does the FY 2018 budget propose to eliminate the NEP which provides such a clear benefit to the American taxpayer?

> **Answer:** The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection with respect to statutory and regulatory obligations. The EPA will continue to encourage the National Estuary Programs (NEPs) to make progress implementing their Comprehensive Conservation Management Plans (CCMP) from within core water program

Wood Heater Standards - OAR

Pingree Q3: Can you provide for the record information and status of the EPA's New Source Performance Standards for New Residential Wood Heaters given that there is a May 2020 effective date for Step 2 of this rule?

> **Answer:** The EPA set a two-phased New Source Performance Standard (NSPS) for residential wood heaters. The 2015 rule phased in standards for new heaters over five years. Existing wood heaters are not affected by the 2015 rule. Step 1 went into effect in 2015 and was widely accepted by industry. Step 2 has a 2020 effective date, and two impacted industry stakeholders have challenged the rule on the basis of technical and legal concerns. The EPA is considering the concerns raised by stakeholders and will consider all options as they relate to the existing rule.

EPA Water Sense Program - OW

Pingree Q4: Given that fact that many business and citizens were affected by drought and water supply shortages in recent years, and given the proposed cuts to programs at EPA such as Energy Star and Water Sense, how will the EPA continue to support economic development that is based on significant water savings in drought stricken areas?

> **Answer:** The FY 2018 President's Budget request for the EPA reflects the success of environmental protection efforts, a focus on core legal requirements, and the important role of federal-state partnerships in implementing the nation's environmental laws. The

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voluntary WaterSense program is proposed for elimination in the President's Budget request as part of the overall effort to better target and prioritize the EPA's activities

Toxics Funding - ORD

Pingree Q5: Given the 31 % cut to the Chemical Safety for Sustainability research program, what are the potential impacts on the research and evaluation of human health effects of chemicals?

Answer: The Chemical Safety and Sustainability (CSS) program provides methods, data, information, and tools enabling more informed, timely decisions about chemicals; many of which, have not been thoroughly evaluated for potential risks to human or ecological health. CSS products currently inform agency program offices responsible for the implementation of TSCA, SDWA, and CERCLA. Products provided by CSS inform agency and state decisions related to chemical safety and the protection of public health and the environment.

The proposed reductions in the FY 2018 President's Budget will impact ORD's ability to meet its statutory obligations in a timely manner.

Questions from Mr. Kilmer:

EPA Ecolabel Program - OCSPP

In 2015, the EPA issued procurement recommendations for forest products that discriminated against two recognized and credible forest certification standards - the Sustainable Forestry Initiative (SFI) and the American Tree Farm System (ATFS) – thereby excluding forest products produced from hundreds of millions acres of private, state, and federal forestlands. These recommendations were also inconsistent with the USDA's Biopreferred Program, which puts all forest certification programs on a level playing field. The Fiscal Year (FY) 2017 Consolidated Appropriations Act directed EPA to provide a report to the Committee within 60 days regarding the current state of the agency's Ecolabel program. The Committee also recommended that in developing the guidelines to evaluate eco labels that are used in Federal purchasing for building construction and other uses, the EPA should be fair, transparent, and consistent with other product requirements.

Kilmer Q1: What is the anticipated timing for the completion of the report called for in the FY 2017 Consolidated Appropriations Act?

> **Answer:** The agency has been working to meet this new requirement. The report is currently in draft and undergoing EPA management review. Interagency review is required before the report is finalized.

Kilmer Q2: Please outline the steps EPA will take to ensure that guidelines for the Ecolabel program will be developed in a transparent manner, inclusive to all certified sustainable US grown and manufactured forest products, and consistent with existing federal procurement policies like the USDA's Biopreffered program.

> **Answer:** 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. The Fiscal Year 2018 President's Budget eliminates funding for the Pollution Prevention program; the program-project under which Ecolabels activities are funded.

Energy Star - OAR

EPA has a voluntary, non-regulatory, partnership program with private and public property owners called ENERGY STAR for buildings. Foundational to the program is an energy management and tracking tool developed and maintained by EPA called "Portfolio Manager" that enables properties to measure utility performance over time. Forty-four billion square feet of commercial space including school, office and apartments buildings – roughly half the commercial real estate market in the United States – use Portfolio Manager to measure and track how much energy and water is consumed by building occupants. This tool has become the trusted standard for building owners to identify opportunities for more efficient operation and achieve utility cost savings. Moreover, without Portfolio Manager, the real estate industry would

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be left without its key compliance tool to meet the increasing number of state and local regulations that require buildings to measure and report their energy use in a transparent manner.

Kilmer Q3: Is Administrator Pruitt aware of the important role that the buildings branch of ENERGY STAR and the Portfolio Manager tool play in supporting the private real estate industry?

> **Answer:** The EPA will explore options for the potential transfer of the ENERGY STAR program to non-governmental entities.

Kilmer Q4: Without funding, how does the EPA plan to continue supporting Portfolio Manager?

> **Answer:** The EPA will explore options for the potential transfer of the ENERGY STAR program to non-governmental entities. Portfolio Manager support will be part of the overall evaluation of next steps.

Puget Sound - OW

Puget Sound, Washington, is among the most important estuary ecosystems in the United States, providing critical human and ecological values. The ecosystem supports more than 4. 7 million people, including 19 federally recognized tribal governments; 211 fish species; 100 sea bird species; and 13 marine mammal species, including endemic orca whales. It also annually handles over $77 billion in imports and exports, $10 billion in outdoor recreation, and $2 billion in agriculture revenue. Decades of human activity and development have degraded the ecological function of Puget Sound, and the EPA has numerous statutory obligations to support Puget Sound recovery efforts.

Kilmer Q5: Please provide a list of all federal laws that mandate EPA's role in Puget Sound recovery efforts.

> **Answer:** Puget Sound-related mandates are found in the following:
>
> Clean Water Act §320: Establishes the National Estuary Program and includes the Management Conference/Action Agenda: "The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary."
>
> Estuaries and Clean Waters Act of 2000: "This legislation makes restoring the nation's estuaries a national priority and funds community-based estuary restoration projects. Reauthorization of EPA's National Estuary Program is included, with funds for estuary management in addition to planning. The core of the bill establishes a five-year program through which the federal government will promote and track estuary restoration."

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Kilmer Q6: Please provide a summary of the total amount spent by EPA towards meeting its statutory obligations with respect to Puget Sound recovery over the past 5 years broken out by individual programs including State and Tribal Assistance Grants.

Answer: Geographic Funds: $140 million (Geographic Program: Puget Sound)
NEP Funds: $2.8 million (NEP Base Grant)
The following STAG programs also support Puget Sound Recovery (note these are statewide allocations for the past five years and not all these resources are applied in the Puget Sound basin.)

- Clean Water Act Section 319 Washington Allocation: $14.7 million
- Clean Water Act Section 106 Washington Allocation: $30.2 million
- CWSRF Washington Allocation: $120.9 million
- DWSRF Washington Allocation: $ 102.3 million

Kilmer Q7: Please provide a list and brief description of all the current actions carried out by the EPA (including those supported through grants/cooperative agreements with the state and tribes) that would be terminated if the Puget Sound Geographic program is eliminated.

Answer: The EPA funding will be eliminated, however, the EPA is not the sole funder. Below is a list of actions where the EPA currently provides funds:

- Nearly 96% of the NEP federal funding is channeled through the states and tribes.
    - Funding of approximately $20 million per year for implementation projects in support of the Action Agenda (Comprehensive Conservation and Management Plan) for shellfish, stormwater, and habitat projects by local, state, and Tribal partners.
    - Funding for approximately 90 positions with state, Tribal, and local governments that develop and manage recovery plans and implement projects. This also would include de-funding the Puget Sound Management Conference.
- Development and update of the 2018 Action Agenda (Comprehensive Conservation and Management Plan).
- Loss of leveraged funds for Puget Sound recovery. The EPA's geographic funds are flexible and are used by our state, Tribal, and local partners to leverage other financial and programmatic resources at a leverage rate of over 18 to 1.
- Support for science and monitoring planning, implementation, and use for tracking progress and adaptive management.
- Leadership and staffing of the Puget Sound Federal Task Force and implementation of the federal five-year Action Plan.
- The U.S. staffing and support for the US/Canada Salish Sea Statement of Cooperation and shared efforts the SOC Action Plan.
- Planning and involvement in the bi-annual Salish Sea Ecosystem Conference.

Tribal Programs - OITA

EPA's Region 10 office serves 271 federally recognized tribes in Alaska, Idaho, Oregon, and Washington. The EPA is responsible for upholding federal trust responsibility to protect treaty rights that fall within its jurisdiction.

Kilmer Q8: Is the Administrator committed to upholding EPA's trust responsibility to all federally recognized tribes?

> **Answer:** The EPA recognizes the federal government's trust responsibility, which derives from the historical relationship between the federal government and Indian tribes as expressed in certain treaties and federal Indian law. The EPA remains committed to honoring the government-to-government relationship the United States has with federally recognized tribes as well as fulfilling our federal trust responsibility.

Kilmer Q9: What legal consequences would the EPA face if it fails to meet these obligations as a result of inadequate funding?

> **Answer:** The EPA will continue to work with Congress to finalize the budget and then will work with states, tribes, and local governments to ensure that key program priorities continue to be appropriately implemented across the country.

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Questions from Ms. Kaptur:

CWA: Impaired water of Lake Erie - OW

Two years ago, Toledo's fresh water supply was shut down over an entire weekend due to toxic algal blooms from Lake Erie that crept into the water treatment facility. The algal bloom was a result of the overwhelming nutrient pollution running into the Lake. The amount of money required to fix this tri-state/binational environmental threat is enormous, and the responsibility for purifying the water should not simply rest with the City of Toledo, a community of 250,000 inside a watershed of over 2 million people and 10 million livestock. Further, Michigan has declared Lake Erie impaired; Ohio has not.

Kaptur Q1: During our hearing, you stated that Ohio had not assessed the waters of Lake Erie. However, under Section 305(b) of the Clean Water Act, states are required to assess all waters. Do you not agree that Ohio is required to assess those waters? Based on what authority did you defer to the state of Ohio's decision not to assess those waters? How can you approve an incomplete assessment?

> **Answer:** States have the primary responsibility, under Sections 305(b) and 303(d), to assess their waters and to identify waters that are impaired. Ohio's 2014 list identified the Western Basin Shoreline of Lake Erie as impaired for the Public Drinking Water Supply (PDWS) use. In its 2016 303(d) list submission, Ohio retained the Western Basin Shoreline and added the Lake Erie Central Basin Shoreline and the Lake Erie Islands Shoreline as impaired for the PDWS use based on microcystin data. The Ohio EPA has not assessed the open waters of Lake Erie beyond the shoreline. Section 303(d) of the CWA and its implementing regulations provide the EPA with the authority to approve a state's list of impaired waters. The EPA relied on this authority to defer to the state's decision not to assess these open waters for the 2016 list. Importantly, the EPA recognizes the state's ongoing efforts to control nutrient pollution in the Western Basin of Lake Erie. The EPA understands that the Ohio EPA intends to evaluate options for developing objective criteria (e.g. microcystin or other metrics) to assess the Western Basin of Lake Erie for future lists. The EPA is committed to working with the State in those efforts.

Kaptur Q2: By default, by accepting Ohio's non-assessment, USEPA is declaring the open waters of Lake Erie not impaired. How can waters which are clearly comingled across state lines be considered clean on one side and impaired on the other?

> **Answer:** Individual state water quality standards and assessment approaches vary, which can lead to differing impairment determinations by states assessing portions of interstate waters within their jurisdictions. To clarify, however, the EPA has not made a determination that the open waters of Lake Erie in Ohio are not impaired.

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Kaptur Q3: Can you please answer my question from the hearing: is not a tri-state watershed draining into a binational body of water with disputes over the water quality status precisely where EPA is statutorily mandated to take action?

> **Answer:** The EPA does not believe the language in the Clean Water Act Section 303(d) mandates it to take specific actions in a binational or tri-state body of water. However, the EPA is supportive of, and is willing to facilitate, efforts between states to harmonize assessment of interstate waters. The EPA is working with Canada and the states in the Lake Erie Basin to develop action plans to achieve the reductions determined to be necessary to meet the Great Lakes Water Quality Agreement Annex 4 targets.

Kaptur Q4: In their letter to USEPA on September 30, 2016, Ohio EPA indicated that USEPA should lead efforts to assess the nutrients and algae problems, as well as to develop a coordinated response, in Lake Erie. Do you disagree with their interpretation?

> **Answer:** The EPA is supportive of, and is willing to facilitate efforts between states to harmonize assessment of interstate waters. The EPA is working with Canada and the states in the Lake Erie Basin to develop action plans to achieve the reductions determined to be necessary to meet the GLWQA Annex 4 targets. As indicated above, states have the primary responsibility for assessing and listing their waters, including those shared between states or other countries.

Kaptur Q5: Are you committed to upholding the 40% reduction of nutrient loading as agreed to in the Great Lakes Water Quality Agreement Annex 4, and supported by the Great Lakes Governors and Canada?

> **Answer:** This is a commitment of the federal government, not just the EPA. The EPA is working with four federal agencies and five states to develop phosphorus reduction plans for Lake Erie and intends to begin public engagement in mid-July 2017 on the first draft of a U.S. Action Plan for meeting this commitment.

Kaptur Q6: What is EPA doing to assist the states in developing criteria to address harmful algal blooms and nutrient pollution? How much funding is provided for this work in FY 2017? How much is proposed in the FY 2018 budget request?

> **Answer:** The EPA does not track spending for HABs, however, as outlined in the GAO's 2016 report on "Federal Agencies' Expenditures and Coordination Related to Harmful Algae," agency-wide, the EPA will likely spend $5 million on HABs-related activities in FY 2017 and $2 million in FY 2018.
>
> The EPA looks forward to working with other federal agencies to support and encourage state, tribal, and local investment in preventing nutrient pollution and responding to HABs across the nation.

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Funding for Water Infrastructure - OW

USDA's budget proposes to eliminate the entire $500 million Rural Water and Wastewater loan program with the expectation that rural communities will compete for the limited Drinking Water SRF funds. The Drinking Water SRF does not increase by the $500 million lost in the Rural Water and Wastewater loan program.

Kaptur Q7: How will rural water systems struggling to provide clean water to their neighbors find funding for clean water if the Drinking Water SRF is already woefully underfunded and now has to absorb a $500 million program for rural communities?

> **Answer:** The FY 2018 President's Budget request for the EPA includes $863 million for the Drinking Water State Revolving Fund (DWSRF) to help finance critical infrastructure improvement projects to public drinking water systems. This funding level furthers the President's ongoing commitment to infrastructure repair and replacement and would allow states, municipalities, and private entities to continue to finance high priority infrastructure investments that protect human health.
>
> In addition, the EPA will continue to foster its strong partnership with the states to provide small system technical assistance, with a focus on rule compliance, operational efficiencies, and system sustainability to ensure clean and safe water. In FY 2018, the EPA will continue its effort to build the capacity of local utilities and existing state programs to expand their contribution to the array of funding options to meet future infrastructure needs. The requested funding for this program will support critical infrastructure investments to rebuild and enhance America's drinking water infrastructure.
>
> The EPA also is requesting $20 million for the Water Infrastructure Financing Innovation Act (WIFIA) program. The WIFIA program complements the SRFs and is another source of financing, especially for large drinking water infrastructure projects with regional or national significance. The EPA estimates that the $20 million requested in FY 2018 could provide approximately $1 billion in low cost loans for eligible water infrastructure projects.
>
> The FY 2018 President's Budget request also continues to provide funding for the Environmental Finance Centers which deliver financial outreach services, such as technical assistance, training, expert advice, and full cost pricing analysis to states, local communities, and small businesses.

Kaptur Q8: How will these small communities compete with the medium and large systems that will also be applying for SRF funds?

> **Answer:** As noted above, the EPA will continue to work to target a significant portion of SRF assistance to small and underserved communities with limited ability to repay loans. In FY 2018, the EPA will work with states to ensure not less than 20 percent and not more than 30 percent of a state's capitalization grant is provided as additional subsidization. The EPA encourages states to utilize subsidization to assist disadvantaged communities and sustainability efforts.

Funding to States *(OA/OP)*

Ohio EPA Director Craig Butler said that these cuts in your budget would result in a 30% cut to their budget, forcing major cuts to the state Superfund program and to Clean Water and Clean Air initiatives. If Ohio is not provided with adequate funding to implement those programs there will be significant problems. The Agency will not be able to process permit applications, conduct inspections/reviews, and will likely reduce staff.

Kaptur Q9: How do you imagine that reality lines up with your priority of growing the economy and protecting the environment?

> **Answer:** The EPA believes environmental stewardship while growing our economy is essential to the American way of life and key to economic success and competitiveness. These two tenets are not mutually exclusive, in fact from 1970 to 2015, aggregate national emissions of the six common air pollutants dropped an average of 70 percent while gross domestic product grew by over 246 percent. However, much work remains to be done in streamlining the agency's guidances and regulations to not overburden states.

Budget Cuts *(OA/OP)*

Kaptur Q10: If the agency staff and funding levels are substantially cut, as the administration has proposed, and if the agency pursues all of the reconsideration and similar actions it has already announced, can you assure us that the agency will not miss any mandatory statutory deadlines for action?

> **Answer:** The EPA will adhere to all statutory obligations which Congress has mandated.

Enforcement - OECA

Kaptur Q11: You talk about returning EPA to basics, but compliance levels with environmental laws in some sectors is dangerously low. How will you increase compliance with laws that protect our health, when your enforcement staff does not have any money to conduct casework?

> **Answer:** EPA works in partnership with state and tribal agencies to assure compliance, protect public health and the environment and ensure a level playing field for companies that follow the rules. In FY 2018, the Agency will work to make more effective use of the full array of tools to assist and encourage compliance, in concert with traditional enforcement approaches, while focusing on our direct implementation responsibilities, the most egregious cases, and in areas that address the most substantial impacts to human health and the environment.

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Environmental Justice *(OECA/OP)*

Kaptur Q12: The Administration's proposed budget would do away with the office of Environmental Justice altogether. Do you believe that environmental costs and degradation has fallen disproportionately heavily on people of color, individuals in low-income neighborhoods, and those who have the least voice in the process? Does your plan to eradicate the office that is specifically tasked with addressing this issue indicate that you do not take it seriously? How do you propose to address environmental racism and environmental justice while your agency cuts staff, enforcement, and the entire office tasked with tackling these problems?

> **Answer:** The agency remains committed to working with communities to develop solutions to the environmental and public health challenges they face. Environmental justice will continue to be considered within the work done at the EPA and also is specifically incorporated into future policy work within the agency's Integrated Environmental Strategies program.

Budget for Science and Research - ORD

The President's proposed budget request for FY2018 lays out a reduction in staffing at the EPA by almost 25% over the FY2017 Annualized Continuing Resolution Full-Time Equivalent (FTE) levels. This proposed staffing cut hits the Science and Technology Appropriation, which houses EPA's Office of Research and Development, by 32.5%.

Kaptur Q13: Can you justify the budget reduction of the only Appropriation within the Agency that is responsible for providing robust scientific evidence to guide the EPA in developing its regulatory decisions?

> **Answer:** Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies. Current resource levels will allow for the EPA to meet its core mission.

Kaptur Q14: With states relying on the scientific and technical expertise that the EPA retains in-house to assist them in meeting their statutory requirements for environmental protection, how will the Agency be able to continue to meet the expectations of their state partners with such a substantial reduction in staff?

> **Answer:** Science at the EPA provides the foundation for credible decision-making to safeguard human health and ecosystems from environmental pollutants. The EPA will continue to technical service to the states and meet its core mission within the confines of its appropriation.

Kaptur Q15: How can you justify such a dramatic cut that would seriously jeopardize the Agency's ability to use the best available science to protect human health and the environment?

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Answer: The EPA will prioritize activities that support decision-making related to core environmental statutory requirements, as opposed to extramural activities.

(ORD)

We hope that EPA getting "back to basics" means that EPA will continue its mission to protect human health and the environment. However, recent activity at the Agency has provided some cause for concern, specifically, the decision to not renew the terms of several members of the Board of Scientific Counselors for EPA's Office of Research and Development, with the stated intention of replacing those members with industry representatives.

Kaptur Q16: How do you reassure the American people that the quality of their air and water will not be compromised by the very same billion dollar industries you have spent decades representing, who now have a bigger seat at the table, and a greater ability to influence Agency decisions to improve their bottom line at the expense of the taxpayers health and well-being?

Answer: The EPA works to ensure our future generations will inherit a better and healthier environment. Environmental stewardship, while growing our economy, is essential to the American way of life and key to economic success and competitiveness. Regulation and policy will incorporate robust input from the public through formal and informal mechanisms to seek full understanding of the impacts of proposed policy on public health, the environment, the economy, jobs, families, and our communities. The fundamental role of sound science at the agency is providing input into regulatory decisions.

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Questions from Ms. Lowey:

Climate Change

According to EPA's own information on Climate Change Indicators, between 1901-2015:

- Average surface temperature across the contiguous 48 states have risen more quickly since the late 1970s;
- Eight of the top 10 warmest years on record have occurred since 1998, with 2012 and 2015 being the two warmest years on record;
- 2006-2015 was the warmest decade on record; and
- Since the late 1970s the United States has warmed faster than the global rate.
- In addition, temperature is only one indicator of climate change, we could look at other indicators such as precipitation or extreme weather events.

Judging from your history as a climate change skeptic, I suspect you have little respect for these figures. But let's be outright with it.

(OAR)**Lowey Q1**: Yes or no - is human activity a contributor to climate change?

> **Answer:** The information cited reflects historic scientific observations.

Lowey Q2: With the drastic reductions in your FY 2018 budget request, how will EPA continue to study and address the impacts of climate change?

> **Answer:** The 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. The EPA will continue to look for ways to improve program efficiency and effectiveness across the suite of its core responsibilities with a focus on streamlining activities.

Addressing the impacts of climate change/Paris Accord *(OAR)*

I am deeply concerned by the Administration's decision to withdraw from the Paris Agreement. Coupled with the budget's elimination of any funding to combat climate change, the Administration is ignoring changes in our environment that threaten food security, biodiversity, business interests, and even our coastal cities like New York. It is irresponsible to think we are putting America first by ignoring these global threats. Nicaragua and Syria are the only other nations not participating, though I should note that even Nicaragua declined to participate because they felt the agreement did not go far enough. International backlash to the U.S. pulling out has been unprecedented and appears to have undermined U.S. global leadership. You recently made the statement that you had not spoken with President Trump about whether he believes that climate change is real and whether humans impact it. You further stated that the focus of your discussions with the President has been on the merits and demerits of the Paris Agreement. Because the Paris Agreement's central aim is to strengthen the global response to the threat of climate change, it baffles me that you two would not have discussed climate change.

Lowey Q3: To date, have you still not asked the President what his beliefs are regarding climate change?

> **Answer:** The President has directed agencies to review existing regulations that potentially burden the development of domestic energy resources; and appropriately, suspend, revise, or rescind regulations that unduly burden the development of U.S. energy resources beyond what is necessary to protect the public interest or otherwise comply with the law. The EPA is focusing its efforts on obligations on statutes passed by Congress.

Lowey Q4: You were in Italy this week for the G7 Meeting on the Environment. What has been the response from our international partners about President Trump's decision to withdraw from the Paris Agreement?

> **Answer:** I spoke with G7 international partners when I was at the Environment Ministerial in Bologna, Italy. While they expressed disappointment about the President's decision to withdraw from the Paris Agreement, they were encouraged by our commitment to continue to work with them on CO_2 reductions.

Lowey Q5 (Q4a): Who will fill the void of U.S. leadership on climate issues?

> **Answer:** The United States has always been a world leader when it comes to environmental stewardship. Our international partners share our common goal to protect the environment and public health. The agency believes engaging in international discussion is of utmost importance to the United States when it comes to environmental issues.

American Energy Jobs *(OAR)*

Pulling out of the Paris Agreement prioritizes jobs in the fossil fuel industry over renewable energy jobs. There are more than 678,000 jobs in renewable energy, more than the 515,000 jobs in oil/petroleum.

Lowey Q5: All jobs matter, so why are you arguing that protecting renewable energy jobs is bad for America?

> **Answer:** The President has directed agencies to review existing regulations that potentially burden the development of domestic energy resources; and appropriately, suspend, revise, or rescind regulations that unduly burden the development of U.S. energy resources beyond what is necessary to protect the public interest or otherwise comply with the law.

Lowey Q6: While we are discussing energy jobs, would you like to clarify the statement you made on Meet the Press on June 4 that since the fourth quarter of last year, 50,000 jobs in the coal sector have been added, and almost 7,000 in the month of May alone? Do you still believe those numbers to be accurate?

Answer: The Administrator was referring to industries in the mining sector, including coal.

Lowey Q7: It's important to get the facts right. According the U.S. Bureau of Labor Statistics, there were 51,000 total jobs as of May in coal mining, and 400 coal mining jobs were added in May.

Answer: The Administrator was referring to industries in the mining sector, including coal.

National Institute of Environmental Health Sciences *(OAR)*

The National Institute of Environmental Health Sciences discusses how as global temperatures rise and extreme heat events increase in frequency due to climate change, we can expect to see more heat-related illnesses and mortality. Socioeconomic factors, such as economically disadvantaged individuals are at greater risk from heat-related burdens.

Lowey Q8: This Administration states it is concerned about the "forgotten men and women," but how does pulling out of the Paris agreement not forget about the men, women and children that will now suffer more heat-related illnesses because we have abandoned efforts to reduce greenhouse gas emissions, while at the same time working to pull back regulations on carbon emissions?

Answer: The Administration has signaled a commitment to the rule of law, cooperative federalism, and sound scientific rulemaking at the EPA. Those that generate energy in communities across America are doing so with a commitment to being pro-environment and pro-growth, affirming that the U.S. can and will achieve both a healthy environment and a growing economy.

Superfund – Hudson River PCBs - OLEM

I understand you are a strong supporter of the Superfund program and have made commitments to support clean-ups. Yet, your budget proposes to cut the Superfund program by 30%, diminishing EPA's ability to compel responsible parties to pay for site cleanups, which leaves taxpayers on the hook. You also cut EPA's direct funding for clean-up.

Lowey Q9: As a result, doesn't this mean hazardous sites won't get cleaned up? Does that include the eight in Oklahoma?

Answer: The EPA is still in the process of determining what additional sites may be ready to initiate new construction work in Fiscal Years 2018. The NPL sites in Oklahoma will be prioritized in a manner consistent with the overall program approach, in which the EPA generally prioritizes funding for cleanup activities that have already begun. The Fiscal Year 2018 President's Budget request may result in modifying timelines of ongoing projects. In

order to speed the pace of cleanups, the EPA is actively looking to identify efficiencies and reduce administrative costs to the extent possible.

Lowey Q10: Can you specify which Superfund site cleanups will not be completed, and which will slow down from their currently planned time tables as a result of these proposed cuts?

Answer: The agency is still in the process of determining what additional sites may be ready to initiate new construction work in FY 2018. In recent years, there has been a dozen or so NPL sites awaiting cleanup funding. In order to speed the pace of cleanups, a Task Force has been created to review best practices and new approaches in dealing with successfully restoring sites to productivity. The Task Force will outline steps to be taken in the near term to more expeditiously and effectively handle remediation of sites.

Lowey Q11: Can you specify which potential Superfund sites will not be thoroughly investigated as a result of these cuts?

Answer: The EPA is not planning to alter the thoroughness of site investigations.

Lowey Q12: Can you estimate how much money from potentially responsible parties will be lost to the federal government from your reductions to this program?

Answer: Within our resource levels, the agency will prioritize its efforts on the most significant sites in terms of environmental impact, particularly those that may present an imminent and/or substantial endangerment, and potential cost liability to the government. In addition, the EPA has established a taskforce to streamline and improve the efficiency and efficacy of the Superfund program through the restructuring of the cleanup process, realigning incentives to promote expeditious remediation, reducing the burden on cooperating parties, and encouraging private investment in cleanups and sites to promote the revitalization of properties across the country.

The Hudson River is classified by EPA as a Superfund site and, at 200 miles, is one of the largest in the country. For a 30-year period, two General Electric manufacturing plants discharged Polychlorinated biphenyls (PCBs) into the Hudson River. GE only stopped this practice when EPA banned the production of PCBs in 1977. The PCBs in the Hudson mixed with the river's sediment and deposited on the river bottom and along the shoreline in the floodplain. Since 1977 there has been a fishing ban due to the health risk associated with the accumulation of PCBs in the human body by consuming contaminated fish. EPA just released a draft of its second five-year review of the Hudson River Superfund site that recommends following the plan outlined more than a decade ago.

Lowey Q13: How do you respond to those who feel this is not sufficient and that cleanup should be expanded?

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Answer: On June 1, 2017, after an eleven-month evaluation process, EPA released its Proposed Second Five-Year Review Report[2]. In conducting the five-year review of the cleanup, EPA followed the federal Superfund statute and applied the best available science. The review includes a comprehensive assessment of the available data for PCB concentrations in sediment, water, and fish. The specific purpose of the review is to evaluate whether the remedy is, or will be, protective of human health and the environment, based on the data currently available. The Proposed Second Five-Year Review concludes that the Hudson River cleanup is working as designed and, while not yet protective, is expected to accomplish its long-term goal of protection of human health and the environment when the cleanup is completed. However, it will be necessary to collect several years of post-dredging PCB data in fish, sediment and water to determine with a reasonable degree of scientific certainty the rate at which PCB levels are declining. If EPA determines at some point in the future that the remedy is not expected to achieve its goals, EPA will consider what actions are needed. In the interim, the State of New York has fishing restrictions and advisories in place to control human consumption of contaminated fish.

This five-year review included a rigorous and unprecedented stakeholder and community engagement process, with the EPA convening a 20-member five-year review team of EPA experts, state and federal agency representatives, and community stakeholders. Three public workshops were also held while the review was underway. All input received was considered during the review process. In addition, although the EPA typically does not seek public comment on five-year reviews, the EPA is providing an opportunity for the public to provide input on the findings of the Proposed Second Five-Year Review Report. On June 1, 2017, the EPA released the report for a thirty-day public comment period. At the request of several parties, the EPA has extended the public comment period until September 1, 2017.

Two public information meetings are also being held during the public comment period. At the meetings, the EPA is discussing the purpose, scope and findings of the five-year review and answering questions from the public. The first of these meetings was held on June 28 in Poughkeepsie. The second meeting is scheduled for July 19, from 6 p.m. to 8 p.m. at The Saratoga Hilton in Saratoga Springs, New York.

Lowey Q14: How can you in good conscience propose not providing families in New York with clean water and accomplishing the task of cleaning up the PCBs in the Hudson River?

Answer: EPA shares the goal of protecting public health and the environment along the Hudson River. EPA has used the full power and authority of the federal Superfund law to require the General Electric Co. to conduct the largest and most expensive cleanup of river sediments in the history of the Superfund program.

As the project moves forward, EPA will continue to follow the science and the Superfund law. EPA will continue to monitor the river fish, water, and sediment and evaluate the

[2] The report is available at www.epa.gov/hudson.

reductions in PCB levels over time. In addition, EPA will continue to coordinate closely with the involved state and federal agencies including the New York State Department of Environmental Conservation, the New York State Department of Health, the U.S. Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration. The agency will also continue to coordinate with the Hudson River Foundation and others who are involved with the New York-New Jersey Harbor.

Long Island Sound - OW

The FY 2018 budget proposes to eliminate the Geographic programs. This includes $8 million for Long Island Sound. These programs directly benefit the vast majority of our country's residents and businesses, and are focused on cleaning up pollution and promoting healthy ecosystems which benefit the economy.

Lowey Q15: Why do you feel it is prudent to eliminate funding when you are making progress in cleaning up these ecosystems?

> **Answer:** The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection with respect to statutory and regulatory obligations. The EPA will encourage the Long Island Sound states and local entities to continue to make progress in restoring the Sound from within core water programs.

Lowey Q16: Can you guarantee that stakeholders are ready to step in to fill the void left by the elimination of federal funding?

> **Answer:** The FY 2018 President's Budget request provides the direction and resources to return the EPA to its core mission of protecting human health and the environment. The agency will continue to work in cooperation with states, tribes, and local governments to make and sustain improvements in water quality.

Lowey Q17: What discussions have you had with Governors, cities, and communities that have been active partners and will be affected by this proposed approach?

> **Answer:** The EPA will be discussing the proposed FY 2018 Long Island Sound budget through its participation on the Long Island Sound Management Conference, which has representatives from affected states, localities, and community stakeholders. This discussion will formally kick off at the July 20 Management Committee meeting. The EPA will continue discussions with the Management Conference throughout the FY 2018 budget process.

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Message

From: Wilcox, Jahan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=88FD588E97D3405D869BCAE98D391984-WILCOX, JAH]
Sent: 4/5/2018 2:09:09 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Kelly, Albert [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08576e43795149e5a3f9669726dd044c-Kelly, Albe]; Ferguson, Lincoln [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08cd7f82606244de96b61b96681c46de-Ferguson, L]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Leopold, Matt [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Fwd: Request for comment please

Matt and Lincoln - can you work together on how to respond.

Sent from my iPhone

Begin forwarded message:

From: "Friedman, Lisa" <lisa.friedman@nytimes.com>
Date: April 5, 2018 at 10:01:48 AM EDT
To: Jahan Wilcox <wilcox.jahan@epa.gov>, "Bowman, Liz" <bowman.liz@epa.gov>, Press <press@epa.gov>
Subject: Request for comment please

Hi Jahan and Liz

We are finishing work on a story about the EPA that addresses concerns that were raised by certain HQ staff members related to travel, office spending and issues related to security protocols by the Office of the Administrator.

The story notes how four individuals who raised these objections--Kevin Chmielewski, John E. Reeder and Reginald E. Allen, and Eric Weese--were later transferred to different jobs, or moved on their own to a different job after being told to find a new role, or in Kevin's case, put on leave.

We know that there are different circumstances involving each of these individuals, three of whom are career and one is political. But we wanted to go in detail here through some of the issues that these staff members raised and then the way their jobs were shifted after their raised these issues.

We welcome your specific responses to these issues. But we need any response you want to offer by 3 p.m. today, Thursday, April 5.

Here are the specific factual assertions I welcome you to address;

++ Mr. Chmielewski objected to a proposal to buy a charter aircraft membership for $100,000-per-month that would have allowed Mr. Pruitt to take an unlimited number of private jet trips for official business

++ One of these staff members objected to a proposal to spend more than $70,000 to replace the desks in Mr. Pruitt's office suite, including both the administrator's personal desk and one at a security station just outside his office. Pasquale Perrotta argued that the desks should be replaced with a bullet-proof model. This purchase did not go ahead. Instead, a brown-maple wood stand-up desk, was purchased from an Ohio craftsman and a separate desk retrieved a federal government warehouse in Virginia and was refurbished at a cost of $2,075 for Mr. Pruitt

++ The security detail lead questioned Mr. Pruitt's desire to utilize use of lights and sirens in his motorcade if he was running late, like on his way to a restaurant or airport. In at least one case, Mr. Pruitt wanted these used on his way to Le Diplomate,

++ A member of the security detail also made it be known that he would be reluctant to sign off on requests—which were part of his job to review—for authorization for Mr. Pruitt to fly first class, based on security concerns. Only after Mr. Perrotta took over as security detail lead did Mr. Pruitt begin to regularly fly first class.

++ Others questioned the need for an approximately 20 person security detail team, that provided 24-7 coverage, instead of 5 person "portal to portal" team with the prior EPA administrator.

++ At least one senior staffer questioned the need for the expenses associated with sound proof both, suggesting instead that a broom closet could be used at a total cost of about $10,000, instead of the final cost for the actual booth of about $43,000

As an aside, we know of the allegations raised against Mr. Chmielewski related to his security clearance that the IG investigated and found were not substantiated. We also know of complaints that he was hard to reach while he was out of the office doing advance work for the VP.

Finally a few additional questions.

Ex. 6 - Personal Privacy

2) What message does it send to the American public if Mr. Pruitt switches his security detail chief and two other career officials involved with overseeing expenses and a political appointee who did the same thing, after these individuals raise concerns about spending and security practices? Was this appropriate?

3) Should Mr. Pruitt resign based on the series of questions that have been raised about his performance and if not why not?

Thanks very much - I'm on my cell,
Lisa

--
Lisa Friedman
Reporter, New York Times
(202) 862-0306 office
(202) 251-2083 cell

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Budget Hearing: Environmental Protection Agency
June 15, 2017

Questions for the Record – Administrator of the Environmental Protection Agency

Questions from Mr. Calvert ***(OA/OP with OAR & OW)***

Rewriting Several Rules per Executive Orders: WOTUS, Clean Power Plan, and Methane

I was pleased to see two early actions from the President to issue:

- Executive Order 13778 on *Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the United States" rule*, and

- Executive Order 13783 on *Promoting Energy Independence and Economic Growth.*

I have a number of concerns with the WOTUS rule's flawed history -- it was originally proposed before the scientific studies were complete, the Small Business Association believed EPA should have conducted a Small Business Advocacy Review Panel prior to releasing the rule, and in December 2016 the GAO determined that EPA had violated the law by expending funds on a social media campaign to promote rule.

In my opinion, the only clarity that the WOTUS rule offered was that more Federal permits would be required under an Administration that was not approving permit applications. It was a clear example of Federal overreach.

The FY17 Omnibus included language asking EPA (and the Department of the Interior) to keep the Committee apprised of actions to comply with the Executive Order to promote energy independence and economic growth. For EPA, there were a number of specific directives within the Executive Order related to the Clean Power Plan, the methane rule, and other regulations.

Calvert Q1: Please provide an update on what steps the Agency is taking to comply with these Executive orders.

Answer: The EPA, the Army, and the Army Corps of Engineers (ACOE) are pursuing a two-step approach for the Waters of the U.S. rule:

Step 1: Formally withdraw the 2015 rule and recodify the prior regulations
Step 2: Initiate a rulemaking to revise the definition of waters of the U.S. consistent with the February 28, 2017 Executive Order.

Executive Order 13778 directs the EPA to review the final 2015 WOTUS rule. In response, Administrator Pruitt issued a Federal Register notice of review (82 FR 12532) on March

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6, 2017. On June 27, 2017, the Administrator signed a proposed rule to rescind the definition of WOTUS in the 2015 rule. This proposal re-codifies the definition that existed prior to the 2015 rule and that is currently in place as a result of the U.S. Court of Appeals for the Sixth Circuit's stay of the 2015 rule. In a second action, EPA plans to propose a new definition interpreting the jurisdictional bounds of the Clean Water Act, taking into consideration the principles that Justice Scalia outlined in the *Rapanos* plurality opinion.

Executive Order 13783 directs the EPA to undertake a number of actions, including reviews of: 1) the Clean Power Plan (CPP) and related rules and actions, and 2) the oil and gas sector emission standards for new, reconstructed, and modified sources ("oil and gas methane rule").

On March 28, 2017, the President signed the Executive Order on Energy Independence. In order to comply with the President's action, EPA issued Federal Register notices related to review of the Clean Power Plan, the 2016 Oil and Gas New Source Performance Standards for New, Reconstructed, and Modified Sources, and Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Generating Units. For more information, please refer to the following website: https://www.epa.gov/Energy-Independence.

On March 28, 2017, Administrator Pruitt signed notices to review the CPP and the NSPS for EGUs, and at the same time withdrew the suite of proposed federal rules associated with the CPP (the federal plan, model trading rules, and the framework for the Clean Energy Incentive Program). We currently have a CPP review proposal at OMB undergoing interagency review.

On March 28, 2017, Administrator Pruitt also signed a notice to review the oil and gas rule. EPA has administratively stayed upcoming requirements for fugitive emissions, pneumatic pumps, and professional engineer certification for an initial three months, and has proposed to stay these requirements for an additional two years while the agency considers appropriate final action for the rule.

Calvert Q2: Where is the agency in the process with respect to each of those rules?

Answer: The EPA, the Army, and the Army Corps of Engineers (ACOE) are pursuing a two-step approach for the Waters of the U.S. rule:

Step 1: Formally withdraw the 2015 rule and recodify the prior regulations
Step 2: Initiate a rulemaking to revise the definition of waters of the U.S. consistent with the February 28, 2017 Executive Order.

Executive Order 13778 directs the EPA to review the final 2015 WOTUS rule. In response, Administrator Pruitt issued a Federal Register notice of review (82 FR 12532) on March 6, 2017. On June 27, 2017, the Administrator signed a proposed rule to rescind the definition of WOTUS in the 2015 rule. This proposal re-codifies the definition that existed

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Superfund and Brownfields: Budget Request vs. Needs - *OLEM*

The 2018 budget proposes a 31% reduction for the Superfund program, a $327 million decrease from the FY17 enacted level. This includes a $203 million decrease for direct Superfund cleanup activities, which would prevent new cleanups from starting and slow ongoing cleanups.

For Brownfields, the 2018 budget proposes an $11 million reduction for the project grants, and a $14 million reduction for the categorical grants.

Both of these programs support land cleanup, job creation and economic redevelopment. I understand the overall pressure that the targets in the President's budget put on your Agency, so I'm not going to hold your feet to the fire on this. Further, I think it's safe to say on behalf of our full committee Chairman that we will take this proposal in a much different direction.

I understand you've created a Task Force to review Superfund contracts and program implementation to identify efficiencies as a way to further your commitment "to accelerate the

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pace of cleanups". That is a goal that I know we both share as we have over 1,300 sites on the National Priority List that need to be cleaned up.

We often cite the needs associated with water infrastructure because those are well-documented (roughly $1 trillion).

Calvert Q3: Does EPA have similar estimates for what is required to cleanup all of the Superfund sites currently on the National Priority List?

> **Answer:** Remedial activities at Superfund National Priorities List (NPL) sites are funded with annually appropriated funds out of the Superfund: Remedial program project where special account funding from settlements with responsible parties is not available and responsible parties are not directly cleaning up the site. Approximately one-third of NPL sites are solely financed by potentially responsible parties (PRPs) and PRPs are not required to report their expenditures to the EPA. The remainder of sites require appropriated funding. The mix of funding sources complicate the estimation of costs.
>
> In 2010, the Government Accountability Office (GAO) analyzed responses to a survey of the EPA regional officials and estimated that, as of September 30, 2009, the cost to conduct remedial construction at non-federal NPL sites in 2015 and beyond was $3.036 billion. (GAO Report 10-380, p.20 – May 2010). Since that time, we have added another 121 sites to the NPL and will incur additional significant costs for these sites.

Superfund Special Accounts -- $3.2 billion Waiting to Spend on Cleanups *(OLEM)*

EPA has roughly $3.2 billion in settlement agreements from responsible parties. These funds reside in Special Accounts for the cleanup of individual Superfund sites. That's nearly 5 times the budget request for the program.

Calvert Q4: What, if anything, is required to accelerate the use of these funds so that we can make progress cleaning up some of the most toxic sites?

> **Answer:** Superfund special account funds are used before annually appropriated funds for response actions at sites identified in the terms of the settlement agreements. The EPA's Special Accounts Senior Management Committee comprises agency senior managers responsible for the management and use of special accounts, and monitors the use of special account funds to ensure the agency uses the funds as quickly and efficiently as possible to conduct cleanups at Superfund sites. In addition, the new Superfund Task Force is examining how to improve the management of special accounts.
>
> Funds retained in special accounts must be used site specifically, and are not available for use at sites outside the scope of the settlement agreement. As of the end of FY 2016, the EPA has spent more than $3.6 billion of special account funds for response actions at specific sites, of which more than $1 billion has been spent in the last 4 fiscal years. The

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EPA has multi-year plans to spend the approximately $3.28 billion remaining in special account funding for site-specific response actions as outlined in each individual settlement agreement. However, work at Superfund sites often takes several years to complete. It's important to note that in some instances when special accounts funds are received, work may not be immediately initiated due to other circumstances, including the specific requirements for fund use as set forth in the negotiated settlement agreement, the stage of site cleanup, and the nature of the site contamination. Additionally, our successful enforcement efforts to recover costs from potentially responsible parties adds to the total amount of outstanding deposits in special accounts for future response costs.

Special accounts are crucial to EPA's ability to continue to fund construction projects at sites across the country and save tax payer dollars for those sites where no viable or cooperating responsible party has been identified.

Questions from Mr. Simpson:

TMDL - *OW*

I am pleased that you mentioned TMDL's in your opening statement and a commitment from EPA to work with states and localities. I have met with Mayor's and city council members, and there is real fear in regards to the financial stress around and how these communities can meet and/or pay for costly upgrades to facilities. For example, Twin Falls recently invested $38 million to upgrade their water treatment facility. However, the last Administration proposed lowering their TMDL for phosphorous by 98.5%. This would result in the city needing to upgrade their facilities again. The cost is estimated to be between $60 and $100 million.

Now, this is just the start of this issue. I met with Mayor's in the smaller towns near Twin Falls - Buhl, Jerome, Ammon, and Filer – and they surely can't afford these types of upgrades as these towns have smaller populations.

We did have success in Boise, Idaho, with a project called Dixie Drain that saved tens of millions of dollars by using a flexible innovative model to reduce phosphorous levels. This was a common sense approach that didn't hammer taxpayers with costly regulations. I hope this is a model we can use to help Twin Falls and other communities avoid massive rate increases.

Simpson Q1: Can we work together – along with Idaho Department of Environmental Quality - to review the TMDL process along the Mid-Snake and see what can be done to help these communities?

Answer: The Idaho Department of Environmental Quality (Idaho DEQ), with the support of the local Watershed Advisory Group (WAG), is now working to revise the Mid-Snake TMDL. The EPA is eager to collaborate with Idaho DEQ, the WAG, and all stakeholders in the mid-Snake to help DEQ produce a revised TMDL that will support protection of water quality in efficient and cost-effective ways.

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Simpson Q2: What are some of the approaches we can take to ensure these communities reach a solution that doesn't bankrupt ratepayers?

> **Answer:** A revised TMDL, that is flexible while consistent with the Clean Water Act, is the best path forward to ensure that ratepayers will not be required to pay for unnecessary treatment. As part of TMDL development, the EPA encourages consideration of least-cost options to achieve TMDL goals, such as water quality trading or treatment plant offsets such as the Dixie Drain used in the Lower Boise River.
>
> With regard to the City of Ammon, the agency recently advised the City that, if they believe they need an extension to the compliance schedule under their permit, they should submit a letter to the EPA requesting such an extension and describing why it is needed. Their request and justification for a permit modification would need to be reviewed and published for public comment for 30 days. To date, the agency has not received such a request for an extension.

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P.O. Box 1907 321 Second Avenue East Twin Falls, Idaho 83303-1907 Fax: (208) 736-2296

Office of the Mayor (208) 735-7287

September 16, 2016

Mr. Mike Simpson
US House of Representatives
2312 Rayburn Building
Washington, DC 20515

Re: SUMMARY OF THE CITY OF TWIN FALLS CONCERNS AS TO DRAFT NPDES PERMIT

Congressman Simpson:

The City of Twin Falls owns and operates a wastewater treatment plant that sends its treated effluent to the Middle Snake River. The Middle Snake River is not meeting water quality standards for nutrients. To address that issue, the State, working through its stakeholder Watershed Advisory Group, established a Total Maximum Daily Load (TMDL) for the river, which provided specific loading allocations for various discharging entities, including the City of Twin Falls. In the TMDL, the City is provided an allocation of 710 pounds of phosphorus per day. The TMDL was submitted to USEPA, and approved; the most recent version of the TMDL was approved by USEPA in 2005.

The TMDL allocation for the City was incorporated into the City's NPDES permit for the treatment plant. The most recent permit was issued in 2009. Since that permit was issued, the City has spent over $32 million to make major improvements in the treatment plant, resulting in substantial reductions in the plant's nutrient discharge. The plant has always complied with its TMDL allocation; in fact, the plant currently discharges at levels that are roughly half of that allocation. During this time period, there has been substantial progress in implementing the TMDL, with many dischargers reducing their phosphorus levels being sent into the river.

Now, EPA is moving to issue the next NPDES permit for the City. In doing so, EPA has indicated that even though the TMDL is still EPA-approved, it will disregard the TMDL allocation for the City of 710 lbs/day, and instead impose a new limit of only 10 lbs/day. This new restriction will impose new costs on the City of $60 to $100 million, in a situation where the City has no readily available means to obtain that funding. Moreover, this action by EPA has larger policy implications; it will severely damage the TMDL program, and undermine the stakeholder-led process that Idaho and other States have used to develop and implement TMDLs. The overall effect will be counterproductive for the environment, as well as to the residents of Twin Falls and any other community that suffers similar treatment.

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The basis for EPA's action, according to Agency staff, is that the current EPA-approved TMDL is "flawed," and therefore, EPA cannot rely on the TMDL allocations to develop limits for the City's new permit. Logic would indicate that if the TMDL is indeed "flawed," that EPA would tell the Idaho DEQ that the TMDL needs to be redone. However, EPA staff has stated that the Agency lacks the legal authority under the Clean Water Act to require the State to redo a "flawed" TMDL. In fact, EPA has done exactly that in a similar situation. When the State of Vermont developed a TMDL for Lake Champlain, EPA initially approved the TMDL. Then, after an environmental group filed suit against EPA, challenging the approval of the TMDL, EPA reversed itself, and announced that it would now withdraw its approval. As a result, a new TMDL had to be performed. EPA could do the exact same thing here; if the Agency honestly believes that the TMDL is "flawed," then the proper action to take is to withdraw the 2005 approval of the TMDL, and require that the State reassess the TMDL and make any needed revisions.

In fact, though, EPA's claim that the TMDL is "flawed" is itself flawed. It appears that EPA has two reasons for stating that there are problems with the TMDL. The first is a claim that the reductions in loadings called for in the TMDL will not be sufficient to bring the Middle Snake into attainment of standards. However, that claim ignores the substantial progress that has already been made in moving toward that goal. It was always understood that reaching attainment would take time; that was part of the discussion when the TMDL was developed. So the fact that the Middle Snake is not yet in attainment is not relevant to whether the TMDL is adequate; nobody expected the waterbody to be in attainment by this point. Moreover, the kinds of testing that need to be done to assess the biological health of the stream is being done right now, by the State. Those results will help the stakeholders better evaluate progress and determine if something more needs to be done, beyond what is already called for in the TMDL. EPA's claim that the TMDL is inadequate is, at best, premature, and at worst, simply inconsistent with the extended timeline that was always going to be needed to bring the Middle Snake River into attainment.

EPA's other claim of "flaws" is even more questionable. The Agency now states that the river flow on which the TMDL was based is incorrect. EPA wants to reduce the river flow estimate substantially from the one that was used in the TMDL. This makes a major difference in the loading reductions that will be required from the City; in fact, it accounts for most of the reduction in the allowed loading from 710 lbs/day to 10 lbs/day. But this change is problematic, for several reasons. For one thing, EPA wants to move to a very low flow estimate, similar to those that are used in estimating impacts of toxic pollutants. Using that low flow is appropriate for toxics, which have more impact when there is little water in the steam, and can have very short-term, acute impacts in those situations. But that is completely wrong to do for nutrients, whose impacts are much more watershed-based and long-term. EPA itself has allowed use of annual averages to calculate permit limits for nutrients in waters such as Chesapeake Bay, so requiring a low-flow estimate in the Middle Snake River simply makes no sense. Moreover, this change in policy by EPA amounts to a radical change in the assumptions used to develop the EPA-approved TMDL, and changing it through an individual permit, rather than by reexamining the TMDL, is the wrong way to make such an important policy change.

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Even if, as EPA argues, there are "flaws" in the TMDL that is no reason to discard the TMDL process and instead impose new requirements in the City's NPDES permit. As noted above, if EPA honestly believes that the TMDL needs to be redone, then the Agency can withdraw its approval of the TMDL and require that it be redone. That process could be done quickly, by Idaho DEQ and the Watershed Advisory Group for the Middle Snake – probably within 2 years. During that time, the City could continue to operate under its existing permit – and continue to implement actions to further reduce its nutrient discharges. To instead issue a new permit, with a drastically reduced loading limit of 10 lbs/day (forcing the City to appeal that permit to the EPA Environmental Appeals Board and, possibly, to Federal court) would be unnecessary, as well as unfair. The unfairness stems from the fact that, instead of involving the entire stakeholder group, and fully reevaluating all aspects of the TMDL with full public input, EPA would be redoing the TMDL's loading limits for one discharger, in a process that involves only that entity and whoever else is interested in filing comments on that individual permit. Any new approach mandated by EPA for the City would not be applied consistently to all dischargers - unless EPA issues similar mandates for all permits, in which case one wonders why it would not be better to reopen the TMDL and deal with all at once, in the same forum, open to all.

Even more than being unfair, though, EPA's new mandate on the City would be illegal – simply contrary to the Agency's own rules. Those regulations (in 40 CFR 122.44(d)) require that permit limits must be "consistent with" the "assumptions and requirements" in a TMDL. The limits that EPA is proposing for the City would be blatantly inconsistent with those assumptions and requirements. The Agency would be reducing the City's allocation by 98.5%. Moreover, it would be fundamentally altering the flow basis on which all of the TMDL's loading allocations were derived. It is hard to see how those decisions are "consistent" with the assumptions and requirements in the TMDL. EPA's only defense appears to be that in a case years ago, the Agency's own Environmental Appeals Board allowed EPA to give the town of Moscow, Idaho less than its full allocation, since the full allocation would not be needed until a future expansion. That case is completely different from the Twin Falls situation, where EPA is claiming the authority to completely depart from the TMDL allocations and fashion entirely new, much more stringent limits for the same treatment plant that received the original TMDL-based limits.

Beyond being illegal, EPA's action would also be extremely counterproductive as a policy matter, because it would do serious damage to the TMDL program itself. States and stakeholders invest substantial time and effort in studying waterbodies and then developing and implementing TMDLs to restore those waterbodies. All of those parties understand, and rely on, the fact that the allocations arrived at in the TMDL process will form the basis for binding, enforceable permit limits for point sources. Yet here, EPA is claiming the authority to blithely disregard the allocations in a TMDL – without ever taking action to withdraw its approval of that TMDL - and then develop new permit limits itself, imposing those new requirements directly on just one of the many sources in the watershed. If that is the way that EPA is going to run the permits program going forward, why would any parties participate in a TMDL process? It would be clear from the outset that the TMDL process is irrelevant, since EPA could disregard its results at any time – even right after issuing its approval of the TMDL. If EPA truly wants the TMDL program to continue, and to encourage stakeholders to participate in that process, then it needs to honor the results of that process – particularly when it has approved the TMDL itself.

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For all of the reasons laid out above, EPA needs to move away from its current direction as to the Twin Falls permit. Instead of imposing new, drastically lower phosphorus limits in the City's permit, EPA should focus its attention on working with Idaho DEQ and the Watershed Advisory Group to consider the Agency's concerns as to the TMDL and to make any necessary revisions to that TMDL – and to the loading allocations that are contained there. Once that process is complete, it would be appropriate to reissue permits for the City and other sources in the Middle Snake watershed, incorporating any revisions in allocations that result from reevaluation (and, if necessary, revision) of the TMDL. That is the appropriate process to follow under the Clean Water Act, and the City would plan to be an active and positive participant in that process going forward.

Sincerely,

Shawn Barigar
Mayor
City of Twin Falls

cc: James Neill
Legislative Assistant to Congressman Simpson
James.Neill@mail.house.gov

Travis Rothweiler
City Manager
City of Twin Falls

CITY OF Ammon
2135 South Ammon Road, Ammon, Idaho 83406
(208) 612-4000 email: scolettl@cityofammon.us

May 9, 2017

Senator Mike Crapo
239 Dirksen Senate Office Building
Washington, D.C. 20510

Senator James E. Risch
483 Russell Senate Office Building
Washington, D.C. 20510

Congressman Mike Simpson
2084 Rayburn House Office Building
Washington, D.C. 20515

Dear Idaho Senators and Congressman,

I am writing on behalf of the Eastern Idaho Regional Waste Water Authority (EIRWWA), which operates the Oxbow Wastewater Treatment Plant located in Shelley, Idaho. There are four members of EIRWWA, namely, the City of Ammon, the City of Shelley, Bonneville County, and Bingham County. I serve on the board of EIRWWA associated with my role as a member of the Ammon City Council.

The purpose of this letter is to request that EIRWWA receive your assistance in working with the regional office of the Environmental Protection Agency (EPA), located in Seattle, Washington.

By way of quick background, EIRWWA obtained its discharge permit effective June 1, 2014. In that permit, EPA gave EIRWWA a phosphorus compliance schedule for cessation of discharge or partial cessation of discharge. The compliance schedule required certain actions to be taken according to a very strict timeline.

It is also important for you to understand that EIRWWA is a regional authority and not a taxing district, and therefore has no ability to obtain additional financing or incur debt to fulfill the requirements set by the EPA. Accordingly, EIRWWA is also considering a plan to become a sewer district, but the timeline and requirements for doing that are also very time consuming and will require much effort.

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In 2015, EIRWWA came to the realization that it needed more time from EPA to satisfy its phosphorus requirements, given that it also needed to move toward a district. Representatives of EIRWWA contacted the EPA representative, John Drabek, on several occasions between May 1, 2015 and April 4, 2017, but the EPA has not been quick to respond or provide EIRWWA with any guidance. Mr. Drabek did call the EIRWWA engineer once in April of 2016 and said that he would speak with others in his agency about what they could do, but EIRWWA never heard anything back. In short, dealing with the EPA has been extremely difficult. A copy of the written correspondence to the EPA is enclosed with this letter, for your reference.

As a result, we felt that our only option was to request assistance from our elected representatives. We are asking for your assistance in helping us communicate with and come to some resolution with the EPA concerning this issue. As you are aware, sewer and septic systems are of critical importance to Idaho towns and cities. It is imperative that we are able to communicate effectively with the EPA to be able to serve those citizens we represent.

I am copying your regional office managers on this letter, as I spoke with them over the past two weeks and they requested that I write you this letter directly.

As this matter is of urgent importance, we ask for your quick assistance. Please contact me anytime at 208-520-9856, or at scoletti@cityofammon.us.

Very Truly Yours,

Sean J. Coletti

Cc: Kathryn Hitch, Amy Taylor, Ethan Huffman

Enclosures

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CITY OF FILER

6 June 2017

Office of the Mayor

Dear Congressman Mike Simpson

We, the city council members, want to thank you for your help with arsenic issue for the City of Filer. Even though we will still need to build a plant, your help softened the impact it had on our citizens.

This letter is in response to your request at our last meeting 10th of May on the EPA and the current phosphorous rule . We need to get some realistic figures on the phosphorous issue.

Phosphorous is such a common naturally occurring element that any small amount of discharge from rural communities will have such a minimal effect on the overall scheme of things.

Even though time maximum daily limits (TMDL) have not been changed at this time, there is talk that the EPA is considering reducing the current TMDL by 95%. Our resources tell us that current technology isn't available to accomplish these levels.

No one wants to destroy the environment but in the future TMDL should be based only on facts.

Here are some thoughts on how to fix the out of control EPA.

1. Creating more Districts in smaller communities not just within large cities. The smaller communities under 40,000 people are impacted more financial than large cities.
2. Resend Executive Order 13693 dated March 19, 2015 as soon as possible that has just turned EPA loose to do what they want.
3. No rules should be made without at least a 20 yrs studies by independent research groups or universities on any type of environment study where there are cycles of nature involved .
4. New limits set will have to come before a panel of seven. For example, one member from the EPA, State Agency, local farmer, the Mayor, and/or other members that are involved with the issue. Both by health hazard and economical impact. Then forwarded to congress for a final judgment.
5. All limits set must be achievable by current technologies. The EPA shouldn't have the power to force unfunded mandates on cities.

The environment is important to people and shouldn't be destroyed, but real facts and understanding of issues should be considered before forcing cities with tasks that they aren't able to accomplish, either financially or physically.

Sincerely,
The City Council of Filer

Rick Dunn, Mayor | Ruby Allen, President Council | Bud Sheridan, Council Member

Christina Hatch, Council Member | Gary Deitrick, Council Member

500 MAIN ST. • P.O. BOX 140 • FILER, IDAHO 83328
(208) 326-5000 • FAX: (208) 326-5002

THE CITY OF FILER IS AN EQUAL OPPORTUNITY PROVIDER. TO FILE A COMPLAINT OF DISCRIMINATION WRITE USDA, DIRECTOR, OFFICE OF CIVIL RIGHTS, 1400 INDEPENDENCE AVENUE S.W. WASHINGTON, DC 20250-9410 OR CALL (800) 795-3272 (VOICE), OR (202) 720-6382 (TDD).

Ecolabels - *OCSPP*

In the 2017 Consolidated Omnibus Appropriations Bill, we asked for the agency to provide a report on the Ecolabel program within 60 days of enactment, asking that as you develop the guidelines and evaluate ecolabels for federal purchasing in building construction that the process be fair, transparent, and consistent with other product requirements.

I'm most interested in the part of the process that looks at labels associated with forest management. I want to ensure that our federal government's procurement system includes recognition of forest products from the millions of acres of responsibly managed forests across the US. Unfortunately, as I understand it, the former administration's EPA issued 2015 procurement recommendations that excludes forest products from 83 million acres of private and state forestlands, as well as several hundred million acres of other private and public forestlands including the entire National Forest System, from participation in federal procurement efforts by discriminating against two recognized and credible forest certification standards - the Sustainable Forestry Initiative (SFI) and the American Tree Farm System (ATFS). And all this, despite the fact, that the only statutory authority any agency has is USDA, through its Bio-preferred Program authorized by Congress, which sets mandatory purchasing requirements for federal agencies and puts all certification programs on a level playing field. In December 2016, EPA said this recommendation was "under review". I remain concerned about further actions that EPA will take on its program.

Simpson Q3: Can you provide us with a status update on the report called for in the Consolidated Omnibus Bill?

> **Answer:** The agency has been working to meet this new requirement. The report is currently in draft and undergoing EPA management review. Interagency review is required before the report is finalized.

Simpson Q4: What steps can you take to ensure your agency's efforts on the Ecolabel program avoids creating conflicting federal procurement policies and doesn't exclude US grown and manufactured forest products?

> **Answer:** 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. The Fiscal Year 2018 President's Budget eliminates all funding for the Pollution Prevention program; the program-project under which Ecolabels activities are funded.

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Questions from Mr. Stewart:

Serious Non-attainment Areas *(OAR)*

Recently, much of Northern Utah was classified as a serious non-attainment area. As you know, once a region is designated as serious non-attainment it's almost impossible to shed that designation – even if air quality improves to meet minimum federal standards.

Stewart Q1: Under your leadership, will EPA demonstrate to the states how they can exit non-attainment and serious non-attainment?

> **Answer:** This Administration is prioritizing attainment of air quality standards. The EPA has established guidelines for attainment demonstrations for areas that can attain by the statutory attainment date, and "impracticability" demonstrations for areas that cannot practicably attain by the statutory attainment date.

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Questions from Mr. Amodei:

State Obligation (Office of Budget)

Amodei Q1: If the cuts to state grant funding contained in the EPA's FY18 budget proposal are adopted, does EPA also intend to proportionally adjust the required obligations on states to implement federal environmental programs?

> **Answer:** It is essential for the EPA to work cooperatively with state and tribal governments to provide the environmental protection our laws demand and the American people deserve. The environmental needs of communities differ widely, and the EPA looks to provide flexibility to address these important priorities. The EPA is working to engage in meaningful discussion about how shared environmental goals can best be achieved.

Amodei Q2: If not, what is EPA's proposed solution for addressing this policy and funding the discrepancy? Does EPA expect state and local governments to make-up for the shortfall?

> **Answer:** The EPA administers statutes outlined by Congress, and regulation beyond those statutes constitutes regulatory overreach beyond the agency's mission. The EPA will work with states and tribes to target resources to core statutory work and provide flexibility to address particular environmental priorities and concerns.

Comprehensive Environmental Response, Compensation and Liability Act - *OLEM*

Nevada is the U.S. leader in responsibly regulating mining activities that adequately protect the environment while supporting a thriving mining industry. This successful framework creates tangible opportunities for the EPA to demonstrate a commitment to cooperative federalism. A key near-term opportunity under this model is EPA's proposed regulations under CERCLA to ensure financial responsibility for operating hard rock mines. Nevada has outpaced the EPA in this area through the Nevada Division Environmental Protection comprehensive mining financial assurance program.

Amodei Q3: How does the EPA plan to recognize and ensure the continued success of Nevada's pre-existing state-based program?

> **Answer:** The EPA proposed CERCLA section 108(b) financial responsibility requirements for hardrock mining facilities that were designed to complement, not duplicate or disrupt, existing state and federal closure and reclamation programs. The proposed rule accounted for risk-reducing regulatory requirements of those programs in determining the financial responsibility amount for a facility.
>
> The EPA also solicited comment on whether the rule should allow a program deferral approach, which would provide for adjustments in situations where the state or other program meets the requirements for deferral of section 108(b) requirements. The comment

period for the proposed rule is scheduled to close on July 11, 2017. The EPA will consider comments received on the proposal as it develops the final action. The EPA has appreciated the opportunities over the course of the development of the rulemaking to engage with Nevada and other states and learn about their programs.

Waters of the United States *(OW)*

Because states are primary implementers of federal rules, state input into rulemaking early in the process, well before a rule is formally proposed, is critical to an effective and efficient regulatory program. EPA's review of the Water of the United States rule is key example.

Amodei Q4: Does the EPA plan to include state environmental agencies as co-regulators in the development of a new WOTUS definition to ensure effective implementation if a final rule is pursued?

Answer: On April 19, 2017, the EPA initiated a formal process known as Federalism consultation, which requires agencies to conduct preproposal discussions with elected state and local officials and their associations where a rule may have implications for the distribution of power and responsibilities among federal, state, and local governments. The EPA and the Army Corps of Engineers recently completed the formal Federalism consultation process with states and local governments and consultation with tribes, to inform potential approaches to the rulemaking to revise the definition of "Waters of the United States." The EPA also sent letters to every governor requesting their views and comments on the best way to define the waters of the U.S. The agencies are carefully reviewing the responses from the governors and other state comments as we begin developing the proposal. The agency also will continue to engage with state co-regulators. The written comment period for the consultation period has closed and the agencies will consider all comments received under this processes as the new WOTUS definition is being developed.

Renewable Fuel Standards *(OAR)*

Regarding renewable fuel standards, there was a petition filed with the EPA to move the point of obligation for blending renewable fuel from refineries and importers to the marketers who operate the pumps. I've been informed from several marketers in my state, most of which are family-owned businesses, that this would severely impact their operations and cause significant job loss. I've also heard this effort is being led by one major refinery in particular.

Amodei Q5: Can you tell me how the EPA views this petition now that the comment period has closed, and if changing the obligated parties from big refiners to the mom-and-pop marketers is something the EPA is considering?

Answer: The EPA is still evaluating comments submitted during the comment period, and is considering next steps.

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Amodei Q6: Under the same policy – RFS point of obligation – does EPA make a distinction between obligated parties and position holders?

> **Answer:** Several commenters suggested that the EPA should place the point of obligation on "position holders." The current RFS obligated parties are refiners and importers of gasoline and diesel fuel. While some position holders currently are obligated parties because they also meet the definition of refiner or importer, the EPA is not currently obligating position holders who are not refiners or importers.

I have seen estimates that there are currently 200 obligated parties under the RFS. Now, merchant refiners have suggested that we should expect about 1000 obligated parties were the point of obligation to be moved. Obviously, Nevada has terminal operators that could certainly become obligated parties. Some of those terminal operators also have multiple other "position holders" that would also become obligated parties under such a change. In my example, as far as EPA is concerned from a compliance standpoint: (1) unobligated terminal would become (4) new obligated parties because of the three "position holders" that use the terminal. If you multiply this across the country, instead of 1,000 points of obligation as merchant refiners contend, you could actually have 4,000 or more.

Amodei Q7: Given the President's budget proposal, can the EPA effectively and economically manage a program that could potentially become more complicated by a factor of x 10?

> **Answer:** The EPA is evaluating the number and nature of potential obligated parties and will consider this factor in its decision making process.

Renewable Fuel Standard (RFS) Blend Wall - *OAR*

There is scientific evidence showing ethanol blends above 10 percent can harm vehicles and is incompatible with the existing retail gasoline infrastructure.

Amodei Q8: What is EPA doing to ensure that the annual RFS-mandated volumes protect the current U.S. vehicle fleet and existing retail infrastructure?

> **Answer:** Protection of vehicles and retail infrastructure are separate issues from the RFS-mandated volumes. There are existing mechanisms already in place through Clean Air Act Section 211 for the EPA to ensure that fuels introduced into commerce do not cause or contribute to air quality and public health problems. Renewable fuels introduced into commerce in response to the RFS or otherwise, must comply with these requirements. In addition, the EPA continually participates with industry in various forums, such as American Society for Testing and Materials (ASTM), which ensures that fuels introduced into commerce are fit for purpose.

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Fuel compatibility issues are a concern for owners and operators of retail gas stations and other underground storage tanks storing fuel. Industry has reported instances of corrosion and other damage to underground storage tank (UST) systems (i.e. retail infrastructure - tanks, piping, gaskets, seals etc.). At present, EPA is working collaboratively with interest groups in the biofuel, petroleum, equipment, servicing, and retail sectors to understand the causes and solutions to these challenges. Some examples of EPA's work in the area are: updating protocols to ensure leak detection equipment functions properly in current and emerging fuel blends and studying the corrosion in underground tanks storing diesel fuel.

ENERGY STAR Program - *OAR*

The FY18 President's Budget proposes eliminating the ENERGY STAR program from the EPA's budget and states these types of programs can be administered by the private sector. Privatizing the program would increase the cost and scope of the program and reduce its credibility to the public. For example, multiple organizations could manage the brand for differing products and have differing objectives. These private organizations also would not be cost conscious because there would be no competition. They could force manufacturers to pay high fees and require burdensome and expensive testing. For home appliances, ENERGY STAR is effectively mandatory in the marketplace. Instead of privatizing the program, we should reform it, right size it and make it more efficient. The first way you can do this is to move home appliances, which are regulated by DOE for the minimum energy standards, back to DOE for the ENERGY STAR program. DOE has historically managed most of the ENERGY STAR program for home appliances because this agency has the expertise and knowledge of the products. However, in 2009, the ENERGY STAR program for home appliances were transferred from DOE to EPA to be managed, while DOE continued to manage the test procedures.

Amodei Q9: Will you work with the committee on this matter and commit to moving the entire ENERGY STAR program home appliances to DOE immediately?

Answer: In the FY 2018 President's Budget, funding for ENERGY STAR is eliminated. The EPA will explore options for the potential transfer of the ENERGY STAR program to non-governmental entities.

Refrigerator Refrigerant Charge Size

On December 20, 2011, the EPA's Significant New Alternatives Policy (SNAP) program allowed the use of Isobutane in household refrigerators. The final rule included a use condition that limits the refrigerant charge to 57 grams or less for each sealed refrigeration system (i.e., compressor, condenser, evaporator, and refrigerant piping). The charge size is the amount of refrigerant that is allowed in each sealed refrigerant system within a refrigerator. The SNAP rule based the charge size amount on the Underwriters Laboratories safety standard for household refrigeration end-use, which limited the quantity of the refrigerant (i.e., ''charge size'') in a

refrigerator or freezer to 57 grams. In EPA's final rule, the agency stated that they do not have sufficient information to support a charge size limit different from one based on UL 250, such as the 150-gram limit in IEC 60335–2–24. The final rule stated EPA understands that the limit in UL 250 may change in the future. If that occurs, and if the appropriate safety testing data is submitted to EPA supporting safe use of a larger charge, EPA stated it would consider modifying the use conditions.

Based on testing and lengthy analysis, on April 28, 2017, the maximum charge size allowance in the UL standard was changed and increased from 57 grams to 150 grams. During the approval process of this update, the Consumer Product Safety Commission (CPSC) staff stated that they do not oppose the proposal to increase the maximum flammable refrigerant charge size in household refrigerators to 150 grams from 57 grams. They stated that standards in Latin America, Europe, and other countries allow household refrigerators to use up to 150 grams of flammable refrigerant.

It is my understanding that EPA has sent the rule to OMB to update the SNAP use condition to increase the allowable charge size to match the most recent safety standard, which is 150 grams. I am appreciative of your quick action on this important matter; however, we need to make sure it gets out of OMB quickly. I wanted to be sure that you were aware of the importance of this matter to expedite this technical change. Appliance manufacturers need certainty in this area to start planning and designing their products to meet the EPA required date of 2021 when HFCs are banned for use in refrigerators.

OAR

Amodei Q10: Can you please continue to make sure this is a high priority action for OMB to complete?

> **Answer:** The EPA is aware of the importance of this action for appliance manufacturers and their need for certainty as they plan and design products.

Questions from Mr. Jenkins:

National Ambient Air Quality Standards *(OAR)*

Recently, EPA announced it would be extending the timeline for the 2015 ozone standards. In making that decision, the EPA cited several issues in need of further review.

Thank you for this action and your consideration of these issues.

All counties in West Virginia now meet the 2015 standards, and we are proud of that progress. Despite this fact, potential EPA actions threaten affordable, reliable energy in West Virginia.

It is my understanding that the decision does not change several other implementation steps and actions that states must still undertake.

Petitions from other states would require West Virginia electricity generators to address nonattainment areas in those states or join the Ozone Transport Commission, despite the fact EPA does not require those areas to address their contributions first.

States like West Virginia, while meeting the standard, would still submit a state plan to address its "Good Neighbor" obligations by October 2018.

Jenkins Q1: What actions will EPA be taking to address state concerns regarding these interstate modeling results?

> **Answer:** The Administrator has determined that there is insufficient information to complete area designations for the 2015 ozone standards and is extending the deadline by one year, until October 1, 2018. Taking additional time will allow the EPA to evaluate a host of complex issues regarding the 2015 ozone NAAQS and its implementation, such as understanding the role of background ozone levels and appropriately accounting for international transport; to develop additional flexibilities for states to comply with the ozone NAAQS; to consider completely all designation recommendations provided by state governors, including full consideration of exceptional events impacting designations; and to provide new agency officials time to complete their review of the 2015 ozone standards.

Jenkins Q2: Do you agree that States, through the State Implementation Plan process, should be able to address interstate pollution?

> **Answer:** Clean Air Act Section 110(a)(2)(D)(i)(I) requires each state, in its State Implementation Plan, to prohibit emissions that will significantly contribute to nonattainment of a NAAQS, or interfere with maintenance of a NAAQS, in a downwind state. The EPA, working with states, has decades of success under the Clean Air Act in achieving NO_X emission reductions through implementation of programs like the NO_X Budget Trading Program and the Clean Air Interstate Rule and Cross-State Air Pollution Rule (CSAPR). Since 1997, power plants affected by these programs, along with other regional and state NO_x emission control programs, have cut ozone season NO_X emissions by over 75 percent, a reduction of almost 2 million tons. During the time period of 2000 to 2015, average ozone concentrations across the U.S. have fallen by approximately 17 percent.

The budget calls for approximately $100.4 million for NAAQS.

OAR

Jenkins Q3: How much of that funding is to assist counties with achieving 2015 standards?

Answer: The budget requests $100.4 million across the EPA's headquarters and 10 regional offices to provide federal support for all activities that support integrated state and local air quality management across the U.S. Achieving clean air is a state-federal partnership that benefits from local, state, regional and national efforts. The EPA will provide direct technical assistance to states and local air agencies for developing State Implementation Plans (SIPs) that meet applicable Clean Air Act (CAA) requirements and NAAQS. The specific NAAQS addressed in SIPs varies by locality and states.

Jenkins Q4: How much is being proposed to assist with State Implementation Plans and other administrative efforts?

Answer: The budget requests $100.4 million across the EPA's headquarters and 10 regional offices to provide federal support for all activities that support integrated state and local air quality management across the U.S. Achieving clean air is a state-federal partnership that benefits from local, state, regional and national efforts. The EPA will provide direct technical assistance to states and local air agencies for developing SIPs that meet applicable CAA requirements and NAAQS.

Questions from Ms. McCollum:

Implementation of FY 2017 Enacted Budget - *OARM*

It has come to the Committees attention that EPA notified unions representing Agency employees that EPA is halting funding for fitness subsidies during FY 2017.

The FY 2017 budget request did not propose such a reduction. Rather, the FY 2018 budget proposes to cut "support for employee wellness and worklife initiatives, such as federal cost sharing for fitness centers, health wellness and CPR/AED training services and libraries."

It is wholly inappropriate for EPA to execute new FY 2018 budget proposals before Congress has had the opportunity to act on them.

Congress provided funding for these programs in the FY 2017 enacted bill. Bill language states that rescissions to the Science and Technology and Environmental Programs and Management account were to be applied to program project areas to, "to reflect changes to funding projections due to routine attrition during fiscal year 2017." Therefore, it was not the intent of Congress to terminate funding for employee wellness and worklife initiatives.

McCollum Q1: The Reprogramming Guidelines for programs and activities funded in our bill specify that agencies should notify Congress of any significant departure from what has been described in the agency's budget justification. The FY 2017 enacted anticipated fitness subsidies would be provided as part of the employees wellness package. If your intent is to do otherwise, why wasn't Congress notified?

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Answer: The agency will be phasing out the fitness subsidy in FY 2017. Negotiations will be handled on a local basis, per the agency's notification to its labor unions. Timing also is dependent upon when obligated resources are spent and contracts are closed out. The agency does not provide a subsidy at every location, and those facilities with equipment on-site will continue to maintain equipment for employee use as part of the wellness program. EPA continues to maintain other parts of the wellness program, such as "Walk to Wellness," Health Fair, Employee Assistance Program among other activities.

McCollum Q2: The leading causes of death and disability in the United States are not only preventable but also responsive to workplace interventions. Worksite health and wellness programs help employees move toward an optimal state of wellness, and the U.S. Office of Personnel Management, in accordance with the authorization under 5 U.S.C. 7901, encourages agencies to develop and sustain programs that address the current and future needs of their employees to produce the healthiest possible workforce. What is the justification for eliminating the funding for fitness subsidies halfway through the fiscal year?

Answer: The agency does not provide a subsidy at every location, and those facilities with equipment on-site will continue to maintain equipment for employee use as part of the wellness program. EPA continues to maintain other parts of the wellness program, such as "Walk to Wellness," Health Fair, Employee Assistance Program among other activities.

McCollum Q3: How does halting the funding for fitness subsidies impact the collective bargaining agreement reached with unions representing EPA employees? What response have you received from the unions from your notification?

Answer: The agency has provided the union notification in accordance with our Collective Bargaining Agreements and will continue to follow those requirements throughout the process. Any negotiations on this issue will be conducted at the local level.

McCollum Q4: How will EPA spend the funds that would have otherwise been used for fitness subsidies?

Answer: The amounts involved for fitness subsidies are well below the reprogramming limits. Costs for facilities, including rent, utilities, maintenance and repairs, continue to climb, along with direct employee costs such as salaries, while the agency's appropriations have been flat or declining for a number of years.

McCollum Q5: What other reductions proposed in the FY 2018 budget request is EPA implementing in FY 2017?

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Answer: EPA is not proposing to eliminate any other employee benefit services in FY 2017.

Administrator Pruitt's Undisclosed Email Accounts *(OA)*

When I referred to a recently discovered official email address – esp@oag.ok.gov – that Administrator Pruitt used while Attorney General of Oklahoma but did not disclose despite repeated requests during his confirmation process, he volunteered this explanation "If I may, both in my oral testimony, as well as there's a letter actually that I submitted to the EPW Committee in May that recognized multiple state email accounts… so we've informed Committee, that was consistent with my oral testimony."

McCollum Q6: Please provide the relevant excerpt(s) from Administrator Pruitt's oral testimony and the letter he referenced. Additionally, please provide the relevant questions for the record and his responses.

Answer: Administrator Pruitt's oral testimony is available at https://www.epw.senate.gov/public/_cache/files/1291a5e0-b3aa-403d-8ce3-64cb2ef86851/spw-011817.pdf (page 242). Also attached is the May 5, 2017 letter to Senate Environment and Public Works Chairman John Barrasso and Ranking Member Tom Carper.

McCollum Q7: Administrator Pruitt committed to provide our committee with the email addresses and information about other forms of electronic communication that he is using as EPA Administrator. Please provide those details.

Answer: The agency maintains a primary email account to contact the Administrator, pruitt.scott@epa.gov. EPA staff has also established secondary accounts in the agency's Outlook email system that are used for calendaring, scheduling, and internal communications. All of which are eligible under the Freedom of Information Act to be requested.

Congressional Inquiries *(OA/OCIR)*

McCollum Q8: What is the policy at the Department with regard to responses to congressional inquiries?

Answer: The EPA's policy is to respond to all congressional inquiries as appropriate.

McCollum Q9: More specifically, is there a policy or guidance that would prohibit or delay responses to Ranking Members of Congressional Committees or Subcommittees of jurisdiction?

Answer: The EPA's policy is to respond to all congressional inquiries as appropriate.

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McCollum Q10: Is there a policy or guidance that would prohibit or delay responses to Democratic Members of Congress?

Answer: The EPA's policy is to respond to all congressional inquiries as appropriate.

McCollum Q11: If such policies or guidance are in place to prohibit or delay responses to Ranking Members or all Democratic Members, was such developed in consultation with the White House or the Office of Management and Budget?

Answer: The EPA's policy is to respond to all congressional inquiries as appropriate.

Overview (Office of Budget)

The FY 2018 Budget request for the Environmental Protection Agency is $5.66 billion, a reduction of $2.4 billion or 30% below the FY 2017 enacted level as well as reduction of one quarter of the staff. These cuts address almost every program for clean air and water and threaten the health of children and the elderly.

McCollum Q12: Administrator Pruitt has stated he wants EPA to go back to the basics of protecting our air, water, and land, but the budget makes major cuts in air, water, waste, chemical safety, pesticides, enforcement, and research, not to mention the reductions you propose in categorical grants to states. How can a budget like this not jeopardize the health and well-being of Americans as well as all who inhabit the Earth?

Answer: The Agency's positive environmental agenda builds on cooperative federalism between the federal government and implementing partners, better engagement with communities through technical assistance, and optimization of the regulatory and permit process. This agenda is designed to strengthen the EPA's ability to faithfully execute and administer environmental laws, as outlined in the statutes, in order to protect human health and the environment for all Americans.

McCollum Q13: Can Administrator Pruitt assure the Committee that he does not want to see this Nation's environmental progress rolled back?

Answer: The Administrator supports a healthy environment, with clean air, water and land for all Americans. The EPA maintains a vital role in environmental protection, but must do so within the bounds of its legal authority.

McCollum Q14: What analysis did EPA do to determine the impact of the proposed reductions on health and environmental protection?

Answer: Analysis was done to ensure resources support our core mission of protecting human health and the environment, and not on activities beyond the scope of the EPAs regulatory authority or those that can be led by state and local partners.

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McCollum Q15: How many more deaths, heart attacks, hospitalizations and lost work days Americans will suffer as a result of these reductions?

> **Answer:** The FY 2018 President's budget request focuses resources on improving America's air quality, restoring states' roles in the regulation of water, cleaning up contaminated land, ensuring the safety of chemicals in commerce, and enforcing environmental regulation to improve the environment and protect human health. This renewed focus returns the EPA to its core mission of protecting human health and the environment pursuant to the laws dictated by Congress.

McCollum Q16: If no specific analysis was done on these metrics of these reductions, what basis does the Agency have for saying EPA and states can adequately protect public health and the environment?

The budget also proposes to cut categorical grants to states by either 30% or zero them out completely, and eliminate 46 programs. EPA and the states together have made major progress in improving public health and environmental quality over the years.

> **Answer:** Protecting public health and the environment is a shared responsibility, and the EPA will uphold this mission in accordance with all applicable legal authority. To that point, states have unique environmental needs and the EPA will continue to engage in meaningful discussion about how shared environmental goals related to the regions can best be achieved.

McCollum Q17: On what basis did EPA decide what is and is not a core statutory responsibility, and how do the Agency reconcile such drastic cuts in core programs with Administrator Pruitt's previous statements about the mission of EPA?

> **Answer:** Core statutory obligations are established through laws passed by Congress and signed by the President, not unilaterally by the EPA. Any action by the EPA that exceeds the authority granted to it by Congress, by definition, cannot be consistent with the agency's mission. The FY 2018 budget identifies and eliminates programs, as outlined in responses below, so that the EPA can focus on its statutory mission, achieving greater value and greater results.

McCollum Q18: What type of analysis did EPA conduct on the 46 programs it proposes to eliminate?

> **Answer:** The FY 2018 President's budget eliminates programs that are mature, duplicative or those that can be absorbed into other programs or are state and local responsibilities.

McCollum Q19: Please provide that analysis to the Committee, specifically the data on the impact to the health of families and communities across this country that will result from these eliminations.

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Answer: The FY 2018 President's budget describes the basis for eliminating programs that are mature, duplicative or those that can be absorbed into other programs or are state and local responsibilities, so that resources are available to support the core mission of the agency.

McCollum Q20: Please include information on the other agencies or programs will do this work in the absence of federal funding.

Answer: The agency will work to partner with EPA counterparts in state, local and tribal governments, as well as non-governmental groups, to further environmental goals. Additionally, the EPA is committed to partnering with other federal agencies to collectively achieve goals surrounding clean air, clean water, clean land, ensuring chemical safety, and enforcement and compliance assurance programs.

McCollum Q21: If the Agency has not done any detailed analysis, on what basis does EPA justify its decision to eliminate these programs?

Answer: The FY 2018 President's budget describes the basis for eliminating programs that are mature, duplicative or those that can be absorbed into other programs or are state and local responsibilities, so that resources are available to support the core mission of the agency.

(OA/OP)

McCollum Q22: What is Administrator Pruitt's view about how science should inform policy?

Answer: Administrator Pruitt believes that sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies.

McCollum Q23: Does Administrator Pruitt see himself as the arbiter of what science is acceptable and if so, on what basis and with what training?

Answer: Science provides the foundation for EPA's policies, actions, and decisions made on behalf of the American people. EPA research incorporates science and engineering that meets the highest standards for integrity, peer review, transparency, and ethics. The process of incorporating high-quality science into Agency decision-making is coordinated by science organizations within the Agency. It is guided by EPA's scientific integrity policies. In addition, the Agency's stringent scientific peer review processes are designed to ensure that all EPA decisions are founded on credible science and data.

McCollum Q24: If not, why is the Administrator choosing to dismiss the science of his own agency in regards to climate change?

Answer: Administrator Pruitt believes that sound science is the backbone of the EPA's rule-making process.

ORD

McCollum Q25: Can Administrator Pruitt assure the Committee that he will uphold scientific integrity policies at the EPA, allow EPA scientists to do their work unimpeded and guarantee that Americans will have access to the research and information they have paid for?

Answer: Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies.

As Administrator, I commit to supporting the agency's Scientific Integrity Policy. Scientific Integrity is the adherence to professional values and practices when conducting, communicating, supervising, influencing, and utilizing the results of scientific research. It ensures objectivity, clarity, reproducibility, and utility; while protecting against bias, fabrication, falsification, plagiarism, outside interference, and censorship. The EPA's Scientific Integrity Policy is a roadmap to ensuring high standards of scientific integrity at the EPA. The policy details the components of a culture of scientific integrity and provides a framework for agency-wide compliance. The policy applies to all EPA employees including scientists, managers, and political appointees, as well as contractors, grantees, collaborators, and student volunteers.

The EPA also is deeply committed to transparency and access to research, especially because sharing information helps advance the science we need to protect human health and the environment. We are working rigorously to implement the Office of Science and Technology Policy (OSTP) directives in its 2013 memorandum titled, "Increasing Access to the Results of Federally Funded Scientific Research," through our agency's public access plan.

McCollum Q26: What assurance can EPA give the Committee that the EPA Office of Research and Development and EPA's science labs will be fully supported to conduct critical independent science that is the basis for protecting the public?

Answer: I am committed to ensuring that our laboratories and scientific enterprise are supported to the maximum extent provided by appropriations. The EPA will carefully review its laboratory space footprint and continue efforts to reconfigure the EPA's workspaces in order to release square footage and reduce long-term rent.

McCollum Q27: With EPA's current hiring freeze are key technical positions at the agency currently filled with qualified scientists free from conflict of interest?

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Answer: Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies.

Scientific Integrity is the adherence to professional values and practices when conducting, communicating, supervising, influencing, and utilizing the results of scientific research. It ensures objectivity, clarity, reproducibility, and utility; while protecting against bias, fabrication, falsification, plagiarism, outside interference, and censorship. The EPA's Scientific Integrity Policy is a roadmap to ensuring high standards of scientific integrity at the EPA. The policy details the components of a culture of scientific integrity and provides a framework for agency-wide compliance. The policy applies to all EPA employees including scientists, managers, and political appointees, as well as contractors, grantees, collaborators, and student volunteers.

McCollum Q28: Since 1970, EPA and states, working in partnership, have achieved major improvements in human health and environmental protection, but threats such as contaminated runoff that pollutes our waters, endocrine disruptors, and new emerging threats need to be addressed. How can EPA possibly have the necessary resources and staff to protect human health, the environment, and our economy?

Answer: The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners.

McCollum Q29: EPA is obligated to uphold specific statutory responsibilities to protect human health and the environment, how can EPA assure this Committee that with the draconian cuts proposed in this budget that it can meet those mandates, especially with more than a third fewer scientists and a 30% reduction in funding?

Answer: The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners.

In FY 2018, the EPA will prioritize science and research activities directly tied to statutory requirements and inquiries into environmental and human health sciences. Science and research will be streamlined to support the agency's program and will prioritize the most important work to protect human health and the environment.

(OAR)

McCollum Q30: In 2007 the Supreme Court ruled in Massachusetts v. Environmental Protection Agency that harms associated with climate change are serious and well recognized. How does the Agency interpret this ruling and EPA's role in regulating greenhouse gases that drive global warming, including carbon dioxide and methane?

Answer: The Supreme Court ruled in Massachusetts v. EPA that the EPA has the authority to regulate carbon dioxide as an air pollutant under the Clean Air Act.

McCollum Q31: How does the budget reflect EPA's obligation as outlined by the court?

Answer: The budget provides some resources to continue to implement the Greenhouse Gas Reporting Program. The budget also provides resources to support regulatory action consistent with the Presidential Executive Order on Promoting Energy Independence and Economic Growth dated March 28, 2017, including review of the Clean Power Plan. In addition, the request supports the agency's implementation of integrated criteria pollutant and greenhouse gas (GHG) mobile source programs.

McCollum Q32: Does the Agency recognize that EPA is legally required to regulate emissions of CO2 based on this ruling? If so, what is its plan to do so expeditiously, especially in light of stopping the implementation of the Clean Power Plan and methane regulations?

Answer: The Supreme Court ruled in Massachusetts v. EPA that the EPA has the authority to regulate carbon dioxide as an air pollutant under the Clean Air Act. Since 2009, the EPA and the National Highway Traffic Safety Administration (NHTSA) have taken coordinated steps to enable the production of a new generation of clean vehicles through reduced GHG emissions and improved fuel use from on-road vehicles and engines from the smallest cars to the largest trucks. We are currently revising all the regulatory actions.

(ORD/OECA)

McCollum Q33: Looking at the landscape of reductions this budget proposes why shouldn't one conclude this budget is an attempt to cut industry compliance costs by crippling the ability of EPA and states to develop scientific information and issue and enforce regulations regardless of the likely damage to public health and environmental protection?

Answer: Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies. The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners. In FY 2018, the EPA will rely on, to a greater extent, its state partners to achieve compliance and enforcement goals. The agency will focus resources on its direct implementation responsibilities, emphasizing violations with public health and environmental impacts.

Administrator's Schedule and Travel Budget

(OA)

McCollum Q34: Does the EPA plan to regularly release the Administrator's schedule to the public?

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Answer: The Office of Public Affairs (OPA) was been directed to examine methods on how best to post the Administrator's schedule to the public.

McCollum Q35: To date, what are the total travel costs incurred by the Administrator including all support staff? What was the total travel costs per year for the Administrator for the last four years?

Answer: As of June 30, 2017 the total travel cost incurred by the Administrator and support staff is as follows:

Administrator	$32,456.38
Administrator Support Staff	$81,248.66
Grand Total	**$113,705.04**

The previous Administrator, Mrs. McCarthy's per year total travel cost is as follows:

FY 2013	$5,651.28
FY 2014	$53,577.85
FY 2015	$37,581.77
FY 2016	$49,616.55
FY 2017	$8,110.67
Grand Total	**$154,538.12**
Please note, total does not include support staff costs.	

McCollum Q36: How many times has Administrator Pruitt traveled to Oklahoma since becoming Administrator? For each trip made to Oklahoma using federal funds, provide the purpose of the trip and the purpose for any meetings the Administrator attended.

Answer: Administrator Pruitt has traveled to Oklahoma five times since becoming Administrator. The following are the dates, locations and purposes of each trip:

Travel Dates	Location	Purpose
03/23/2017 to 03/27/2017	Oklahoma City, Oklahoma	To receive an award and give speech at the National Stripper Well Association's Energy Gala.
05/05/2017 to 05/08/2017	Tulsa, Oklahoma	To meet with the CEO of National Rural Water in Tulsa.
05/19/2017 to 05/22/2017	Tulsa, Oklahoma	To tour the Brainerd Chemical Company.

05/25/2017 to 05/29/2017	Tulsa, Oklahoma	To tour the Bird Creek contamination site in Osage County.
06/22/2017 to 06/26/2017	Tulsa, Oklahoma	Invitation from Ardagh for a tour and meeting.

(OECA)

McCollum Q37: From what program projects is protection of the Administrator funded and what are the FY 2017 and FY 2018 requested levels? Provide the costs of the security detail provided to Administrator Pruitt and provide the last four years of security costs for Administrator protection.

Answer: The Office of Enforcement and Compliance Assurance (OECA) receives funding for the Administrator's Protection Services Detail (PSD) in the Facilities Infrastructure and Operations program project. The actual PSD costs for fiscal years 2013-2016, the FY 2017 request and enacted levels, as well as the FY 2018 request levels, are included in the table below.

Resources (dollars in thousands)

	FY 2013 Actuals	FY 2014 Actuals	FY 2015 Actuals	FY 2016 Actuals	FY 2017 Request	FY 2017 Enacted	FY 2018 Request
Dollars	$2,036	$2,228	$2,138	$1,751	$2,312	$4,364	$5,706
FTE	8.4	8.4	7.7	5.6	8.0	15.5	20.0

(OA)

McCollum Q38: Does Administrator Pruitt fly first class at the federal tax payers' expense? If so, what is the justification for the upgraded travel? Did prior Administrators use this justification and, if so, which ones?

Answer: Administrator Pruitt flies either Premium Business Class or First Class due to security reasons. The Administrator has left the assessment of his security needs to the professionals at the EPA who have experience in that area. It was determined after reviewing related documentations that his request complied with criteria outlined in the Federal Travel Regulation (FTR). Prior Administrators have not used this justification, but have used other justifications allowed by FTR.

Voluntary Programs ***(OAR)***

McCollum Q39: The budget calls for eliminating all of the voluntary partnership programs for reducing greenhouse gases and other air pollution. These programs, which have bi-partisan and industry support, are proven to lower emissions. How will you make up for the emission benefits that are lost?

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Answer: The EPA will explore options for the potential transfer of these programs to non-governmental entities.

Hydrofluorocarbons *(OAR)*

McCollum Q40: The budget states that the EPM account for the GHG Reporting Program is being cut to "streamline", among other things, the use and emissions of the greenhouse gases, hydrofluorocarbons, under the Clean Air Act SNAP program. What does EPA mean by "streamlining" the program? What would change about the very important work this program does?

Answer: Through streamlining of various programs in that account, the agency will be able to focus on core work areas. The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners.

U.S. Global Change Research Program *(ORD)*

McCollum Q41: Also being "streamlined" as part of the budget cuts to the GHG Reporting Program is the technical support EPA provides to the U.S. Global Change Research Program. What do is meant by "streamlining" that support? Describe what support has EPA provided to date and how will that support change.

Answer: The EPA has historically played a leading role in conducting scientific assessments of the effects of global climate change in the United States, as required by Section 106 of the Global Change Research Act of 1990. The Office of Research and Development's (ORD) research on models and observations of environmental changes, related to climate change, is critical in supporting the EPA's mission to improve and maintain clean air, water, and healthy ecosystems, as well as the USGCRP. ORD's core science efforts, as it relates to this program, will be streamlined to focus on statutory obligations surrounding these activities.

Water pollution -

OW

McCollum Q42: The budget proposes to eliminate state grants for non-point source pollution programs, when contaminated runoff and other non-point pollution is a principle cause of water quality problems. It also proposes to cut other state water grants, surface water and marine protection funding for EPA, and eliminate the national estuaries program. How is cutting EPA and state capacity consistent with improving the quality of our nation's waters?

Answer: The FY 2018 President's Budget request reflects the EPA's role in a model of cooperative federalism that emphasizes strong cooperative state and tribal partnerships and is guided by Congressional direction in core environmental statutes. This Administration

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recognizes that states and tribes understand their water quality problems the best and can lead efforts to develop solutions to protect America's waters. The EPA will encourage states to continue work in restoring our estuaries and protecting aquatic and marine resources throughout the country, and will work with our partners to provide flexibility to address local priorities.

OW

McCollum Q43: In April, Administrator Pruitt paused clean water protections against coal plants dumping toxic metals such as arsenic and mercury from power plants into public waterways that can infiltrate community drinking water intakes. How much of this coal ash sludge is safe in the drinking water supply?

Answer: The EPA regulates drinking water and has established drinking water standards in accordance with the Safe Drinking Water Act for over 90 contaminants including arsenic and mercury. These standards do not apply to untreated source water. Public Water Systems must perform monitoring and treatment, as necessary, to assure the water they supply to their customers is in compliance.

McCollum Q44: EPA's postponement is being challenged in a federal court and Administrator Pruitt has been criticized for only focusing on the potential costs of the rule while ignoring its benefits and endangering wildlife and exposing families that live near coal plants to heavy metals that can cause problems with cognitive development in children. Why did EPA disregard years of peer-reviewed studies, input from health experts and public comments supporting these protections?

Answer: The EPA is currently reviewing the rule and has not made a final determination. The agency decided to reconsider the rule in response to two administrative petitions, one from the Utility Water Act Group and one from the Small Business Administration Office of Advocacy.

McCollum Q45: How is the Agency reconciling the difference in the impacts on jobs associated with compliance as estimated by EPA with the impact purported by the industry's analysis?

Answer: The information provided by industry (the Utility Water Act Group) to the EPA in their administrative petition for reconsideration did not present any analysis of the impacts on jobs associated with compliance with the Steam Electric Rule. Rather, they asserted that the Effluent Limitation Guidelines cost "contributes to the threat of job losses, particularly when it is added on top of the impacts of other rules." To the extent that the EPA reconsiders the underlying technology basis for any of the 2015 rule requirements, the EPA also plans to evaluate the impact of such changes on jobs.

Office of Water - *OW*

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McCollum Q46: The FY 2018 budget cuts clean drinking water programs by 18% for Human Health and 16% for Water Quality. Why should American's be subjected to decreases in Water Quality due to lack of investment?

> **Answer:** The EPA will continue work to revise the Lead and Copper Rule, providing certainty to states and Tribes, and to develop regulations to implement the Water Infrastructure Improvement for the Nation Act and the Reduction of Lead in Drinking Water Act. In addition, the EPA will continue work with states to develop the Next Generation Management and Reporting tool that will be used by the majority of state drinking water programs. The new Safe Drinking Water Information System tool will provide the following benefits: improvements in program efficiency and data quality, greater public access to drinking water data, facilitation of electronic reporting, reductions in reporting burdens on laboratories and water utilities, reductions in data management burden for states, and ultimately reduction in public health risk.
>
> Additionally, the FY 2018 President's Budget requests $175 million for Surface Water Protection and $18.1 million for Wetlands. The FY 2018 President's Budget request supports the following core Surface Water Protection program components: water quality criteria, standards and technology; National Pollutant Discharge Elimination System (NPDES); water monitoring; Total Maximum Daily Loads (TMDLs); watershed management; water infrastructure and grants management; core wetlands programs, and Clean Water Act Section 106 program management.

Air Pollution - *OAR*

The Administration budget calls for steep cuts in two accounts that fund activities at the heart of Clean Air Act implementation. One account funds EPA's work to review and update national air quality standards and national emissions standards. The second account funds a multitude of EPA activities to support state and tribal air programs for meeting national air quality standards, reducing toxic air pollution, assuring that new sources have state-of-the-art controls, and protecting visibility.

McCollum Q47: How can the huge cuts in these two key air program accounts be achieved while meeting EPA's responsibilities under the Clean Air Act?

> **Answer:** The EPA will continue to meet its responsibilities, under the Clean Air Act, by working to develop a more efficient approach to meeting its statutorily-required National Ambient Air Quality Standards (NAAQS) reviews. The EPA also will continue its Clean Air Act mandated responsibilities to administer the NAAQS by reviewing state plans and decisions consistent with statutory obligations, taking federal oversight actions on State Implementation Plan (SIP) submittals, and by developing regulations and policies to ensure continued health and welfare protection during the transitions between existing, new and/or revised standards. The EPA will continue to look for ways to improve the

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efficiency and effectiveness of the SIP process, including its own review process, in partnership with state and local air agencies.

McCollum Q48: Has EPA identified what specific activities would be eliminated or reduced by the proposed reductions? If so, please provide an accounting that explains for each of these budget categories (federal stationary source regulations, federal support for air quality management) the activities that will be cut back, and the savings in dollars and personnel from each one.

Answer: The EPA will work to develop a more efficient approach to meeting its statutorily-required National Ambient Air Quality Standards (NAAQS) reviews. In FY 2018, the EPA also will continue its Clean Air Act mandated responsibilities to administer the NAAQS by reviewing state plans and decisions consistent with statutory obligations, taking federal oversight actions on State Implementation Plan (SIP) submittals, and by developing regulations and policies to ensure continued health and welfare protection during the transitions between existing, new and/or revised standards. The EPA will continue to look for ways to improve program efficiency and effectiveness across the suite of its core responsibilities with a focus on streamlining activities.

McCollum Q49: How will the proposed budget reductions impact EPA's ability to meet its existing obligations under the Clean Air Act and take on the new work required to carry out the January 24 Presidential Memorandum, "Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing," Executive Order 13777, "Enforcing the Regulatory Reform Agenda," and Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs."?

Answer: The EPA will need to pursue opportunities to meet multiple Clean Air Act requirements for stationary sources in more integrated ways in FY 2018 in order to fulfill its statutory and court-ordered obligations more efficiently. In aligning this effort with Executive Orders 13777 and 13771, the EPA will look for ways, as appropriate, to repeal, replace, or modify existing regulations to reduce burden while meeting statutory obligations.

Accessibility to Data and Data Acquisition -- *OA/OPA*

McCollum Q50: Is all the scientific data associated with climate change that was available under the Obama Administration on the EPA website still accessible today?

Answer: The EPA has archived the climate change web content from the previous administration. This information is still publicly accessible in the EPA's web archive

McCollum Q51: Since taking office, what guidelines has Administrator Pruitt issued for determining what information will be available?

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Answer: At this time, the Administrator has not issued guidelines for determining what information will be available.

McCollum Q52: Will there be any data loss as a result of the budget's proposed program eliminations in FY 2018? If so, what date and how will this impact EPA's ability to have the continuity of data necessary to make projections into the future with a high degree of confidence?

Answer: Data will not be lost. Any data that may be removed for reasons such as program elimination will be archived and available to the public.

Science Advisory Board

Outside scientific advisory boards provide feedback and evaluation of the science used by the EPA to develop guidance, regulations, and make important management decisions.

(OA/SAB)
McCollum Q53: What timeframe has Administrator Pruitt set to make his determination about the appropriateness of these boards and committees and their membership?

Answer: A Federal Register Notice (FRN) was published on June 27, 2017 requesting nominations of qualified candidates to serve on the Clean Air Scientific Advisory Committee (CASAC), SAB and six SAB standing Committees. The FRN requests nominations by July 27, 2017. The names and biographies of qualified nominees identified by respondents to the FRN, and additional experts identified by the SAB Staff Office, will be posted in a List of Candidates on the SAB website. Public comments on each List of Candidates will be accepted for 21 days from the date the list is posted. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates. The Administrator will select members after nominations have been evaluated.

McCollum Q54: While every administration reviews the composition of these advisory bodies, what percentage of current members has Administrator Pruitt decided to terminate?

Answer: No decisions will be made until the evaluation of all qualified nominees has been completed.

(OA/ORD)
McCollum Q55: What is the basis for Administrator Pruitt's decision to not renew the appointments of nine Board of Scientific Counselors (BOSC)?

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Answer: The EPA is taking an inclusive approach to filling future BOSC appointments and welcomes all applicants from all relevant scientific and technical fields.

(ORD)

McCollum Q56: It has come to the Committee's attention that you are asking all members of the BOSC to reapply for their positions as their first terms expire. Has the Agency changed the long standing practice of renewing BOSC members for a second term if they are willing to serve? If so, is the Agency concerned about the loss of institutional knowledge and decreased familiarity with the structure and operation of the boards that would come if all members serve only one term? What criteria does the Agency intend to use to evaluate the members' application to serve an additional term if they do reapply?

Answer: The EPA is taking an inclusive approach to filling future BOSC appointments and welcomes all applicants from all relevant scientific and technical fields. The EPA will use the same criteria to evaluate the members who are reapplying to serve an additional term as all other applicants. BOSC members are identified through an outreach plan that includes an open solicitation of potential candidates. Members are selected based on their: 1) scientific and/or technical expertise, knowledge, and experience; 2) diversity including work sector, geographical location, gender, ethnicity, and viewpoints; 3) availability to serve and willingness to commit time to the committee; 4) absence of financial conflict of interest; 5) absence of an appearance of a lack of impartiality; and 6) skills working on committees and advisory panels.

McCollum Q57: On May 8, 2017, Administrator Pruitt's spokesman said "EPA received hundreds of nominations to serve on the board and we want to ensure fair consideration of all the nominees." His office also stated ""EPA received hundreds of nominations to serve on the board, and instead of reappointing nine people who have already served their three-year term, we want to ensure fair consideration of the other nominees and a carry-out a competitive nomination process," This was misleading, as it sounds as if hundreds of people are lined up, hoping to get on this board. In fact, nominations are only received when there is a call for nominations made in the Federal Register, and the "hundreds of nominations" referred to by Administrator Pruitt's office in these two statements in fact were from an FRN notice in 2013 (so nominations on this list are more than 4 years old). Is Administrator Pruitt planning to select from this old list? Is he going to add the "old list" to the list of nominations he receives from his recent FRN call-for-nominations (FRN 5/25/17)? Or just select from his new list?

Answer: BOSC members will be selected from the pool of those who applied to the call-for-nominations in the FRN published on May 25, 2017. BOSC members are identified through an outreach plan that includes an open solicitation of potential candidates. Members are selected based on their: 1) scientific and/or technical expertise, knowledge, and experience; 2) diversity including work sector, geographical location, gender, ethnicity, and viewpoints; 3) availability to serve and willingness to commit time to the committee; 4) absence of financial conflict of interest; 5) absence of an appearance of a lack of impartiality; and 6) skills working on committees and advisory panels.

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McCollum Q58: The BOSC does not review or advise or comment on regulations, and only advises on the basic science conducted within the Office of Research and Development yet Administrator Pruitt has stated he believes people on this board should understand the impact of regulations on the regulated community. What kind of expertise are is Administrator Pruitt looking for that does not reside with the current membership?

> **Answer:** Members of the BOSC are recognized experts in various scientific, engineering, and social science fields. The EPA will consider nominees from industry, business, public and private research institutes or organizations, academia, government (federal, state, local, and Tribal) and non-government organizations, and other relevant interest areas. Members are appointed by the EPA Administrator for a period of three years and serve as special government employees. The EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, the EPA encourages nominations of women and men of all racial and ethnic groups.
>
> For more detail on the experience and expertise the EPA is looking for, please see the FRN at https://www.federalregister.gov/documents/2017/05/25/2017-10672/request-for-nominations-of-experts-to-the-epa-office-of-research-and-developments-board-of

McCollum Q59: Does Administrator Pruitt want to replace these scientists with more members from regulated industry and would these people be active researchers or managers with a science degree?

> **Answer:** The agency will continue to appoint BOSC members who are distinguished scientists and engineers, and are recognized experts in their respective fields. They come from academia, industry/business, federal, state, and local governments, non-governmental and environmental organizations, research laboratories, and other relevant entities. All BOSC members must comply with annual ethics reporting and training requirements; and must not possess conflicts of interest or an appearance of being unable to provide impartial advice.
>
> BOSC members are identified through an outreach plan that includes an open solicitation of potential candidates. Members are selected based on their: 1) scientific and/or technical expertise, knowledge, and experience; 2) diversity including work sector, geographical location, gender, ethnicity, and viewpoints; 3) availability to serve and willingness to commit time to the committee; 4) absence of financial conflicts of interest; 5) absence of an appearance of a lack of impartiality; and 6) skills working on committees and advisory panels.

McCollum Q60: Why isn't Administrator Pruitt concerned this will marginalize the future role for objective, knowledgeable science advisors that aren't influenced by politics?

> **Answer:** BOSC members are distinguished scientists and engineers who are recognized experts in their respective fields. They come from academia, industry/business, federal,

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state and local governments, non-governmental and environmental organizations, research laboratories, and other relevant entities. All BOSC members must comply with annual ethics reporting and training requirements and must not possess conflicts of interest or an appearance of being unable to provide impartial advice.

BOSC members are identified through an outreach plan that includes an open solicitation of potential candidates. Members are selected based on their: 1) scientific and/or technical expertise, knowledge, and experience; 2) diversity including work sector, geographical location, gender, ethnicity and viewpoints; 3) availability to serve and willingness to commit time to the committee; 4) absence of financial conflict of interest; 5) absence of an appearance of a lack of impartiality; and 6) skills working on committees and advisory panels.

McCollum Q61: The BOSC is an 18 member advisory committee. What is the current membership?

Answer: The BOSC is comprised of an Executive Committee, which includes approximately 20 members, and is supported by subcommittees and workgroups for any purpose consistent with the BOSC's charter. Such subcommittees or workgroups may not work independently of the chartered Executive Committee, and must report their recommendations and advice to the BOSC for full deliberation and discussion. Subcommittees and workgroups have no authority to make decisions on behalf of the BOSC, nor can they report directly to ORD. There are currently 46 members of the BOSC. Thirty-eight of these members are eligible for a second term and may apply.

McCollum Q62: BOSC was initially designed, and has been administered, as an advisory committee that reports to the Assistant Administrator of ORD, not to the Administrator. Why did Administrator Pruitt's office get involved in the membership process of BOSC? Is he planning on having the Administrator's Office take a direct, hands-on approach to selecting the new members of BOSC?

Answer: It has been agency policy that the Administrator and/or the Deputy Administrator appoints and signs letters of invitation, reappointments, and letters of appreciation for those members whose terms have ended for the EPA Tier 1 (Parent) Committee and Tier 2 (Subcommittee) members.

(OA) -

McCollum Q63: Why has Administrator Pruitt not named an Assistant Administrator for ORD (or most of the other Program Offices)? Does he plan to name a qualified scientist, as has been the case throughout EPA history? Why has Administrator Pruitt not named a Science Advisor? Does he plan, as previous administrators have done (both democratic and republican), to have the AA for ORD also serve as Science Advisor to the Administrator?

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Answer: The Administrator intends to nominate and fill all open positions at EPA and is in the process of finding the best candidates for all open positions.

(ORD)

McCollum Q64: The budget proposes to cut the ORD scientific staff by 42%. Who will replace this void in generating science information for the Agency, given that ORD is doing the research that it does because no one else is doing it? Is EPA indicating that science evidence is not important, not needed for the Agency to meet its mission? How will EPA meet state needs, given that much of ORD's research is requested by the Regional Offices to help states? Does EPA intend to not assist the states with scientific information in the future?

Answer: Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies. We will support the needs of the states, consistent with the level of appropriated funding.

In FY 2018, the EPA will prioritize science and research activities directly tied to statutory requirements and inquiries into environmental and human health sciences. Science and research will be streamlined to support the agency's program and regional offices will prioritize the most important work to protect human health and the environment.

(OA/OAR)

McCollum Q65: Congress established the Science Advisory Board (SAB) and the Clean Air Scientific Advisory Committee (CASAC) to provide independent scientific and technical advice to the Administrator. They provide this important advice on a very modest budget ($646,000). By law, both of these independent advisory groups hold public meetings to deliberate and take public comments. The FY 2018 budget proposes to cut these two critical groups by about 20% and severely limit both the SAB and CASAC in their meetings, despite all the many complex scientific issues they must advise you on. How does EPA reconcile this cut with the CASAC's legal responsibility under the Clean Air Act to review the science EPA uses to reassess National Ambient Air Quality Standards every 5 years?

Answer: The SAB Staff Office will continue to prioritize CASAC and SAB activities to meet statutory requirements and agency priorities.

(OA)

McCollum Q66: The SAB and CASAC are Federal Advisory Committee Act (FACA) EPA advisory boards. Will it be Administrator Pruitt's policy to not renew members of science boards such as this for a second term? In other words, will your policy be for all appointees to only serve one term? Will this apply to the new members you appoint?

Answer: All nominees will be evaluated including those eligible for a second term. Appointments will be made after the evaluations have been completed.

(OAR) (note – for consistency we have used OA responses for these)

McCollum Q67: Without this science review, how will EPA ensure it is keeping air standards current and up to date?

> **Answer**: Scientific review will continue. The SAB Staff Office will continue to prioritize CASAC and SAB activities to meet statutory requirements and agency priorities.

McCollum Q68: Specifically, how will EPA see that it completes a major scientific review for particulate matter that was scheduled for 2017, and other criteria pollutants that are overdue for their review?

> **Answer:** The SAB Staff Office will continue to prioritize CASAC and SAB activities to meet statutory requirements and agency priorities.

(OA/ORD)

McCollum Q69: How does EPA propose the SAB provide scientifically sound advice and peer review on health assessments for high-priority chemicals, that state environmental programs, not just EPA, rely on to inform clean-up decisions, permits, and regulatory actions? How will the SAB meet its legal responsibility under the Environmental Research and Development Demonstration Authorization Act to advise EPA on its plans for research and development (R&D)?

> **Answer:** The SAB will continue to meet its legal responsibility under the Environmental Research and Development Demonstration Authorization Act to advise the EPA on its plans for research and development. The SAB will continue to provide independent scientifically sound advice and peer review to the Administrator on a range of scientific and technical matters underlying key environmental policies and risk management decisions.

McCollum Q70: The SAB and BOSC have different purposes. Will Administrator Pruitt be using different criteria for appointing members to the BOSC than to the SAB, and how will those criteria differ?

> **Answer:** The Federal Register Notice published on June 27, 2017 requesting nominations for members of the CASAC, SAB and six standing committees outlines the existing criteria for selecting committee members.

(ORD)

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McCollum Q71: How will EPA ensure key technical positions at the agency are filled with qualified scientists free from conflict of interest?

> **Answer:** Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies.
>
> Scientific integrity is the adherence to professional values and practices when conducting, communicating, supervising, influencing, and utilizing the results of scientific research. It ensures objectivity, clarity, reproducibility, and utility; while protecting against bias, fabrication, falsification, plagiarism, outside interference, and censorship. The EPA's Scientific Integrity Policy is a roadmap to ensuring high standards of scientific integrity at the EPA. The policy details the components of a culture of scientific integrity and provides a framework for agency-wide compliance. The policy applies to all EPA employees including scientists, managers, and political appointees, as well as contractors, grantees, collaborators, and student volunteers.

McCollum Q72: How can EPA maximize and effectively target its limited research dollars, if these groups of outside scientists cannot meet to advise EPA, share research results, and identify strategies to reduce redundancy and costs?

> **Answer:** The Board of Scientific Counselors provides the EPA with access to independent advice from non-EPA experts who are nationally renowned in their disciplines. It does so in a transparent manner with opportunities for public input through advance review of meeting agendas, meeting documents, and charge questions. These experts provide advice, information, and recommendations to the EPA on their science and research to ensure it provides the strong, scientific foundation that informs the agency's work to protect human health and the environment. The lack of renewal of these members will delay the process of review of the EPA's research until the committees can be reconstituted, expected in late 2017 or early 2018. Once the Committee is reconstituted, the review of the EPA's research will begin as soon as possible. However, the EPA's research will continue in the interim.

(OA)

McCollum Q73: About one third of the terms of SAB and CASAC members, experts in their respective technical fields, will expire this fall. Each April for the past nine years, the SAB Staff Office has published a Federal Register notice seeking nominations for new scientists, economists and other technical experts to join the SAB and CASAC. This begins a multi-month process, resulting in recommendations for qualified nominees to submit to the EPA Administrator. Why has no Federal Register notice yet been published this year seeking nominations for the SAB and CASAC?

> **Answer:** The Federal Register Notice soliciting nominations for members of the CASAC, SAB and six standing committees was published on June 27, 2017.

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McCollum Q74: How will EPA ensure that there will continue to be the necessary quorum of members with the appropriate qualifications to serve on the committees? Will EPA commit to continued public involvement in the membership process?

> **Answer:** The EPA is seeking nominations of qualified experts in response to the FRN published on June 27, 2017. As indicated in the FRN published on June 27, 2017, the public has opportunities to nominate candidates as well as to provide comments on the List of Candidates.

Categorical Grants for States and Tribes (Office of Budget)

The budget proposes to cut the categorical grants to states and tribes by 44 percent. States rely heavily on these grants. According to a report from the Environmental Council of the States, federal funds account for, on average, 27 percent of state environmental budgets. Congress designed Federal environmental programs so that they would be administered at the states and local levels where possible. But EPA has a responsibility to provide national environmental leadership by establishing minimum national pollution standards and providing technical support to states.

McCollum Q75: How will these proposed cuts affect the states' abilities to implement environmental programs? Will it have consequences for their staffing levels?

> **Answer:** The EPA is committed to a more effective cooperative federalism approach to environmental protection. The President's budget does not propose any reduction to State environmental staffing levels.

McCollum Q76: How will this affect EPA's ability to conduct appropriate oversight and provide technical assistance to ensure that states have good environmental management practices?

> **Answer:** The budget provides over 5,400 FTE in the regions to continue to provide leadership and technical expertise to the regulated community, and to partner effectively with states and tribes.

McCollum Q77: How is this consistent with improving the quality of our nation's waters or protecting the air we breathe?

> **Answer:** By prioritizing resources to support the agency's mission, the budget supports a renewed focus on achieving its statutory responsibilities to protect the Nation's air and water quality.

McCollum Q78: How does EPA recommend that states make up for this funding shortfall?

> **Answer:** The FY 2018 President's budget does not propose how states should generate state funding. The agency will work with its state and local partners to identify shared priorities and make progress in achieving them.

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Staffing and Employee Morale

The March 2017 Executive Order directs the reorganization of the Executive Branch.

Office of Budget **with OARM**

McCollum Q79: In light of the 30% reduction in EPA's FY 2018 Budget request and the proposal to reduce approximately 3,800 FTEs from the FY 2017 enacted level, how is EPA approaching developing such a plan and how will the Agency be transparent and keep employees informed?

> **Answer:** The EPA submitted Near Term Workforce Actions in compliance with OMB Memo 17-22 "Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce". EPA's plan will be part of a larger comprehensive Government-wide Reform Plan for publication in the President's FY 2019 Budget.

McCollum Q80: EPA's proposed workforce, the smallest since 1984, is still task with administering 7 major congressionally mandated programs including new workload such as the Toxic Substances Control Act. How will a reduction of this many staff not affect productivity?

> **Answer:** The EPA will be examining our programs and processes to eliminate inefficiencies and streamline our processes. Primary criteria will include effectiveness and accountability. The EPA is focused on greater value and real results.

McCollum Q81: In FY 2017, Congress provided funding to maintain staff capacity to conduct work necessary to meet EPA's mandated responsibilities. The FY 2018 budget reduces funding for those very programs. Can EPA assure Congress that none of the actions it is taking in FY 2017 violate the Impoundment Act?

> **Answer:** In FY 2017, the agency continues to maintain staffing capacity and work responsibilities consistent with the agency's FY 2017 appropriation. No funding will be impounded.

McCollum Q82: The budget proposes to cut support for employee wellness and worklife initiatives, such as federal cost share for fitness centers, health wellness, and CPR/ AED training services and libraries.

> **Answer:** The EPA proposed reducing these services in the agency's FY 2018 budget request in order to focus more closely on our statutory obligations.

Staff Reductions

EPA has carved out $12 million in staff buyouts for the current fiscal year.

McCollum Q83: Will a Reduction in Force be necessary to reach EPA's proposed staffing level? If so, for how many positions and will EPA apply the Reduction in Force equally across both headquarters and regional offices? If not, what formula will the Agency use to do this?

> **Answer:** The agency plans to rely on a hiring freeze, attrition and VERA/ VSIP authority as primary tools for workforce reshaping.

McCollum Q84: When a person loses their job thru a RIF they are entitled to severance pay, which can, depending on age and service time, easily be a full year's salary. How has the Agency calculated that cost?

> **Answer:** The agency plans to rely on a hiring freeze, attrition and VERA/ VSIP authority as primary tools for workforce reshaping.

McCollum Q85: The FY 2018 budget proposes a new program project titled Workforce Reshaping which includes $11 million in Science and Technology and $47 million in Environmental Program and Management to support organization restructuring.

> **Answer:** The agency anticipates the need to offer VERA/VSIP as part of the workforce reshaping effort. Funding will be used to support VERA/VSIP costs.

McCollum Q86: How does EPA propose to spend this money?

> **Answer:** The agency anticipates the need to offer VERA/VSIP as part of the workforce reshaping effort. Funding will be used to support VERA/VSIP costs.

McCollum Q87: What programs did you cut in FY 2018 budget to find the resources for this new program project?

> **Answer:** The FY 2018 budget details the funding decisions made by the Agency.

McCollum Q88: If Congress agrees with the Administration's proposal for these significant staff reductions, how will EPA prioritize cuts in personnel so that the Agency can still fulfill its important charge to safeguard human health?

> **Answer:** The EPA will streamline existing business processes and eliminate unnecessary redundancies to utilize staff in line with the FY 2018 budget and with the agency's top human health priorities.

McCollum Q89: Will EPA consider the risks to human health and the environment from staff reductions in particular program areas?

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Answer: Yes, the agency will prioritize staff and resources in line with the FY 2018 budget and with the agency's top human health and environmental priorities.

McCollum Q90: How will EPA maintain the scientific and technical expertise needed to do this essential human health work when so many seasoned professionals opt to retire early?

Answer: Over the past several years, the EPA has focused on succession planning and a future workforce. EPA will streamline existing business processes and eliminate unnecessary redundancies to prioritize retaining critical scientific and technical expertise.

McCollum Q91: How will EPA enforce our environmental laws if EPA regional offices, who have primary responsibility for enforcement, are closed?

Answer: The FY 2018 budget does not propose closing any regional offices.

Regulation Review

(OA/OP)

Executive Order 13783 on Promoting Energy Independence and Economic Growth requires a review of all regulations.

McCollum Q92: How is EPA going about conducting this review and what scientific evidence and economic assumptions or models is the Agency relying on for the basis of its decisions?

Answer: Pursuant to EO 13777, the EPA held multiple public meetings and opened a docket for public comments about regulations that may be appropriate for repeal, replacement, or modification. The EPA is planning to draw from that information as we consider which regulations may unduly burden the development of domestic energy resources. Regulations identified for possible repeal, replacement, or modification would be subject to standard rulemaking procedures, including additional public comment, and at that time more details on the basis for the regulatory action would be provided.

McCollum Q93: Environmental regulations already undergo a rigorous analysis of costs and benefits as they move through the regulatory process. In its annual accounting to Congress last year, OMB found that benefits of major rules EPA officially adopted from 2005-2015 exceed their costs by up to 13 times (OMB 2016). A 2011 peer-reviewed EPA assessment of the long term benefits and costs of the Clean Air Act and its implementing regulations found that its middle estimate of annual benefits exceeds costs by 30 to one--that's $2 trillion in net benefits vs. $65 billion in costs. Which specific EPA regulations does EPA believe are overly stringent and in need of scaling back?

Answer: The EPA has begun to take action on some regulations, such as those identified in Executive Orders 13783 and 13778. The EPA is still considering which additional regulations may unduly burden the development of domestic energy resources.

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McCollum Q94: Administrator Pruitt has expressed concern about the compliance costs of particular industries, please provide an estimate of the change in net benefits to the American public from rolling any regulations back.

> **Answer:** Such estimates will be part of the rulemaking record for any individual rules that are revised or rescinded.

McCollum Q95: Has the Agency considered the additional cost to industry of facing a patchwork quilt of different state requirements instead of one federal standard?

> **Answer:** Within the statutory boundaries, there are a number of factors to consider when revising federal rules, including costs, implementation issues, and the appropriate balance between state and federal authority. The EPA will consider each of those factors, and others, as appropriate, when revising rules.

McCollum Q96: What steps has the EPA taken to implement President Trump's Executive Order on Reducing Regulation and Controlling Regulatory Costs?

> **Answer:** EO 13771 directs all agencies to repeal two existing regulations for each new regulation issued in FY 2017 and thereafter, and also directs agencies that the total incremental costs of all regulations should be no greater than zero in FY 2017. Executive Order 13777 on Enforcing the Regulatory Reform Agenda further directs federal agencies to establish a Regulatory Reform Task Force and to evaluate existing regulations and make recommendations regarding their repeal, replacement, or modification. Consistent with these Executive Orders, the EPA established a Task Force and has been taking a hard look at existing EPA regulations to help identify regulations that may be appropriate for repeal per EO 13771, in order to develop recommendations for the Administrator. The EPA also has initiated the delay or reconsideration of multiple regulations finalized by the previous administration that have led to cost savings that may further EO 13771 implementation.

McCollum Q97: How is EPA choosing which two regulations to repeal for every new regulation promulgated?

> **Answer:** In April, OMB released guidance clarifying implementation of EO 13771. The EPA is still developing our internal process to fully implement that guidance.

(OGC)

McCollum Q98: In EPA's regulation review has the Agency consistently adhered to the requirements of the Administrative Procedures Act, specifically the notice-and-comment period that gives the public time to respond to any proposed changes by the government?

> **Answer:** EPA is in the process of conducting its E.O. 13783 review and, to the extent that the Administrative Procedures Act requires the EPA to engage in notice and comment rulemaking as part of that process, EPA intends to do so.

(OCSPP)

McCollum Q99: How does EPA justify delaying the effective date for the companion rule for Pesticide Applicator Protection for an additional year to May 22, 2018?

Answer: The effective date of the Certified Pesticide Applicator (CPA) rule is being extended to May 22, 2018, to give recently arrived agency officials the opportunity to conduct a substantive review of the rule in accordance with the Presidential directives as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review," and the principles identified in the April 25, 2017, Executive Order "Promoting Agriculture and Rural Prosperity in America." At this time, the EPA has only one Senate confirmed official, and the new administration has not had the time to adequately review the January 4, 2017, CPA rule. The effective date extension will prevent the confusion and disruption among the regulated community and stakeholders that would have occurred if the CPA rule became effective, displacing the existing regulation, and then was substantially revised or repealed as a result of administrative review. The 12-month extension also provides time for the EPA to consider revisions to the certification rule based on input received through the Regulatory Reform Agenda effort.

OCSPP

McCollum Q100: Is EPA proposing any changes to its plans for assessing the risk of pesticides for endangered species?

Answer: The EPA, National Marine Fisheries Service (NMFS), and Fish and Wildlife Service (FWS) (the Services) are currently involved in discussions exploring possible options for streamlining the interim methods and process we have been following based on the recommendations of the National Academy of Sciences (NAS) in its April 2013 report[1]. The NAS recommendations for assessing risk from pesticide exposure to threatened and endangered species involves a 3-step process that integrates ecological risk assessment methods with Endangered Species Act (ESA) consultations. The EPA, NMFS, FWS, and USDA held several workshops to develop those interim methods, which were intended to be part of an iterative process that continues to evolve as the EPA and the Services gain experience with the process. We used those interim methods in the biological evaluations for chlorpyrifos, diazinon, and malathion, which were released in January 2017.

The current schedule for completing the initial set of biological evaluations has not changed. The EPA released the biological evaluations for chlorpyrifos, diazinon, and malathion in January 2017 and their biological opinions are scheduled to be completed at

[1] For more information about implementing recommendations found in the NAS report: https://www.epa.gov/endangered-species/implementing-nas-report-recommendations-ecological-risk-assessment-endangered-and

the end of 2017. Biological opinions for methomyl and carbaryl are scheduled for December 2018. Effects determinations and initiation of consultation for atrazine, simazine, propazine, and glyphosate are scheduled for 2020.

The EPA also is currently considering a petition asking that the first three biological evaluations be remanded to allow for further refinement of the interim process.

McCollum Q101: Does the FY 2018 budget provide the staff and resources needed to adequately assess the risk of pesticides for these species?

Answer: Yes, the FY 2018 President's Budget provides the staff and resources needed to adequately assess the risk of pesticides to endangered species. Currently, the registration user fees can cover a portion of the costs associated with the assessment of risks to endangered species. If PRIA 4 passes, it also will have language that will explicitly cover allowing the use of maintenance fees funding to cover the costs of endangered species activities; although currently, under FIFRA, nothing prevents the EPA from using maintenance fees for endangered species activities.

(OAR)

McCollum Q102: EPA extended the effective date for emissions standards, record keeping, and labeling provisions for formaldehyde emissions until March 22, 2018. How is this not creating an unfair advantage for foreign imports over North American manufacturing of composite wood products?

Answer: The EPA received requests from the composite wood industry and support from other stakeholders requesting the extension of the compliance dates. EPA has not yet extended the compliance dates. EPA published a Direct Final Rule (DFR) on May 24, 2017, to extend the compliance dates. Because EPA received relevant, adverse comment on the DFR, EPA is in the process of withdrawing this action. To save time in the event of such adverse comment, EPA also published a companion Notice of Proposed Rulemaking (82 FR 23769). EPA will proceed with this proposed rule through the normal rulemaking process and will consider all comments received prior to finalizing this action. The EPA does not believe the extension of the compliance dates provides any meaningful advantage for imported products over domestically produced products. The agency's proposed extension of the compliance date for the formaldehyde emissions standards, recordkeeping, and labeling provisions, and any benefits that extension may provide are equally applicable to all regulated entities under the rule. After that compliance date, like North American-manufactured composite wood products, imported composite wood products and imported finished goods and component parts made of composite wood products will have to comply with the formaldehyde emission standards and other provisions in the final rule.

In the economic analysis supporting the final rule, the EPA estimated that the majority of composite wood products, both domestic and imported, are already meeting the TSCA

Title VI emissions standards because they currently comply with the California Air Resources Board (CARB) formaldehyde emission standards, which are identical to the TSCA Title VI emission standards. While some panel producers do not sell composite wood panels in California, many intermediary entities (*e.g.*, fabricators of finished goods, distributors, importers, retailers, etc.), choose to purchase only CARB-compliant products so that they do not need two supply streams, or one for products that may be sold or supplied in California and one for products that are not.

(OA/OP)

McCollum Q103: How does EPA plan to defend the many inevitable lawsuits it will face from rolling back environmental regulations? Is this really the most effective way for EPA to fulfill its mission?

Answer: The EPA is effectively fulfilling its mission by ensuring the agency issues sensible regulations that protect the environment based on our statutory authority and allow for economic growth. We often face litigation in response to regulatory decisions, given the broad range of stakeholders we serve, who care deeply about the work we do. The EPA will continue, as we always have, to work with the Department of Justice to vigorously defend against lawsuits brought against the agency.

McCollum Q104: Executive Order 13777 required the head of each agency to designate a Regulatory Reform Officer to oversee the implementation of regulatory reform initiatives and policies to ensure agencies effectively carry out regulatory reforms, consistent with applicable law.

Answer: The EPA is aware of the requirements of Executive Order 13777.

McCollum Q105: Who have you appointed as the Regulatory Reform Officer for EPA and what are their credentials?

Answer: Administrator Pruitt designated Samantha K. Dravis, Senior Counsel and Associate Administrator for the Office of Policy to serve as the EPA's Regulatory Reform Officer. Ryan Jackson, EPA Chief of Staff serves as Chairman. Regulatory Reform Task Force members include Byron Brown, EPA Deputy Chief of Staff for Policy; and Brittany Bolen, EPA Office of Policy Deputy Associate Administrator.

Chesapeake Bay - *OW*

Chesapeake Bay is the nation's largest estuary in which 18 million people live and work; there are 3,600 types of fish, wildlife and plant life that underpin the economic value of the ecosystem; and where in a voluntary partnership with other federal, State, local, and NGOs, academic institutions, private businesses and individual citizens, 10 Goals for restoring the ecosystem have been set to be met by 2025.

McCollum Q106: Just when the Chesapeake Bay is beginning to show improvement the FY 2018 budget cuts the funding across for all Geographic Programs, including the $73 million for the Chesapeake Bay. Who will step into the role EPA has played of coordinating all the partners in this exemplary effort?

> **Answer:** This program elimination is part of the administration's overall goal to return the responsibility for regional and local environmental work to state and local entities. The TMDL agreed upon between the six states and District of Columbia in the Chesapeake Bay watershed is a true model of "cooperative federalism" and the type of state and local collaboration that is essential to transboundary environmental restoration. The EPA encourages states to continue to use collaboration, coordination, and consensus to make multi-jurisdictional decisions. The EPA will continue to engage in meaningful discussions about how shared environmental goals related to this region can be achieved, and will strive to support the implementation of the Chesapeake Bay TMDL.

McCollum Q107: Efforts to restore the Chesapeake Bay are seen as a national and international model for sustainable use of coastal regions. What message are we sending about our leadership and commitment when we reduce funding to such an exemplary project from which recovery lessons can be duplicated in coastal regions worldwide?

> **Answer:** The restoration of the Chesapeake Bay would not be possible without state and local collaboration. The message this administration is sending is the centrality of state and local collaboration for local environmental work. The Chesapeake Bay TMDL is the model of cooperative federalism that the EPA would like to promote for multi-jurisdictional environmental restoration, which is why the EPA encourages states and local entities to continue to use collaboration, coordination, and consensus to restore the Bay. The EPA will continue to engage in meaningful discussions about how to continue state-led restoration work in the Chesapeake Bay through its role in representing the Federal government on the Chesapeake Executive Council.

Environmental Justice – *OECA and OA*

The budget eliminates all resources for the Environmental Justice program. The budget claims that EPA will incorporate EJ work within the Integrated Environmental Strategy program within the Office of the Administrator; however, no there is no associated funding requested.
The budget also eliminates the lead program, which works to reduce disparities in blood lead levels between low income children and non-low income children.

McCollum Q108: What Environmental Justice work will be discontinued as a result of the elimination?

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Answer: The agency remains committed to working with communities to develop solutions to the environmental and public health challenges they face. Although the EPA is not requesting funds for this program in FY 2018, considerable progress has been made in incorporating environmental justice considerations into the agency's core programs through the efforts of the EJ program. This progress has greatly enhanced the EPA's ability to protect the health and environment of our most vulnerable communities. Environmental Justice will continue to be considered within the work done at EPA also will be specifically incorporated into future policy work within the agency's Integrated Environmental Strategies program in the Office of the Administrator.

McCollum Q109: How much funding in the FY 2018 budget is dedicated for Environmental Justice work in the Integrated Environmental Strategy program?

Answer: Zero dollars are explicitly tagged for Environmental Justice in the FY 2018 budget in the Integrated Environmental Strategies program. Although the EPA is not requesting funds for EJ, the agency remains committed to working with communities to develop solutions to the environmental and public health challenges they face.

McCollum Q110: How many staff will be reassigned or terminated due to the elimination?

Answer: Twenty four FTE at headquarters and 16 FTE in the regions will be eliminated.

McCollum Q111: How will EPA identify and track low income and minority communities that are disproportionately burdened by pollution?

Answer: The EPA will continue to use EJSCREEN as the primary tool to screen for communities with environmental justice concerns.

McCollum Q112: The recent tragedy in Flint, Michigan, in which low income minority children were poisoned by lead in their drinking water, reminded the country of the danger of lead poisoning. How will EPA ensure that all children are protected, even in states that do not have their own lead program?

Answer: Protecting children from exposure to lead is a top priority for the EPA. The agency will continue to coordinate with states, tribes, and territories to enforce not only the Lead and Copper Rule, but all Safe Drinking Water Act national primary drinking water regulations. The EPA will continue its work with our co-regulators to ensure that owners/operators of public water systems address noncompliance in a timely manner, prioritizing those systems with the most serious or repeated violations. In particular, the EPA will continue to focus on working with states to optimize corrosion control treatment to minimize exposure to lead. The EPA will also continue to focus on small systems by strengthening and targeting financial assistance, in coordination with state infrastructure programs, to support rehabilitation of the nation's infrastructure. The agency also will look for ways to promote partnerships among water systems to build capacity and work with states and tribes, as well as with utility associations, third-party technical assistance

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providers and other federal partners, to promote the sustainability practices that are the foundation for building technical, managerial, and financial capacity.

Enforcement

Office of Budget

McCollum Q113: Thanks to the work of this office, settlements were negotiated from EPA actions with Volkswagen AG and BP PLC spill that have resulted in funds going to states and communities. Given the proven success of this office, why does the FY 2018 budget propose to cut Enforcement by 23%?

> **Answer:** The EPA reduced resources in areas where states have enforcement authority and significant progress has been made. The EPA will focus enforcement (including criminal) and compliance resources on direct implementation responsibilities, the most egregious cases, and in areas that address the most substantial impacts to human health and the environment.

McCollum Q114: The budget justification states that EPA will focus the civil enforcement program's resources on "programs that are not delegable [to states] or where a state has not sought or obtained the authority to implement a particular program." Does this mean that EPA will no longer take any enforcement actions against polluters violating federal environmental rules that a state has authority to enforce? Under EPA's approach, what would happen if a state -- due to lack of resources or political pressure -- fails to enforce a federal environmental rule against a violating polluter?

> **Answer:** The EPA will continue to work in partnership with state and Tribal agencies to assure compliance, protect public health and the environment, and ensure a level playing field for regulated companies.

OECA

McCollum Q115: What will be the impact of the proposed cuts to enforcement on the number of state and federal facility inspections, the amount of compliance assistance, and the number of enforcement actions that states and EPA have the capacity to pursue?

> **Answer:** The EPA works in partnership with state and tribal agencies to assure compliance, protect public health and the environment, and ensure a level playing field for companies that follow the rules. The agency will focus our resources on direct implementation responsibilities and the most significant violations. For FY 2018, the number of federal inspections and evaluations is projected to be 9,500. The agency also is projecting that 1,750 federal civil, judicial, and administrative enforcement cases will be initiated in FY 2018.

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Energy Star and Water Sense – *OAR and OW*

Through EPA's Energy Star and Water Sense programs, Consumers can save money by reducing their energy and water use while helping to protect the environment. These programs have motivated private sector investments, and moved the goal post on efficient technologies in the market place.

McCollum Q116: With a history of bipartisan support and immense value-added for businesses and consumers alike, what is EPA's rationale for throwing out 25 years of investment in these programs in the coming fiscal year? Isn't it a good thing when Americans can lower their energy bills and drinking water costs, reduce pollution, and help implement EPA's statutory mandates for clean air and water, all at the same time?

> **Answer:** The President's FY 2018 budget request for the EPA reflects the success of environmental protection efforts, a focus on core legal requirements, and the important role of federal-state partnerships in implementing the nation's environmental laws. The voluntary Energy Star and WaterSense programs are reduced in the President's Budget (WaterSense is proposed for elimination) as part of the overall effort to better target and prioritize the EPA's activities.

McCollum Q117: Does Administrator Pruitt believe these programs represent an appropriate role for a federal agency? If not, how does he envision that the private sector will continue to develop product guidelines in partnership with a patchwork of state and local governments and competing businesses?

> **Answer:** President Trump's administration is focusing on core statutes across the federal government. The FY 2018 budget request renews EPA's focus on core legal requirements.
>
> The EPA will explore options for the potential transfer of these programs to non-governmental entities to ensure that the benefits of these programs are maintained.

McCollum Q118: What private organization might take on the breadth and complexity of these programs, is unbiased, can hire and gear up quickly to set up the networks and infrastructure necessary to manage these programs? If none currently exist, isn't it premature to cut the budget of respected and valued programs with great consumer and environmental results?

> **Answer:** The federal government's budget situation requires prioritization in order to accomplish the most important functions. The agency's FY 2018 budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection obligations.
>
> The EPA will explore options for the potential transfer of these programs to non-governmental entities to ensure that the benefits of these programs are maintained.

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Toxics and peer review *(OCSPP/ORD)*

Many state and local governments rely heavily on US EPA's office of research and development's assessments of hazardous chemicals like the Integrated Science Assessments under the Clean Air Act or the IRIS program for toxics to set their clean up levels for hazardous pollutants like known neurotoxins such as lead and carcinogens such as benzene. The current president's budget targets these scientific functions for large cuts.

McCollum Q119: How will EPA increase its support to state and local agencies to perform those scientific assessments on a case-by-case basis?

> **Answer:** Assessment of chemicals, and the authority to manage hazardous chemicals, is now a mandated requirement with the June 22, 2016 passage of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, amending the Toxic Substances Control Act (TSCA). On June 22, 2017, the EPA announced the finalization of a number of procedural framework rules related to chemical prioritization, risk evaluation, and risk management activities. See: https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act-5. Pursuant to these rules and its new authority under TSCA, the EPA expects to engage states and local governments, as well as the general public, on prioritizing chemicals for risk evaluation and conducting risk evaluations in an open, transparent manner consistent with the best available science. In addition, hazard and exposure data, previously held confidential and not available to states, will now be accessible to these governments.
>
> The EPA's Integrated Risk Information System (IRIS) helps the EPA, states, local agencies, and Tribal nations make smart, informed, and thoroughly-researched decisions to protect people's health. Through IRIS, the EPA develops comprehensive, rigorously peer-reviewed scientific assessments. The EPA scientists also produce Integrated Science Assessments (ISAs) that accurately and concisely evaluate a large number of peer-reviewed publications that reflect the latest and most advanced scientific knowledge. These ISAs provide the scientific foundation for the National Ambient Air Quality Standards (NAAQS). They go through a very rigorous and independent peer-review and a public comment period. The EPA's Office of Research and Development will continue to conduct ISAs and IRIS assessments.

McCollum Q120: How will EPA ensure that adequate health protection that follows the health evidence results for all Americans including vulnerable populations like pregnant women, infants, children, and seniors to protect them from these known and emerging hazards?

> **Answer:** The 2016 amendments to TSCA explicitly require the EPA to consider risks to vulnerable populations as part of the process to evaluate chemicals under TSCA. The recently finalized procedural rule on Risk Evaluation reflects this statutory mandate, specifically requiring that the EPA "integrate and assess available information on hazards and exposure for…the chemical substance, including information on specific risks of injury

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to health or the environment and information on potentially exposed or susceptible subpopulations." See preamble, page 6. As defined in TSCA, "potentially-exposed or susceptible subpopulations" means a group of individuals within the general population identified by the EPA who, due to either greater susceptibility or greater exposure, may be at greater risk than the general population of adverse health effects from exposure to a chemical substance or mixture, such as infants, children, pregnant women, workers, or the elderly." 15 U.S.C. 2602(12).

Hazardous Substance: Superfund Account

OAR

McCollum Q121: The budget eliminates funding for Radiation: Protection and states that the EPA will explore alternatives to manage potential radiation risks at Superfund and hazardous waste sites to meet requirements and will explore alternatives to meet its statutory obligation, as mandated by Congress, to implement regulatory oversight responsibilities for Department of Energy activities at the Waste Isolation Pilot Plant facility. Where is this work funded in FY 2018? If there is no funding proposed in the budget, how will EPA meet its regulatory responsibilities?

Answer: As noted, funding in the Radiation: Protection program has been eliminated, and the agency will explore alternatives to address continuing obligations.

McCollum Q122: What is the impact of this work not being done in FY 2018? What are the risks to human health if this work is not done?

Answer: Under this program, the agency will explore alternatives to address continuing obligations. The WIPP program already has protocols in place to protect human health.

OECA

McCollum Q123: The budget states that the Superfund: Enforcement program protects communities by ensuring that responsible parties conduct cleanups. What will be the impact of this cut? How many responsible parties and cleanup sites does the Superfund: Enforcement program identify each year?

Answer: The proposed budget reflects the streamlining of the agency's identification of Potentially Responsible Parties (PRPs), settlement negotiations for cleanup and the recovery of costs when the agency has expended funds for cleanups. The EPA will focus its enforcement resources on the most egregious cases and on sites that most substantially impact human health and the environment. Since the beginning of the program in 1980, the EPA has identified and taken enforcement actions with an average of approximately 1,900 PRPs annually.

OCFO

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McCollum Q124: The budget states that the timeline for modernization of the Superfund Cost Recovery Package Imaging and On-Line System (SCORPIOS) is extended as a result of the budget cut. What is the revised date of completion as a result of the funding cut? How long is the delay? What is the total cost of this project and how much has been funded to date?

> **Answer:** At the funding level requested in FY 2018 President's Budget, SCORPIOS modernization will be completed by Spring 2021, an additional two years from the current anticipated date. The total cost of the project is $4 million of which $760 thousands have been funded for development.

OECA

McCollum Q125: The budget eliminates EPA's financial support to the Department of Justice to assist EPA in prosecuting remediation cases. What is the amount of associated funding that will be eliminated? Will DOJ continue this work without EPA's financial support? How many matters related to remediation cases is DOJ involved with on an annual basis. How many cases of this nature is DOJ currently involved in and what will be the impact of the funding elimination on those cases?

> **Answer:** The amount of funding proposed for elimination is $20.145 million. Under the proposal, DOJ support for Superfund Enforcement would come from DOJ's resources. The EPA may seek to increase use of unilateral administrative orders to achieve cleanups to account for a potentially limited ability to sue potentially responsible parties in federal court. In FY 2016, the DOJ supported 629 enforcement cases. The EPA will work with DOJ to prioritize the most egregious cases.

McCollum Q126: The budget states that there are 174 federal facility Superfund sites, which include many of the Nation's largest and most complex cleanup projects, yet this program is eliminated. How will EPA ensure that appropriate oversight is conducted at these sites? Will the funding elimination affect the timeline of the cleanups and, if so, by how long?

> **Answer:** The EPA has not eliminated the Superfund Federal Facilities Enforcement or the Superfund Federal Facilities Restoration and Reuse programs. The Federal Facilities Enforcement program's resources have been merged with the Superfund Enforcement account and work will continue under that consolidated program project. The Superfund Federal Facilities Restoration and Reuse program, which oversees and provides technical assistance for the protective and efficient cleanup and reuse of Federal Facility National Priorities List (NPL) sites, will continue to work closely with our federal partners to address sites with the most substantial impacts to human health and the environment.

OLEM

McCollum Q127: How much funding does the budget cut for support for the headquarters and regional Emergency Operations Centers? What is the specific impact of these cuts? Will the

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EOCs be staffed by fewer employees? Will the Agency's operational readiness be affected by the resulting impacts to the EOCs and, if so, how?

Answer: Over the last few years, the EPA has invested and remains committed to having agency Emergency Operations Centers (EOCs) remain resilient despite variable budgets. Headquarters and Regional EOCs expect to continue to maintain current response personnel/assets and readiness, although future EOC enhancements and field response equipment upgrades will require additional evaluation before purchase.

McCollum Q128: The budget states that the proposed reduction to the Homeland Security: Preparedness, Response, and Recovery program project will cause the Agency to have to reevaluate the need to use PHILIS and ASPECT for emergency response activities. ASPECT is the nation's only airborne real-time chemical and radiological detection, infrared and photographic imagery platform and it is available to assist local, national, and international agencies supporting hazardous substance response radiological incidents, and situational awareness in the US. PHILIS is the EPA's mobile laboratory asset for the on-site analysis of chemical warfare agent and toxic industrial compound contaminated environmental samples Is EPA considering discontinuing ASPECT and PHILIS? Does the budget request impact operation of ASPECT and PHILIS? If discontinued, how would EPA fill this gap, what platform would conduct this work? How would states and local governments obtain these services?

Answer: The EPA will continue to meet requirements of Homeland Security Presidential Directives. The agency will evaluate PHILIS and ASPECT and will investigate with our partners the availability and suitability of other analytical assets to continue Chemical, Biological, Radiological and Nuclear (CBRN) preparedness and response work.

McCollum Q129: How will this affect workplace morale? Is discontinuing these services consistent with the rest of the federal government?

Answer: The EPA remains committed to its response responsibilities in the event of emergencies. The EPA is not in a position to determine whether this is consistent with other agency budget proposals.

McCollum Q130: The budget cuts $34 million from the Superfund: Emergency Response and Removal program project. How will this cut affect EPA's ability to respond to emergency response actions, removal assessments, and time critical response actions? What won't get done as a result of this reduction?

Answer: The EPA will continue to prioritize and respond to all-hazard cleanups, as required under the Comprehensive Environmental Response, Compensation, and Liability (CERCLA) with resource priority given to emergency response actions. The agency may prioritize non-emergency time-critical and non-time-critical actions.

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McCollum Q131: The budget proposes to cut $167 million or 33% from the Superfund: Remedial program and as a result will have to prioritize resources on NPL sites that present the highest risk to human health. How many NPL sites will not receive funding as a result of the cut? How many new sites will not be listed or have the cleanup process initiated as a result of the cuts?

> **Answer:** The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection with respect to statutory and regulatory obligations. The agency is still in the process of determining what additional sites may be ready to initiate new construction work in FY 2018. In recent years, there has been a dozen or so NPL sites awaiting cleanup funding. In order to speed the pace of cleanups, a Task Force has been created to review best practices and new approaches in dealing with successfully restoring sites to productivity. The Task Force will outline steps to be taken in the near term to more expeditiously and effectively handle remediation of sites.

Leaking Underground Storage Tanks - OLEM

McCollum Q132: The budget request cuts $16 million from LUST Cooperative Agreements, which support states in managing, overseeing, and enforcing cleanups at LUST sites. The budget request also eliminates fund for LUST Prevention. What will be the resulting cut to each state? How many fewer LUST cleanups will occur due to the cuts? How much of a states' budget for LUST cleanups does this funding represent? How many fewer inspections will occur?

> **Answer:** The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection with respect to statutory and regulatory obligations. The EPA will work with state partners to provide flexibility to address priorities. The amount of change for each state varies with the overall allocation received. Each state determines its individual contribution to the effort and the agency does not have visibility into those amounts. LUST funding changes will be part of the grant workplan development when our final FY 2018 funding is in place.

Pollution Prevention - OCSPP

The budget proposes to eliminate work in several EPA offices authorized under the Pollution Prevention Act, which was enacted in 1990 to focus industry, government and public attention on reducing the amount of pollution through cost effective changes. It also eliminates EPA's pollution prevention work under the Clean Air Act, Section 7401(c), of which the "primary goal is to encourage or otherwise promote … actions…for pollution prevention."

McCollum Q133: The budget justifies significant reductions and program eliminations as the Agency refocusing on core work. Under Administrator Pruitt's leadership, does EPA consider pollution prevention part of EPA's core statutory work?

Answer: The EPA has made great strides in carrying out the intent of Congress to encourage reductions in the generation, use and release of hazardous substances while helping businesses reduce operational costs. While resources and FTE have been proposed for elimination for the Pollution prevention program in the FY 2018 President's budget, based on previous investments in P2 solutions, partners are expected to be able to continue to share best practices and seek additional pollution prevention solutions. Within the EPA, programs implementing environmental laws will continue to pursue approaches that prevent pollution at the source. For example, pollution prevention has, and is expected to be, a key tool in implementing the Toxics Substances Control Act, as amended in 2016, which requires the EPA, in promulgating rules to mitigate unreasonable risk, to consider technically and economically feasible alternatives that benefit health or the environment (TSCA Section 6(c)(2)C),

Marine Pollution - **OW**

The budget proposes to eliminate the Marine Pollution Program. EPA is responsible for managing, along with the Army Corps, ocean disposal of sediments dredged from our ports, harbors and shipping channels to maintain the safe passage of military, commercial, and recreational vessels. EPA helps to ensure that radioactive waste, toxic chemicals, and sewage sludge that directly affect human health are not dumped into our coastal and ocean waters.

McCollum Q134: What is the impact of this proposed elimination on the health of the marine ecosystem? By how much will the percent decline of active dredged material ocean dumping sites achieving environmentally acceptable conditions?

> **Answer:** The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection. This budget provides the direction and resources to return the EPA to its core mission of protecting human health and the environment. The EPA will seek opportunities to continue to meet statutory mandates, including those of the Marine Protection, Research, and Sanctuaries Act (MPRSA), to the extent possible within the Surface Water Program.

McCollum Q135: How will the proposed cuts affect data collection and maintenance?

> **Answer:** The EPA will seek opportunities to continue to meet statutory mandates, including activities pursuant to the MPRSA such as development of site management and monitoring plans, to the extent possible within the Surface Water Program.

McCollum Q136: State and local governments will be directly impacted by degradation of their coastal resources, however, these entities do not have authority over ocean dumping in marine waters. If the marine program is eliminated as requested, how will EPA prevent, monitor, and control pollution in those waters?

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Answer: The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection. This budget provides the direction and resources to return the EPA to its core mission of protecting human health and the environment. The EPA will seek opportunities to continue to meet statutory mandates, including those of MPRSA, to the extent possible within the Surface Water Program.

Drinking Water - OW

Just last year we had a public health disaster in Flint, Michigan, where local residents were exposed to dangerously high levels of lead in their drinking water. Yet, the budget proposes to cut the drinking water program funding by 17 percent and the Public Water System Supervision Categorical Grant program by 30 percent.

McCollum Q137: How will these proposed reductions impact the States' abilities to provide technical assistance to owners of public water systems?

Answer: While funding is reduced for the Public Water System Supervision program, the EPA will work with states and tribes to target the remaining funds to core statutory requirements while providing states and tribes with flexibility to best address their particular priorities. In FY 2018, the EPA will provide funds to support state and Tribal efforts to assist water systems in meeting existing drinking water regulations and in working to develop the financial and managerial capacity needed to protect federal investments that remedy aging or inadequate infrastructure (e.g., pipe replacement to prevent failures in distribution systems; installation of treatment to remove harmful drinking water contaminants). The EPA will encourage states to use grant funds to focus, to the extent possible, on the most immediate challenges public water systems are facing today that impede their ability to properly operate and maintain their infrastructure to protect public health and achieve long-term sustainability. These challenges include difficulties achieving readiness to obtain financial assistance, limited access to well qualified and experienced utility personnel, and lack of technical expertise and managerial capacity.

McCollum Q138: How will the proposed cuts affect data collection and maintenance?

Answer: Funding in the FY 2018 President's Budget request supports the completion of Safe Drinking Water Information System (SDWIS) modernization with the release of SDWIS Primacy Agency (Prime) and the initiation of support for state and Regional transition to SDWIS Prime.

In FY 2016, the EPA released the Compliance Monitoring Data Portal (CMDP) enabling drinking water utilities and laboratories to report data electronically to primacy agencies with fewer errors and in a more efficient manner. The portal will increase data accuracy and completeness and could decrease the overall reporting burden for primacy agencies by hundreds of thousands of hours. Primacy agencies can use the portal-reported data to make

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more informed decisions about water system compliance and focus their limited resources on preventing and responding to public health problems. In FY 2017, the EPA is assisting primacy agencies in transitioning to and utilizing CMDP, and will continue this assistance in FY 2018.

In FY 2018, the EPA will continue work with states to develop SDWIS Prime. SDWIS Prime is a centralized infrastructure technology system that will replace SDWIS State (the management and reporting tool used by 43 state drinking water programs) and other systems that are hosted and operated separately by each primacy agency. The EPA also will work with states to initiate their transition to SDWIS Prime. Benefits of this transition to SDWIS Prime include improvements in program efficiency and data quality, greater public access to drinking water data, facilitation of electronic reporting, reductions in reporting burdens on laboratories and water utilities, reductions in data management burden for states, and ultimately reduction in public health risk.

McCollum Q139: What will be the impact of the reductions on laboratory certification and sample analysis?

Answer: States have the primary responsibility for certification and oversight of the commercial and municipal laboratories that generally analyze compliance-monitoring samples for PWSs. Some states also operate their own laboratories for the analysis of compliance-monitoring, investigatory-, and incident-response samples. Public Water System Supervision grants provide states with resources to assure timely and accurate compliance monitoring, respond to violations that may impact public health, and share results with the public. States will determine the relative support to provide to their areas of responsibility such as laboratory certification and sample analysis. Additionally, funding for the Unregulated Contaminant Monitoring Rule (UCMR) is not reduced and provides critical implementation support for emerging-contaminant occurrence data collection. This includes support to labs that conduct Unregulated contaminant occurrence monitoring (UCMR) and sample analyses for the nations' small public drinking water systems (PWS), as well as support training for Regional and State Certification Officers and technical support/troubleshooting to Regions, states, and laboratories.

McCollum Q140: How will the proposed cut impact EPA's training and technical assistance to States, tribes, and public water systems for compliance with Safe Drinking Water Act regulations?

Answer: The FY 2018 budget assumes that the EPA will streamline and prioritize support activities such as training and technical assistance to states, tribes, and public water systems for compliance with Safe Drinking Water Act regulations. The EPA will target its support as outlined: the agency will continue to work with states and tribes to implement requirements for all National Primary Drinking Water Regulations (NPDWRs) which require that systems install, operate, and maintain appropriate levels of treatment and effectively manage their distribution systems. In particular, the EPA will continue to focus

on working with states to optimize corrosion control treatment to minimize exposure to lead. The EPA also will continue to require states to report violations data at all public water systems for all rules, including requirements to protect against Cryptosporidium, to control disinfection byproducts, and to implement the Revised Total Coliform Rule.

In addition, the EPA will continue to focus on small systems by strengthening and targeting financial assistance, in coordination with state infrastructure programs, to support rehabilitation of the nation's infrastructure. The agency also will look for ways to promote partnerships among water systems to build capacity and work with states and tribes, as well as with utility associations, third-party technical assistance providers, and other federal partners, to promote the sustainability practices that are the foundation for building technical, managerial, and financial capacity, known as Capacity Development.

McCollum Q141: According to the budget request, in FY 2016, nearly ten percent of the population served by Community Water Systems received drinking water that did not meet all applicable health-based drinking water standards. How will these proposed cuts affect EPA's ability to address on-going compliance challenges? What activities will be reduced?

Answer: The 1996 Safe Drinking Water Act (SDWA) Amendments established a strong emphasis on enhanced water system management to achieve and maintain technical, managerial, and financial (TMF) capacity of the nations' drinking water systems. EPA resources and grants that states use to implement the drinking water program will primarily target small systems that lack the capacity to comply with health based drinking water standards. While most small systems consistently provide safe and reliable drinking water to their customers, many small systems face challenges with aging infrastructure, complying with regulatory requirements, workforce shortages and high staff turnover, increasing costs, and declining rate bases. In FY 2016, small community water system violations made up 94 percent of overall violations; however, in Indian Country, only 88 percent of the population served by CWSs received drinking water that met all applicable health-based standards. The EPA will continue to focus on small systems by strengthening and targeting financial assistance, in coordination with state infrastructure programs, to support rehabilitation of the nation's infrastructure. The agency also will look for ways to promote partnerships among water systems to build capacity and work with states and tribes, as well as with utility associations, third-party technical assistance providers, and other federal partners, to promote the sustainability practices that are the foundation for building technical, managerial, and financial capacity.

Research and Development - ORD

The EPA laboratories are resources for EPA as well as states, tribes, municipalities, and other federal agencies.

McCollum Q142: At the proposed funding levels in the FY 2018 budget request, how will EPA retain the expertise of the scientists at these laboratories? Does the Agency intend to close any of the labs?

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Answer: The EPA will endeavor to retain its workforce with the proper distribution of skills. In addition, the EPA will carefully review its footprint and continue efforts to reconfigure the EPA's workspaces in order to release square footage and reduce long-term rent. This also will include laboratory spaces.

National Vehicle and Fuels Emission Laboratory *(OAR)*

The National Vehicle and Fuel Emissions Laboratory (NVFEL), located in Ann Arbor, Michigan, is an integral part of the EPA Office of Transportation and Air Quality. Through this program EPA develops, implements, and ensures compliance with national emission standards to reduce mobile source related pollution and ensure air quality benefits and fair competition in the marketplace.

McCollum Q143: The budget request notes that there is an increased demand for the outcomes from this program, but proposes reducing the program by $17 million. Has EPA analyzed the resultant economic impact on manufacturers or the health and economic impact on consumers' from this proposed reduction of work?

Answer: The EPA's Back-to-Basics agenda aims to refocus the agency on its core mission of protecting the environment through sensible regulations developed in cooperation with state, local, and Tribal partners. The agency will continue to perform its compliance oversight functions on priority matters. In FY 2018, the agency will conduct compliance oversight tests where there is evidence to suggest noncompliance.

OAR

McCollum Q144: The Lab's work also protects industry by ensuring all automakers play by the same rules and to hold companies accountable that gain an unfair and illegal competitive advantage. Engineers at this Lab were instrumental in uncovering evidence on Clean Air Act violations that led to Volkswagen paying billions of dollars to their customers and to mitigate for pollution emitted from their cars and the current lawsuit against Fiat Chrysler and discrepancies in its auxiliary emission control devices. How would the proposed reduction impede the oversight that results from the work of this Lab?

Answer: In FY 2018, the agency will focus its efforts on certification decisions. The agency will continue to perform its compliance oversight functions on priority matters; and will conduct compliance oversight tests where there is evidence to suggest noncompliance.

McCollum Q145: In order to meet the demand from the auto industry, how will EPA fill the funding gap that would result from the proposed reduction? Does EPA intend to create new user fees for the lab above the ones that the industry already pay?

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Answer: In FY 2018, the agency will focus its efforts on certification decisions. The agency also will assess the capabilities of new and current vehicle technologies and focus efforts to detect violations of clean air standards in a more efficient matter. New user fees are not included in this budget request.

(OAR)

McCollum Q146: In March, EPA issued a notice of intent to reconsider the final determination on the appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards. At the proposed budget levels, how does EPA intend to conduct the analysis that this reconsideration will entail?

Answer: The EPA will utilize the available resources to conduct the reconsideration of the Model Year 2022-2025 standards Mid-term Evaluation Final Determination. The EPA will not only make use of its data and analysis, but also information from stakeholders, federal and state partners, and other resources to support the reconsideration process.

McCollum Q147: What are the next steps in the process?

Answer: The Administrator intends to make a new Final Determination no later than April 1, 2018; in accordance with the EPA's regulations governing the Mid-term Evaluation process.

McCollum Q148: Will EPA officially withdraw the final determination? If so, when?

Answer: The Administrator announced in March 2017, his intention to reconsider the January 2017 Final Determination and his plans to issue a new Final Determination no later than April 1, 2018.

McCollum Q149: Will there be another proposed determination and public comment period?

Answer: The Administrator intends to make a new Final Determination no later than April 1, 2018; in accordance with the EPA's regulations governing the Mid-term Evaluation process. The EPA will follow applicable notice and comment procedures.

McCollum Q150: Will EPA and NHTSA produce another Technical Assessment Report? If so, does the proposed FY18 EPA budget provide enough resources to ensure a robust assessment?

Answer: Through prioritization of activities, the EPA expects to have adequate resources to conduct the analysis that this reconsideration will require.

Eliminating Programs
Great Lakes - OW

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The Great Lakes support a $7B annual fishing industry and over 40 million people in this region depend on the Lakes for drinking water. Ecologically healthy lakes are necessary for the lakefront and recreational opportunities the Lakes provide for millions of people which contributes to local economies. Yet the FY 2018 budget shortsightedly proposes to eliminate $300 million for the Great Lakes Restoration Initiative. This reduction will impact cleaning up toxic algae, phosphorus from sewage treatment plants, and other pollutants that threaten water supplies and make it dangerous to eat the Lakes' fish. It is will also jeopardize the work of Federal agencies, states and stakeholders to address invasive species like Asian carp.

McCollum Q151: How does EPA justify eliminating this program, and the many other geographic programs like it that are critical for healthy regional ecosystems?

> **Answer:** This program elimination is part of the Administration's overall goal to return the responsibility for regional and local environmental work to state and local entities. The FY 2018 President's Budget request focuses on funding core programs with a national scope. The EPA will encourage the eight Great Lakes states, Tribal, and local entities to continue to make progress in restoring the Great Lakes from within core water programs.
>
> The Great Lakes are an important part of the U.S. fresh water supply, and the EPA is committed to improving environmental conditions and human health for Americans that live and work in the Great Lakes region. The EPA will continue to engage in meaningful discussions with Congress and with stakeholders in the region about how shared environmental goals related to the Great Lakes can be achieved.

McCollum Q152: Why aren't protecting these irreplaceable resources considered a basic function of EPA?

> **Answer:** The Great Lakes Restoration Initiative is a regional program that is designed to protect and restore a very important resource. The FY 2018 President's Budget request focuses on funding core programs with a national scope and returns the responsibility for regional and local environmental work to state and local entities.

McCollum Q153: The Great Lakes effort is a multi-state effort which benefits from federal funding and staff support. Absent federal participation which encourages a collaborative effort to clean up ecosystems that span more than one state, what does EPA envision these efforts will look like moving forward?

> **Answer:** The EPA will encourage the eight Great Lakes states, Tribal, and local entities to continue to make progress in restoring the Great Lakes from within core water programs while continuing to engage with Congress and stakeholders in the region about how shared environmental goals can be achieved.

McCollum Q154: If funding is eliminated as proposed, how will EPA handle projects which are and could be in the middle of sediment remediation? Is there any risk that halting work could result in an environment hazard more dangerous than if the work had not been initiated?

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Answer: The EPA anticipates that at least one project will be under active sediment remediation at the beginning of FY 2018. This ongoing phase of work is fully funded. The EPA will work to minimize costs and environmental risks as work on the project ramps down.

McCollum Q155: What would happen to projects which are recently completed but may be in the warranty work phase where habitat restoration or continued treatment for invasive species is being carried out? Sometimes these activities continue for 2-3 years. If this work is stopped, wouldn't the full benefit of the investment be lost?

Answer: The EPA anticipates that at least five projects will be in the warranty work phase at the beginning of FY 2018. This ongoing phase of work is fully funded. The EPA will work to minimize costs and environmental risks as work on the projects ramps down.

McCollum Q156: How would EPA manage the internal support contacts and the contract with Cetacean Marine associated with the maintenance and operation of the research vessels Lake Guardian and Mudpuppy II?

Answer: Unless the internal support contracts were terminated, which would be done through a negotiation process with contractors, the EPA would need to add to the workload of staff who already are fully engaged in management of other contracts.

McCollum Q157: What would be the associated costs of ceasing operations of the Lake Guardian and Mudpuppy II? Would the vessel be put into dry dock or would EPA dispose of it?

Answer: The EPA is still evaluating options for the Lake Guardian and the Mudpuppy II. Once final decisions are made, costs would be determined through a negotiation process with the contractors.

Managing Environmental Protection
Merging Regional Offices

Office of Budget with OARM, OLEM

It has been reported that EPA is conducting an analysis regarding merging regional offices that is due to the Office of Management and Budget on June 15, 2017.

McCollum Q158: How would EPA plan to continue the Agency's close working relationship with states, with less regional staff and more distance involved?

Answer: The EPA's FY 2018 budget request includes 5,400 FTE in the regions to continue to implement core environmental protection with respect to statutory and regulatory obligations. This can be accomplished by engaging with state, local, and tribal partners to create and implement sensible regulations that also work to enhance economic growth.

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EPA continues to prioritize its relationship with states and will continue to invest in this relationship.

McCollum Q159: What are the specific health impacts and environmental impacts of closing regional offices? How will these closures affect EPA's mission to enforce environmental laws and otherwise protect the environment and human health?

Answer: The FY 2018 budget request does not propose to close any EPA regional offices.

McCollum Q160: Please outline in detail the costs to close these facilities and how EPA expects to absorb these costs within the proposed budget, including both the real estate costs of facility closure and the costs of personnel separations.

Answer: The FY 2018 budget request does not propose to close any EPA regional offices.

McCollum Q161: How would EPA manage an immediate disaster response to a natural disaster, industrial accident, or terrorist attack affecting our environment that adequately and rapidly coordinates federal, state and local first responders, environmental agencies, law enforcement and others, in the total absence of a nearby regional EPA office?

Answer: The FY 2018 budget request does not propose to close any EPA regional offices.

McCollum Q162: How would EPA replace the on-the-ground knowledge, technical expertise and leadership in these regions, so essential to developing an acceptable resolution when a company is charged with a violation, to ensure that environmental compliance?

Answer: The FY 2018 budget request does not propose to close any EPA regional offices.

Combined Heat and Power Partnership - OAR

The Combined Heat and Power Partnership provides technical support, makes business-to-business connections, and issues achievement awards to its roughly 400 partners. Since its launch, the Partnership has been credited with supporting roughly one-third of CHP installations. These projects slash energy use and costs, making their hosts more competitive and cutting carbon emissions. They also make our energy infrastructure more reliable, since CHP projects can keep the lights on when the grid goes down.

More than 100 businesses, advocates and associations – including Ameresco, Siemens and Solar Turbines – have joined a letter reaffirming the great value of the CHP Partnership and of CHP itself.

McCollum Q163: Given the Administration's commitment to improving our industrial competitiveness compared to our international competitors – and the great support that the CHP Partnership has provided since 2002, why does the Administration want to eliminate it?

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Answer: The EPA will explore options for the potential transfer of the CHP Partnership Program to non-governmental entities

Environmental Monitoring - OAR

The EPA tracks changes in nitrogen deposition and sulfur deposition to assess the effectiveness of the Acid Rain Program and related programs. The agency also tracks changes in surface water acidity in lakes and streams in acid sensitive regions to assess the change in the number of chronically acidic water bodies. The Administration budget proposes that EPA close seven of 59 EPA-sponsored CASTNET monitoring sites (six on Tribal lands) and seven of EPA's 32 National Atmospheric Deposition Program sites.

McCollum Q164: How will this reduce EPA's ability to measure the results of the Acid Rain Program and related programs?

Answer: Under the proposed FY 2018 funding levels, the agency would close seven of 59 EPA-sponsored CASTNET monitoring sites including six on Tribal lands. The agency would also close seven of the EPA's 32 National Atmospheric Deposition Program sites. In both instances, the sites are newer, meaning long-term trend data will continue to be available. The EPA will base its assessment on the remaining monitoring sites.

Elimination of Alternative Dispute Resolution - OGC

McCollum Q165: What are the benefits of EPA's use of alternative dispute resolution, and what analysis has EPA done that indicates program offices are able to conduct ADR on their own, without support?

Answer: EPA's use of alternative dispute resolution (ADR) has been shown to save time and money, and result in improved outcomes. These benefits have been documented in a variety of studies and peer-reviewed literature. EPA Regional and program offices will continue to pursue ADR support services and training on an as needed decentralized basis.

Climate Change: GAO High Risk Area *(OAR)*

McCollum Q166: According to EPA's budget, in 2013, the Government Accountability Organization designated climate change as a "High Risk" area, noting that climate change poses management challenges for the federal government at large, and that the EPA will play a role in addressing this challenge. Since the budget request eliminates 91% of the climate change funding, what role will the Agency play in addressing this challenge?

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Answer: Through this budget, the EPA has laid out a strategy to maintain core environmental protection with respect to statutory and regulatory obligations. This budget provides the direction and resources to return the EPA to its core mission of protecting human health and the environment.

Clean Power Plan *(OAR)*

McCollum Q167: What is EPA's plan to provide the same level of greenhouse gas emissions reductions as the Clean Power Plan and other rules the Agency plans to reexamine?

Answer: The Supreme Court ruled, in *Massachusetts v. EPA*, that the EPA has the authority to regulate carbon dioxide as an air pollutant under the Clean Air Act. Congress as a body, however, has not weighed in on the question about whether the agency is obligated to regulate carbon dioxide.

Pursuant to the Presidential Executive Order on Promoting Energy Independence and Economic Growth, the agency is reviewing several regulations and, if appropriate, will initiate reconsideration proceedings to suspend, revise, or rescind these rules.

McCollum Q168: When does EPA anticipate its review of the Clean Power Plan will be completed as every passing month delays the important emission reductions this plan was designed to achieve?

Answer: The EPA is reviewing the Clean Power Plan and, if appropriate, will as soon as practicable and consistent with law, initiate provisions to suspend, revise, or rescind the rule.

McCollum Q169: Is EPA planning to extend the administrative stays of any other regulations that reduce greenhouse gases from stationary sources which it is currently reviewing?

Answer: The President has directed agencies to review existing regulations that potentially burden the development of domestic energy resources; and appropriately suspend, revise, or rescind regulations that unduly burden the development of U.S. energy resources beyond what is necessary to protect the public interest or otherwise comply with the law. The review is ongoing.

Ozone - OAR

McCollum Q170: Ozone is the main component in smog and has been scientifically proven to aggravate lung diseases, increase the frequency and severity of asthma attacks, and reduce lung function. EPA estimated that the benefit of an updated standard of 70 parts per billion will yield health benefits of $13 billion each year. However, Administrator Pruitt has delayed the compliance deadline by a year. What will be the health impact and additional cost to the public of this delay?

Answer: The Administrator has determined that there is insufficient information to complete area designations for the 2015 ozone standards and is extending the deadline by one year, until October 1, 2018. Additional time will allow the EPA to further evaluate a host of complex issues regarding the 2015 ozone NAAQS and its implementation, such as further understanding the role of background ozone levels and international transport; to develop additional flexibilities for states to comply with the ozone NAAQS; and to consider completely all designation recommendations provided by state governors, including full consideration of exceptional events impacting designations.

Chlorpyrifos *(OCSPP)*

Administrator Pruitt, during your testimony to our subcommittee you stated that the USDA had a differing opinion from the EPA's scientists on the dangers of chlorpyrifos. You sided with the USDA in that disagreement when you rejected the petition to revoke food tolerances of chlorpyrifos.

McCollum Q171: What scientific evidence and peer-reviewed studies were the basis of the USDA's conclusions? Do they have data that shows there is a safe level of exposure to chlorpyrifos, particularly for children and pregnant women? Who determined that the USDA's science is more reliable or valid than the EPA's, and what process or standards did they use to come to that conclusion?

Answer: The EPA received numerous comments raising concerns with the analysis EPA issued for public comment in November 2016 as part of the chlorpyrifos tolerance revocation rulemaking process. Among those concerns were comments submitted by the U.S. Department of Agriculture, available at: https://www.regulations.gov/document?D=EPA-HQ-OPP-2015-0653-0648. USDA's concerns mirrored similar comments submitted by other stakeholders, leading the EPA to conclude that, despite several years of study, the science addressing neurodevelopment effects remains unresolved and that further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos.

McCollum Q172: The EPA has historically consulted with the USDA on pesticide related issues, but your testimony indicated that the USDA now has the power to overturn the conclusions of the Agency's own scientists. Has the USDA been elevated to the role of overseeing any decisions on pesticides under the Trump Administration? If so, who issued and approved of this guidance.

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Answer: The EPA has historically consulted with the USDA on pesticide related issues and continues to do so. The EPA engages USDA, as well as its other Federal partners, in a collaborative manner to achieve regulatory decisions that reflect transparency and sound science. The EPA routinely seeks USDA's input on pesticide-related issues, and routinely uses USDA data (e.g., NASS use survey information) to inform our risk assessments and regulatory decisions.

OCSPP

McCollum Q173: The mission of the USDA is very different from the mission of the EPA. The USDA's mission is to provide leadership on food, agriculture, natural resources, rural development, nutrition, and related issues. The EPA's mission is to protect human health and the environment. Is the protection of human health and the environment still the mission that is guiding decisions on pesticide use under your leadership?

Answer: Yes, under the authorities of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); as amended by the Food Quality Protection Act of 1996, the Endangered Species Act (ESA), and the Pesticide Registration Improvement Renewal Act (PRIA), the protection of human health and the environment is still the mission guiding decisions on pesticide use.

Environmental Impact on Children's Health

It is estimated that 88% of the existing global burden of disease attributable to climate change occurs in children younger than 5 years old in both industrialized and developing countries. Climate change is currently affecting child health through increased heat stress, decreased air quality, altered disease patterns of some climate-sensitive infections, physical and mental health effects of extreme weather events, and food insecurity in vulnerable regions. Outdoor air pollution is linked to respiratory problems in children, including decreased lung function, coughing, wheezing, frequent respiratory illness, and asthma exacerbation. Children bear the burden of negative health outcomes resulting from exposure to pollutants across their lifespan.

(OAR)

McCollum Q174: The EPA has put a hold on efforts to make our air cleaner by pausing work on the ozone standard and the Clean Power Plan. Is the EPA calculating the costs to children and their families from all of the health effects of polluted air and accelerated climate change?

Answer: The EPA has paused several efforts in order to evaluate a host of complex issues. The Administrator has determined that there is insufficient information to complete area designations for the 2015 ozone standards and is extending the deadline by one year, until October 1, 2018. In addition, the EPA is reviewing the Clean Power Plan and, if appropriate, will as soon as practicable and consistent with law, initiate provisions to suspend, revise, or rescind the rule. Within the statutory boundaries, there are a number of factors to consider when revising federal rules, including costs, implementation issues, and the appropriate balance between state and federal authority.

(OA)

McCollum Q175: As the EPA Administrator overseeing this regulatory review, are you consulting with pediatric associations, patient organizations, or other representatives for children's health to determine the cost burdens that rolling back these regulations would place on impacted families and our health care system as a whole?

> **Answer:** The EPA has a Children's Health Protection Advisory Committee whose charter was renewed in June of 2017. The duties of this Advisory Committee are to provide advice and recommendations to EPA on policy issues associated with regulations, economics, and outreach/communications to address prevention of adverse health effects to children, and improve the breadth and depth of analyses related to these effects. Many of the members are from pediatric associations and other representatives of children's health.

McCollum Q176: How will the benefits to children of strong environmental regulations be weighed in comparison to the costs to some businesses of meeting those regulations in any final decisions?

> **Answer:** The EPA does not conduct benefit risk analyses specifically for children.

Tribal Treaty Rights and Tribal Consultation - OITA

In February 2016, the Agency finalized the "EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights". That Guidance begins with the statement that, "EPA recognizes the importance of respecting tribal treaty rights and its obligation to do so."

McCollum Q177: Does the Agency intend to continue to implement this Guidance under your leadership? Does the Agency continue to stand by the conclusion that you have an obligation to protect treaty rights and consult with tribal nations if those rights may be impacted by a proposed EPA action?

> **Answer**: The agency will continue to follow the law as it relates to tribal treaty rights and believes that the Guidance, which complements the EPA's existing tribal consultation policy, serves as a framework to inform the EPA's actions and decisions.
>
> The U.S. Constitution defines treaties as part of the supreme law of the land, with the same legal force as federal statutes.

McCollum Q178: The Guidance states that, "As part of its commitment, EPA will emphasize staff training and knowledge-sharing on the importance of respecting tribal treaty rights in order to better implement this Guidance". What training has been done for staff on this topic since you

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were confirmed as Administrator? Does the Agency intend to provide such training in the future?

> **Answer:** The EPA's American Indian Environmental Office, within the Office of International and Tribal Affairs, has hosted a number of trainings on the *EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* in 2017, and continues to work with our Regional and National offices to schedule more training opportunities for EPA staff.
>
> In addition to our specific training on treaty rights, the agency requires all staff to take a short training course every two years on "*Working Effectively with Tribal Governments*" which includes information on treaty rights. This training is required of all staff in FY 2017.

McCollum Q179: Is the Agency engaging in formal tribal consultation during the review of regulations that you are currently undertaking? What efforts is the Agency undertaking to evaluate the impact that any changes to existing regulations may have on tribal treaty rights throughout the nation?

Answer: The agency hosted two tribal-specific national outreach calls for tribal governments to provide their input into our regulatory reform agenda. The calls included EPA representatives from each of the major program offices. EPA also invited tribes to participate in the five other media-specific public meetings. As the agency continues to work through the input received from tribes and other stakeholders, the agency will work with the EPA's American Indian Environmental Office and other program offices on appropriate next steps.

McCollum Q180: Tribal nations rely on many EPA grants and programs to protect their treaty rights and maintain the environmental health of the ecosystems that support their hunting, fishing, and gathering rights. Has the Agency engaged with tribal nations following the release of the Fiscal Year 2018 budget about the decision to cut funding for programs across the Agency that tribes rely on such as the Indian General Assistance Program, the State and Tribal Assistance Grants, the Great Lakes Restoration and Puget Sound geographic programs, and others? Are you consulting with tribal leaders around planning for implementation of this budget? Are you seeking tribal input on investments needed to protect tribal treaty rights as you develop your Fiscal Year 2019 budget?

> **Answer:** Annually, the EPA's senior leadership, including the EPA Administrator, meets with the National Tribal Caucus (NTC) to discuss planning and budget priorities. The NTC is a national body of elected officials and other representatives of federally recognized tribes. Members are selected by tribes in each EPA region to represent the perspectives of tribes within their regions. The NTC's primary focus is to identify and address tribal environmental issues that are national in scope, cross-agency, or cross-media in nature, or that may be emerging or urgent. The NTC executive committee met

with Administrator Pruitt (April 2017) and plans are underway to have the full NTC meeting with the EPA's senior leadership this fall.

The agency is currently undergoing tribal consultation on the FY 2018-2019 National Program Guidance. These planning documents describe how the EPA will carry out the agency's strategic direction and annual budget by providing operational direction to the EPA regions, states and tribes on implementing environmental and human health protection programs.

McCollum Q181: Please provide the Committee with a detailed list of all efforts to engage in tribal consultation. Additionally, please provide the Committee with a detailed analysis of the current funding that the EPA distributes to tribal nations across all accounts and grants, and how the cuts proposed in the Trump Administration FY18 budget would affect it.

Answer: The EPA maintains a listing of all on-going tribal consultations on its tribal consultation web site, https://tcots.epa.gov. To date, EPA has engaged in over 400 consultations with tribal governments since the issuance of its consultation policy in 2011. Funding varies across programs depending on specific requirements of the statutes and allocations. OITA funding changes will be part of the grant work plan development when the agency FY 2018 funding is in place.

Questions from Ms. Pingree:

Brownfields - OLEM

An EPA program that is of vital importance to the communities of New England and Maine in particular, is the Brownfields program. The capital raised through Brownfields investments has been extremely effective in turning community liabilities into assets throughout the state. And EPA itself has told us that brownfields leverage $17 dollars for each dollar spent.

Pingree Q1: When you have publically supported the work of this program, why would this Administration turn away from the Brownfields program that leverages its funds so efficiently with a $17 to $1 return on investment?

Answer: The agency remains committed to this important program. Under the FY 2018 President's Request, approximately 834 sites will be assessed, 111 sites will be cleaned up, and 5,865 jobs and $1.1 billion will be leveraged. Additionally, grant supported state and Tribal response programs will oversee the cleanup at approximately 26,032 properties, making over 90,000 acres ready for reuse.

National Estuary Program - OW

One of the programs that you have at EPA that is relatively small in the scope of your budget, but that brings critical funds to coastal communities is the National Estuary Program. The work that they are doing on the ground in habitat restoration and protection helps in the 28 watersheds nationwide.

One of those critical watersheds is in Maine, the Casco Bay Estuary. They work with partners across Southern Maine to monitor our watershed in the Casco Bay and to use the data they find to help our fishermen, and our communities. But under your budget proposal, the program is proposed for elimination and the funds are not repurposed elsewhere but the work of this program will be entirely gone. On average, the NEPs raise $18 for every $1 provided by EPA.

Pingree Q2: Why does the FY 2018 budget propose to eliminate the NEP which provides such a clear benefit to the American taxpayer?

> **Answer:** The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection with respect to statutory and regulatory obligations. The EPA will continue to encourage the National Estuary Programs (NEPs) to make progress implementing their Comprehensive Conservation Management Plans (CCMP) from within core water program

Wood Heater Standards - OAR

Pingree Q3: Can you provide for the record information and status of the EPA's New Source Performance Standards for New Residential Wood Heaters given that there is a May 2020 effective date for Step 2 of this rule?

> **Answer:** The EPA set a two-phased New Source Performance Standard (NSPS) for residential wood heaters. The 2015 rule phased in standards for new heaters over five years. Existing wood heaters are not affected by the 2015 rule. Step 1 went into effect in 2015 and was widely accepted by industry. Step 2 has a 2020 effective date, and two impacted industry stakeholders have challenged the rule on the basis of technical and legal concerns. The EPA is considering the concerns raised by stakeholders and will consider all options as they relate to the existing rule.

EPA Water Sense Program - OW

Pingree Q4: Given that fact that many business and citizens were affected by drought and water supply shortages in recent years, and given the proposed cuts to programs at EPA such as Energy Star and Water Sense, how will the EPA continue to support economic development that is based on significant water savings in drought stricken areas?

> **Answer:** The FY 2018 President's Budget request for the EPA reflects the success of environmental protection efforts, a focus on core legal requirements, and the important role of federal-state partnerships in implementing the nation's environmental laws. The

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voluntary WaterSense program is proposed for elimination in the President's Budget request as part of the overall effort to better target and prioritize the EPA's activities

Toxics Funding - ORD

Pingree Q5: Given the 31 % cut to the Chemical Safety for Sustainability research program, what are the potential impacts on the research and evaluation of human health effects of chemicals?

Answer: The Chemical Safety and Sustainability (CSS) program provides methods, data, information, and tools enabling more informed, timely decisions about chemicals; many of which, have not been thoroughly evaluated for potential risks to human or ecological health. CSS products currently inform agency program offices responsible for the implementation of TSCA, SDWA, and CERCLA. Products provided by CSS inform agency and state decisions related to chemical safety and the protection of public health and the environment.

The proposed reductions in the FY 2018 President's Budget will impact ORD's ability to meet its statutory obligations in a timely manner.

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Questions from Mr. Kilmer:

EPA Ecolabel Program - OCSPP

In 2015, the EPA issued procurement recommendations for forest products that discriminated against two recognized and credible forest certification standards - the Sustainable Forestry Initiative (SFI) and the American Tree Farm System (ATFS) – thereby excluding forest products produced from hundreds of millions acres of private, state, and federal forestlands. These recommendations were also inconsistent with the USDA's Biopreferred Program, which puts all forest certification programs on a level playing field. The Fiscal Year (FY) 2017 Consolidated Appropriations Act directed EPA to provide a report to the Committee within 60 days regarding the current state of the agency's Ecolabel program. The Committee also recommended that in developing the guidelines to evaluate eco labels that are used in Federal purchasing for building construction and other uses, the EPA should be fair, transparent, and consistent with other product requirements.

Kilmer Q1: What is the anticipated timing for the completion of the report called for in the FY 2017 Consolidated Appropriations Act?

> **Answer:** The agency has been working to meet this new requirement. The report is currently in draft and undergoing EPA management review. Interagency review is required before the report is finalized.

Kilmer Q2: Please outline the steps EPA will take to ensure that guidelines for the Ecolabel program will be developed in a transparent manner, inclusive to all certified sustainable US grown and manufactured forest products, and consistent with existing federal procurement policies like the USDA's Biopreffered program.

> **Answer:** 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. The Fiscal Year 2018 President's Budget eliminates funding for the Pollution Prevention program; the program-project under which Ecolabels activities are funded.

Energy Star - OAR

EPA has a voluntary, non-regulatory, partnership program with private and public property owners called ENERGY STAR for buildings. Foundational to the program is an energy management and tracking tool developed and maintained by EPA called "Portfolio Manager" that enables properties to measure utility performance over time. Forty-four billion square feet of commercial space including school, office and apartments buildings – roughly half the commercial real estate market in the United States – use Portfolio Manager to measure and track how much energy and water is consumed by building occupants. This tool has become the trusted standard for building owners to identify opportunities for more efficient operation and achieve utility cost savings. Moreover, without Portfolio Manager, the real estate industry would

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be left without its key compliance tool to meet the increasing number of state and local regulations that require buildings to measure and report their energy use in a transparent manner.

Kilmer Q3: Is Administrator Pruitt aware of the important role that the buildings branch of ENERGY STAR and the Portfolio Manager tool play in supporting the private real estate industry?

> **Answer:** The EPA will explore options for the potential transfer of the ENERGY STAR program to non-governmental entities.

Kilmer Q4: Without funding, how does the EPA plan to continue supporting Portfolio Manager?

> **Answer:** The EPA will explore options for the potential transfer of the ENERGY STAR program to non-governmental entities. Portfolio Manager support will be part of the overall evaluation of next steps.

Puget Sound - OW

Puget Sound, Washington, is among the most important estuary ecosystems in the United States, providing critical human and ecological values. The ecosystem supports more than 4. 7 million people, including 19 federally recognized tribal governments; 211 fish species; 100 sea bird species; and 13 marine mammal species, including endemic orca whales. It also annually handles over $77 billion in imports and exports, $10 billion in outdoor recreation, and $2 billion in agriculture revenue. Decades of human activity and development have degraded the ecological function of Puget Sound, and the EPA has numerous statutory obligations to support Puget Sound recovery efforts.

Kilmer Q5: Please provide a list of all federal laws that mandate EPA's role in Puget Sound recovery efforts.

> **Answer:** Puget Sound-related mandates are found in the following:
>
> Clean Water Act §320: Establishes the National Estuary Program and includes the Management Conference/Action Agenda: "The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary."
>
> Estuaries and Clean Waters Act of 2000: "This legislation makes restoring the nation's estuaries a national priority and funds community-based estuary restoration projects. Reauthorization of EPA's National Estuary Program is included, with funds for estuary management in addition to planning. The core of the bill establishes a five-year program through which the federal government will promote and track estuary restoration."

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Kilmer Q6: Please provide a summary of the total amount spent by EPA towards meeting its statutory obligations with respect to Puget Sound recovery over the past 5 years broken out by individual programs including State and Tribal Assistance Grants.

Answer: Geographic Funds: $140 million (Geographic Program: Puget Sound)
NEP Funds: $2.8 million (NEP Base Grant)
The following STAG programs also support Puget Sound Recovery (note these are statewide allocations for the past five years and not all these resources are applied in the Puget Sound basin.)

- Clean Water Act Section 319 Washington Allocation: $14.7 million
- Clean Water Act Section 106 Washington Allocation: $30.2 million
- CWSRF Washington Allocation: $120.9 million
- DWSRF Washington Allocation: $ 102.3 million

Kilmer Q7: Please provide a list and brief description of all the current actions carried out by the EPA (including those supported through grants/cooperative agreements with the state and tribes) that would be terminated if the Puget Sound Geographic program is eliminated.

Answer: The EPA funding will be eliminated, however, the EPA is not the sole funder. Below is a list of actions where the EPA currently provides funds:

- Nearly 96% of the NEP federal funding is channeled through the states and tribes.
    - Funding of approximately $20 million per year for implementation projects in support of the Action Agenda (Comprehensive Conservation and Management Plan) for shellfish, stormwater, and habitat projects by local, state, and Tribal partners.
    - Funding for approximately 90 positions with state, Tribal, and local governments that develop and manage recovery plans and implement projects. This also would include de-funding the Puget Sound Management Conference.
- Development and update of the 2018 Action Agenda (Comprehensive Conservation and Management Plan).
- Loss of leveraged funds for Puget Sound recovery. The EPA's geographic funds are flexible and are used by our state, Tribal, and local partners to leverage other financial and programmatic resources at a leverage rate of over 18 to 1.
- Support for science and monitoring planning, implementation, and use for tracking progress and adaptive management.
- Leadership and staffing of the Puget Sound Federal Task Force and implementation of the federal five-year Action Plan.
- The U.S. staffing and support for the US/Canada Salish Sea Statement of Cooperation and shared efforts the SOC Action Plan.
- Planning and involvement in the bi-annual Salish Sea Ecosystem Conference.

Tribal Programs - OITA

EPA's Region 10 office serves 271 federally recognized tribes in Alaska, Idaho, Oregon, and Washington. The EPA is responsible for upholding federal trust responsibility to protect treaty rights that fall within its jurisdiction.

Kilmer Q8: Is the Administrator committed to upholding EPA's trust responsibility to all federally recognized tribes?

> **Answer:** The EPA recognizes the federal government's trust responsibility, which derives from the historical relationship between the federal government and Indian tribes as expressed in certain treaties and federal Indian law. The EPA remains committed to honoring the government-to-government relationship the United States has with federally recognized tribes as well as fulfilling our federal trust responsibility.

Kilmer Q9: What legal consequences would the EPA face if it fails to meet these obligations as a result of inadequate funding?

> **Answer:** The EPA will continue to work with Congress to finalize the budget and then will work with states, tribes, and local governments to ensure that key program priorities continue to be appropriately implemented across the country.

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Questions from Ms. Kaptur:

CWA: Impaired water of Lake Erie - OW

Two years ago, Toledo's fresh water supply was shut down over an entire weekend due to toxic algal blooms from Lake Erie that crept into the water treatment facility. The algal bloom was a result of the overwhelming nutrient pollution running into the Lake. The amount of money required to fix this tri-state/binational environmental threat is enormous, and the responsibility for purifying the water should not simply rest with the City of Toledo, a community of 250,000 inside a watershed of over 2 million people and 10 million livestock. Further, Michigan has declared Lake Erie impaired; Ohio has not.

Kaptur Q1: During our hearing, you stated that Ohio had not assessed the waters of Lake Erie. However, under Section 305(b) of the Clean Water Act, states are required to assess all waters. Do you not agree that Ohio is required to assess those waters? Based on what authority did you defer to the state of Ohio's decision not to assess those waters? How can you approve an incomplete assessment?

> **Answer:** States have the primary responsibility, under Sections 305(b) and 303(d), to assess their waters and to identify waters that are impaired. Ohio's 2014 list identified the Western Basin Shoreline of Lake Erie as impaired for the Public Drinking Water Supply (PDWS) use. In its 2016 303(d) list submission, Ohio retained the Western Basin Shoreline and added the Lake Erie Central Basin Shoreline and the Lake Erie Islands Shoreline as impaired for the PDWS use based on microcystin data. The Ohio EPA has not assessed the open waters of Lake Erie beyond the shoreline. Section 303(d) of the CWA and its implementing regulations provide the EPA with the authority to approve a state's list of impaired waters. The EPA relied on this authority to defer to the state's decision not to assess these open waters for the 2016 list. Importantly, the EPA recognizes the state's ongoing efforts to control nutrient pollution in the Western Basin of Lake Erie. The EPA understands that the Ohio EPA intends to evaluate options for developing objective criteria (e.g. microcystin or other metrics) to assess the Western Basin of Lake Erie for future lists. The EPA is committed to working with the State in those efforts.

Kaptur Q2: By default, by accepting Ohio's non-assessment, USEPA is declaring the open waters of Lake Erie not impaired. How can waters which are clearly comingled across state lines be considered clean on one side and impaired on the other?

> **Answer:** Individual state water quality standards and assessment approaches vary, which can lead to differing impairment determinations by states assessing portions of interstate waters within their jurisdictions. To clarify, however, the EPA has not made a determination that the open waters of Lake Erie in Ohio are not impaired.

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Kaptur Q3: Can you please answer my question from the hearing: is not a tri-state watershed draining into a binational body of water with disputes over the water quality status precisely where EPA is statutorily mandated to take action?

> **Answer:** The EPA does not believe the language in the Clean Water Act Section 303(d) mandates it to take specific actions in a binational or tri-state body of water. However, the EPA is supportive of, and is willing to facilitate, efforts between states to harmonize assessment of interstate waters. The EPA is working with Canada and the states in the Lake Erie Basin to develop action plans to achieve the reductions determined to be necessary to meet the Great Lakes Water Quality Agreement Annex 4 targets.

Kaptur Q4: In their letter to USEPA on September 30, 2016, Ohio EPA indicated that USEPA should lead efforts to assess the nutrients and algae problems, as well as to develop a coordinated response, in Lake Erie. Do you disagree with their interpretation?

> **Answer:** The EPA is supportive of, and is willing to facilitate efforts between states to harmonize assessment of interstate waters. The EPA is working with Canada and the states in the Lake Erie Basin to develop action plans to achieve the reductions determined to be necessary to meet the GLWQA Annex 4 targets. As indicated above, states have the primary responsibility for assessing and listing their waters, including those shared between states or other countries.

Kaptur Q5: Are you committed to upholding the 40% reduction of nutrient loading as agreed to in the Great Lakes Water Quality Agreement Annex 4, and supported by the Great Lakes Governors and Canada?

> **Answer:** This is a commitment of the federal government, not just the EPA. The EPA is working with four federal agencies and five states to develop phosphorus reduction plans for Lake Erie and intends to begin public engagement in mid-July 2017 on the first draft of a U.S. Action Plan for meeting this commitment.

Kaptur Q6: What is EPA doing to assist the states in developing criteria to address harmful algal blooms and nutrient pollution? How much funding is provided for this work in FY 2017? How much is proposed in the FY 2018 budget request?

> **Answer:** The EPA does not track spending for HABs, however, as outlined in the GAO's 2016 report on "Federal Agencies' Expenditures and Coordination Related to Harmful Algae," agency-wide, the EPA will likely spend $5 million on HABs-related activities in FY 2017 and $2 million in FY 2018.
>
> The EPA looks forward to working with other federal agencies to support and encourage state, tribal, and local investment in preventing nutrient pollution and responding to HABs across the nation.

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Funding for Water Infrastructure - OW

USDA's budget proposes to eliminate the entire $500 million Rural Water and Wastewater loan program with the expectation that rural communities will compete for the limited Drinking Water SRF funds. The Drinking Water SRF does not increase by the $500 million lost in the Rural Water and Wastewater loan program.

Kaptur Q7: How will rural water systems struggling to provide clean water to their neighbors find funding for clean water if the Drinking Water SRF is already woefully underfunded and now has to absorb a $500 million program for rural communities?

> **Answer:** The FY 2018 President's Budget request for the EPA includes $863 million for the Drinking Water State Revolving Fund (DWSRF) to help finance critical infrastructure improvement projects to public drinking water systems. This funding level furthers the President's ongoing commitment to infrastructure repair and replacement and would allow states, municipalities, and private entities to continue to finance high priority infrastructure investments that protect human health.
>
> In addition, the EPA will continue to foster its strong partnership with the states to provide small system technical assistance, with a focus on rule compliance, operational efficiencies, and system sustainability to ensure clean and safe water. In FY 2018, the EPA will continue its effort to build the capacity of local utilities and existing state programs to expand their contribution to the array of funding options to meet future infrastructure needs. The requested funding for this program will support critical infrastructure investments to rebuild and enhance America's drinking water infrastructure.
>
> The EPA also is requesting $20 million for the Water Infrastructure Financing Innovation Act (WIFIA) program. The WIFIA program complements the SRFs and is another source of financing, especially for large drinking water infrastructure projects with regional or national significance. The EPA estimates that the $20 million requested in FY 2018 could provide approximately $1 billion in low cost loans for eligible water infrastructure projects.
>
> The FY 2018 President's Budget request also continues to provide funding for the Environmental Finance Centers which deliver financial outreach services, such as technical assistance, training, expert advice, and full cost pricing analysis to states, local communities, and small businesses.

Kaptur Q8: How will these small communities compete with the medium and large systems that will also be applying for SRF funds?

> **Answer:** As noted above, the EPA will continue to work to target a significant portion of SRF assistance to small and underserved communities with limited ability to repay loans. In FY 2018, the EPA will work with states to ensure not less than 20 percent and not more than 30 percent of a state's capitalization grant is provided as additional subsidization. The EPA encourages states to utilize subsidization to assist disadvantaged communities and sustainability efforts.

Funding to States *(OA/OP)*

Ohio EPA Director Craig Butler said that these cuts in your budget would result in a 30% cut to their budget, forcing major cuts to the state Superfund program and to Clean Water and Clean Air initiatives. If Ohio is not provided with adequate funding to implement those programs there will be significant problems. The Agency will not be able to process permit applications, conduct inspections/reviews, and will likely reduce staff.

Kaptur Q9: How do you imagine that reality lines up with your priority of growing the economy and protecting the environment?

> **Answer:** The EPA believes environmental stewardship while growing our economy is essential to the American way of life and key to economic success and competitiveness. These two tenets are not mutually exclusive, in fact from 1970 to 2015, aggregate national emissions of the six common air pollutants dropped an average of 70 percent while gross domestic product grew by over 246 percent. However, much work remains to be done in streamlining the agency's guidances and regulations to not overburden states.

Budget Cuts *(OA/OP)*

Kaptur Q10: If the agency staff and funding levels are substantially cut, as the administration has proposed, and if the agency pursues all of the reconsideration and similar actions it has already announced, can you assure us that the agency will not miss any mandatory statutory deadlines for action?

> **Answer:** The EPA will adhere to all statutory obligations which Congress has mandated.

Enforcement - OECA

Kaptur Q11: You talk about returning EPA to basics, but compliance levels with environmental laws in some sectors is dangerously low. How will you increase compliance with laws that protect our health, when your enforcement staff does not have any money to conduct casework?

> **Answer:** EPA works in partnership with state and tribal agencies to assure compliance, protect public health and the environment and ensure a level playing field for companies that follow the rules. In FY 2018, the Agency will work to make more effective use of the full array of tools to assist and encourage compliance, in concert with traditional enforcement approaches, while focusing on our direct implementation responsibilities, the most egregious cases, and in areas that address the most substantial impacts to human health and the environment.

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Environmental Justice *(OECA/OP)*

Kaptur Q12: The Administration's proposed budget would do away with the office of Environmental Justice altogether. Do you believe that environmental costs and degradation has fallen disproportionately heavily on people of color, individuals in low-income neighborhoods, and those who have the least voice in the process? Does your plan to eradicate the office that is specifically tasked with addressing this issue indicate that you do not take it seriously? How do you propose to address environmental racism and environmental justice while your agency cuts staff, enforcement, and the entire office tasked with tackling these problems?

> **Answer:** The agency remains committed to working with communities to develop solutions to the environmental and public health challenges they face. Environmental justice will continue to be considered within the work done at the EPA and also is specifically incorporated into future policy work within the agency's Integrated Environmental Strategies program.

Budget for Science and Research - ORD

The President's proposed budget request for FY2018 lays out a reduction in staffing at the EPA by almost 25% over the FY2017 Annualized Continuing Resolution Full-Time Equivalent (FTE) levels. This proposed staffing cut hits the Science and Technology Appropriation, which houses EPA's Office of Research and Development, by 32.5%.

Kaptur Q13: Can you justify the budget reduction of the only Appropriation within the Agency that is responsible for providing robust scientific evidence to guide the EPA in developing its regulatory decisions?

> **Answer:** Sound science is the backbone of the EPA's rule-making process. The agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies. Current resource levels will allow for the EPA to meet its core mission.

Kaptur Q14: With states relying on the scientific and technical expertise that the EPA retains in-house to assist them in meeting their statutory requirements for environmental protection, how will the Agency be able to continue to meet the expectations of their state partners with such a substantial reduction in staff?

> **Answer:** Science at the EPA provides the foundation for credible decision-making to safeguard human health and ecosystems from environmental pollutants. The EPA will continue to technical service to the states and meet its core mission within the confines of its appropriation.

Kaptur Q15: How can you justify such a dramatic cut that would seriously jeopardize the Agency's ability to use the best available science to protect human health and the environment?

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Answer: The EPA will prioritize activities that support decision-making related to core environmental statutory requirements, as opposed to extramural activities.

(ORD)

We hope that EPA getting "back to basics" means that EPA will continue its mission to protect human health and the environment. However, recent activity at the Agency has provided some cause for concern, specifically, the decision to not renew the terms of several members of the Board of Scientific Counselors for EPA's Office of Research and Development, with the stated intention of replacing those members with industry representatives.

Kaptur Q16: How do you reassure the American people that the quality of their air and water will not be compromised by the very same billion dollar industries you have spent decades representing, who now have a bigger seat at the table, and a greater ability to influence Agency decisions to improve their bottom line at the expense of the taxpayers health and well-being?

Answer: The EPA works to ensure our future generations will inherit a better and healthier environment. Environmental stewardship, while growing our economy, is essential to the American way of life and key to economic success and competitiveness. Regulation and policy will incorporate robust input from the public through formal and informal mechanisms to seek full understanding of the impacts of proposed policy on public health, the environment, the economy, jobs, families, and our communities. The fundamental role of sound science at the agency is providing input into regulatory decisions.

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Questions from Ms. Lowey:

Climate Change

According to EPA's own information on Climate Change Indicators, between 1901-2015:

- Average surface temperature across the contiguous 48 states have risen more quickly since the late 1970s;
- Eight of the top 10 warmest years on record have occurred since 1998, with 2012 and 2015 being the two warmest years on record;
- 2006-2015 was the warmest decade on record; and
- Since the late 1970s the United States has warmed faster than the global rate.
- In addition, temperature is only one indicator of climate change, we could look at other indicators such as precipitation or extreme weather events.

Judging from your history as a climate change skeptic, I suspect you have little respect for these figures. But let's be outright with it.

(OAR)**Lowey Q1**: Yes or no - is human activity a contributor to climate change?

> **Answer:** The information cited reflects historic scientific observations.

Lowey Q2: With the drastic reductions in your FY 2018 budget request, how will EPA continue to study and address the impacts of climate change?

> **Answer:** The 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. The EPA will continue to look for ways to improve program efficiency and effectiveness across the suite of its core responsibilities with a focus on streamlining activities.

Addressing the impacts of climate change/Paris Accord *(OAR)*

I am deeply concerned by the Administration's decision to withdraw from the Paris Agreement. Coupled with the budget's elimination of any funding to combat climate change, the Administration is ignoring changes in our environment that threaten food security, biodiversity, business interests, and even our coastal cities like New York. It is irresponsible to think we are putting America first by ignoring these global threats. Nicaragua and Syria are the only other nations not participating, though I should note that even Nicaragua declined to participate because they felt the agreement did not go far enough. International backlash to the U.S. pulling out has been unprecedented and appears to have undermined U.S. global leadership. You recently made the statement that you had not spoken with President Trump about whether he believes that climate change is real and whether humans impact it. You further stated that the focus of your discussions with the President has been on the merits and demerits of the Paris Agreement. Because the Paris Agreement's central aim is to strengthen the global response to the threat of climate change, it baffles me that you two would not have discussed climate change.

Lowey Q3: To date, have you still not asked the President what his beliefs are regarding climate change?

> **Answer:** The President has directed agencies to review existing regulations that potentially burden the development of domestic energy resources; and appropriately, suspend, revise, or rescind regulations that unduly burden the development of U.S. energy resources beyond what is necessary to protect the public interest or otherwise comply with the law. The EPA is focusing its efforts on obligations on statutes passed by Congress.

Lowey Q4: You were in Italy this week for the G7 Meeting on the Environment. What has been the response from our international partners about President Trump's decision to withdraw from the Paris Agreement?

> **Answer:** I spoke with G7 international partners when I was at the Environment Ministerial in Bologna, Italy. While they expressed disappointment about the President's decision to withdraw from the Paris Agreement, they were encouraged by our commitment to continue to work with them on CO_2 reductions.

Lowey Q5 (Q4a): Who will fill the void of U.S. leadership on climate issues?

> **Answer:** The United States has always been a world leader when it comes to environmental stewardship. Our international partners share our common goal to protect the environment and public health. The agency believes engaging in international discussion is of utmost importance to the United States when it comes to environmental issues.

American Energy Jobs *(OAR)*

Pulling out of the Paris Agreement prioritizes jobs in the fossil fuel industry over renewable energy jobs. There are more than 678,000 jobs in renewable energy, more than the 515,000 jobs in oil/petroleum.

Lowey Q5: All jobs matter, so why are you arguing that protecting renewable energy jobs is bad for America?

> **Answer:** The President has directed agencies to review existing regulations that potentially burden the development of domestic energy resources; and appropriately, suspend, revise, or rescind regulations that unduly burden the development of U.S. energy resources beyond what is necessary to protect the public interest or otherwise comply with the law.

Lowey Q6: While we are discussing energy jobs, would you like to clarify the statement you made on Meet the Press on June 4 that since the fourth quarter of last year, 50,000 jobs in the coal sector have been added, and almost 7,000 in the month of May alone? Do you still believe those numbers to be accurate?

Answer: The Administrator was referring to industries in the mining sector, including coal.

Lowey Q7: It's important to get the facts right. According the U.S. Bureau of Labor Statistics, there were 51,000 total jobs as of May in coal mining, and 400 coal mining jobs were added in May.

Answer: The Administrator was referring to industries in the mining sector, including coal.

National Institute of Environmental Health Sciences *(OAR)*

The National Institute of Environmental Health Sciences discusses how as global temperatures rise and extreme heat events increase in frequency due to climate change, we can expect to see more heat-related illnesses and mortality. Socioeconomic factors, such as economically disadvantaged individuals are at greater risk from heat-related burdens.

Lowey Q8: This Administration states it is concerned about the "forgotten men and women," but how does pulling out of the Paris agreement not forget about the men, women and children that will now suffer more heat-related illnesses because we have abandoned efforts to reduce greenhouse gas emissions, while at the same time working to pull back regulations on carbon emissions?

Answer: The Administration has signaled a commitment to the rule of law, cooperative federalism, and sound scientific rulemaking at the EPA. Those that generate energy in communities across America are doing so with a commitment to being pro-environment and pro-growth, affirming that the U.S. can and will achieve both a healthy environment and a growing economy.

Superfund – Hudson River PCBs - OLEM

I understand you are a strong supporter of the Superfund program and have made commitments to support clean-ups. Yet, your budget proposes to cut the Superfund program by 30%, diminishing EPA's ability to compel responsible parties to pay for site cleanups, which leaves taxpayers on the hook. You also cut EPA's direct funding for clean-up.

Lowey Q9: As a result, doesn't this mean hazardous sites won't get cleaned up? Does that include the eight in Oklahoma?

Answer: The EPA is still in the process of determining what additional sites may be ready to initiate new construction work in Fiscal Years 2018. The NPL sites in Oklahoma will be prioritized in a manner consistent with the overall program approach, in which the EPA generally prioritizes funding for cleanup activities that have already begun. The Fiscal Year 2018 President's Budget request may result in modifying timelines of ongoing projects. In

order to speed the pace of cleanups, the EPA is actively looking to identify efficiencies and reduce administrative costs to the extent possible.

Lowey Q10: Can you specify which Superfund site cleanups will not be completed, and which will slow down from their currently planned time tables as a result of these proposed cuts?

Answer: The agency is still in the process of determining what additional sites may be ready to initiate new construction work in FY 2018. In recent years, there has been a dozen or so NPL sites awaiting cleanup funding. In order to speed the pace of cleanups, a Task Force has been created to review best practices and new approaches in dealing with successfully restoring sites to productivity. The Task Force will outline steps to be taken in the near term to more expeditiously and effectively handle remediation of sites.

Lowey Q11: Can you specify which potential Superfund sites will not be thoroughly investigated as a result of these cuts?

Answer: The EPA is not planning to alter the thoroughness of site investigations.

Lowey Q12: Can you estimate how much money from potentially responsible parties will be lost to the federal government from your reductions to this program?

Answer: Within our resource levels, the agency will prioritize its efforts on the most significant sites in terms of environmental impact, particularly those that may present an imminent and/or substantial endangerment, and potential cost liability to the government. In addition, the EPA has established a taskforce to streamline and improve the efficiency and efficacy of the Superfund program through the restructuring of the cleanup process, realigning incentives to promote expeditious remediation, reducing the burden on cooperating parties, and encouraging private investment in cleanups and sites to promote the revitalization of properties across the country.

The Hudson River is classified by EPA as a Superfund site and, at 200 miles, is one of the largest in the country. For a 30-year period, two General Electric manufacturing plants discharged Polychlorinated biphenyls (PCBs) into the Hudson River. GE only stopped this practice when EPA banned the production of PCBs in 1977. The PCBs in the Hudson mixed with the river's sediment and deposited on the river bottom and along the shoreline in the floodplain. Since 1977 there has been a fishing ban due to the health risk associated with the accumulation of PCBs in the human body by consuming contaminated fish. EPA just released a draft of its second five-year review of the Hudson River Superfund site that recommends following the plan outlined more than a decade ago.

Lowey Q13: How do you respond to those who feel this is not sufficient and that cleanup should be expanded?

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Answer: On June 1, 2017, after an eleven-month evaluation process, EPA released its Proposed Second Five-Year Review Report[2]. In conducting the five-year review of the cleanup, EPA followed the federal Superfund statute and applied the best available science. The review includes a comprehensive assessment of the available data for PCB concentrations in sediment, water, and fish. The specific purpose of the review is to evaluate whether the remedy is, or will be, protective of human health and the environment, based on the data currently available. The Proposed Second Five-Year Review concludes that the Hudson River cleanup is working as designed and, while not yet protective, is expected to accomplish its long-term goal of protection of human health and the environment when the cleanup is completed. However, it will be necessary to collect several years of post-dredging PCB data in fish, sediment and water to determine with a reasonable degree of scientific certainty the rate at which PCB levels are declining. If EPA determines at some point in the future that the remedy is not expected to achieve its goals, EPA will consider what actions are needed. In the interim, the State of New York has fishing restrictions and advisories in place to control human consumption of contaminated fish.

This five-year review included a rigorous and unprecedented stakeholder and community engagement process, with the EPA convening a 20-member five-year review team of EPA experts, state and federal agency representatives, and community stakeholders. Three public workshops were also held while the review was underway. All input received was considered during the review process. In addition, although the EPA typically does not seek public comment on five-year reviews, the EPA is providing an opportunity for the public to provide input on the findings of the Proposed Second Five-Year Review Report. On June 1, 2017, the EPA released the report for a thirty-day public comment period. At the request of several parties, the EPA has extended the public comment period until September 1, 2017.

Two public information meetings are also being held during the public comment period. At the meetings, the EPA is discussing the purpose, scope and findings of the five-year review and answering questions from the public. The first of these meetings was held on June 28 in Poughkeepsie. The second meeting is scheduled for July 19, from 6 p.m. to 8 p.m. at The Saratoga Hilton in Saratoga Springs, New York.

Lowey Q14: How can you in good conscience propose not providing families in New York with clean water and accomplishing the task of cleaning up the PCBs in the Hudson River?

Answer: EPA shares the goal of protecting public health and the environment along the Hudson River. EPA has used the full power and authority of the federal Superfund law to require the General Electric Co. to conduct the largest and most expensive cleanup of river sediments in the history of the Superfund program.

As the project moves forward, EPA will continue to follow the science and the Superfund law. EPA will continue to monitor the river fish, water, and sediment and evaluate the

[2] The report is available at www.epa.gov/hudson.

reductions in PCB levels over time. In addition, EPA will continue to coordinate closely with the involved state and federal agencies including the New York State Department of Environmental Conservation, the New York State Department of Health, the U.S. Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration. The agency will also continue to coordinate with the Hudson River Foundation and others who are involved with the New York-New Jersey Harbor.

Long Island Sound - OW

The FY 2018 budget proposes to eliminate the Geographic programs. This includes $8 million for Long Island Sound. These programs directly benefit the vast majority of our country's residents and businesses, and are focused on cleaning up pollution and promoting healthy ecosystems which benefit the economy.

Lowey Q15: Why do you feel it is prudent to eliminate funding when you are making progress in cleaning up these ecosystems?

Answer: The FY 2018 President's Budget request lays out a comprehensive back-to-basics and foundational strategy to maintain core environmental protection with respect to statutory and regulatory obligations. The EPA will encourage the Long Island Sound states and local entities to continue to make progress in restoring the Sound from within core water programs.

Lowey Q16: Can you guarantee that stakeholders are ready to step in to fill the void left by the elimination of federal funding?

Answer: The FY 2018 President's Budget request provides the direction and resources to return the EPA to its core mission of protecting human health and the environment. The agency will continue to work in cooperation with states, tribes, and local governments to make and sustain improvements in water quality.

Lowey Q17: What discussions have you had with Governors, cities, and communities that have been active partners and will be affected by this proposed approach?

Answer: The EPA will be discussing the proposed FY 2018 Long Island Sound budget through its participation on the Long Island Sound Management Conference, which has representatives from affected states, localities, and community stakeholders. This discussion will formally kick off at the July 20 Management Committee meeting. The EPA will continue discussions with the Management Conference throughout the FY 2018 budget process.

ED_002125A_00000530-00094

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your letter, dated February 20, 2018, regarding past air travel of Administrator Pruitt. The Administrator asked that I respond on his behalf.

The U.S. Environmental Protection Agency's Protective Service Detail has identified specific, ongoing threats associated with the Administrator's air travel and, therefore, shifted his class based on certain security protocols that require him to be near the front of the plane. Specifically, "[t]he agents have to make sure he's in a position where they can protect him," according to the Director of EPA's Office of Criminal Enforcement, Henry Barnet.[1] Moreover, "[i]f he's surrounded by other members of the public or it's a threat, their job is to push him and pull him away from those threats. That's why it is imperative to keep him away from the individuals so they can keep him safe."[2] Mr. Barnet identified "incidents where [Administrator Pruitt] was being approached – vulgar language, people were being somewhat aggressive towards him."[3] EPA's Assistant Inspector General for Investigations, Patrick Sullivan, has reported that Administrator Pruitt "has had significantly more threats directed against him. There's absolutely no question about it."[4] In fact, EPA has received "at least four to five times the number of threats against Mr. Pruitt than we had against Ms. [Gina] McCarthy."[5] Mr. Sullivan explained that the threats "run the variety of direct threats – 'I'm going to put a bullet in your brain' – to implied threats – 'if you don't classify this particular chemical in this particular way, I'm going to hurt you.'"[6] These threats are not limited to just Administrator Pruitt – they also target his family.[7]

Because of these ongoing security concerns, EPA had approved, on an individualized basis, each time the Administrator needed to use other than coach-travel accommodations. The Federal Travel Regulation states that "[w]hen exceptional security circumstances require other than coach-class airline accommodations," an agency "may authorize/approve first class accommodations." 41 C.F.R. § 301-10.123(a)(3). "Exceptional security circumstances are determined by [an] agency and should only be authorized up to the minimum other than coach-class accommodation necessary." *Id.* These circumstances include, but are not limited to, situations when the "[u]se of coach-class accommodations would endanger [one's] life or Government property" or an agent on protective detail is "accompanying an individual

[1] https://www.bloomberg.com/news/articles/2018-02-15/epa-chief-s-high-flying-travel-prompted-by-vulgar-encounters
[2] *Id.*
[3] *Id.*
[4] https://www.eenews.net/greenwire/stories/1060070805
[5] https://www.cnn.com/2017/09/21/politics/epa-pruitt-agents/index.html
[6] *Id.*
[7] https://www.bloomberg.com/news/articles/2018-02-15/epa-chief-s-high-flying-travel-prompted-by-vulgar-encounters

authorized to use other than coach-class accommodations." *Id.* § 301-10.123(a)(3)(i), (ii). The regulations for an agency to approve/authorize business-class accommodations mirror those for first-class accommodations. *See* 41 C.F.R. § 301-10.123(b)(2).

Enclosed please find information and documentation responsive to your request for official air travel of the Administrator, including airfare and other travel information. On past trips, his protective service detail accompanied him in first class. Should you need information and documentation regarding the travel of the Administrator's Protective Service Detail, we can work with your staff to provide you with an opportunity to review those documents at EPA, as they are security sensitive.

If you have further questions, please contact me or your staff may contact Kyle Aarons in my office at (202) 564-7351 or Aarons.Kyle@epa.gov.

Sincerely,

Troy M. Lyons
Associate Administrator

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 1 4 2018

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: OECA Comments on Revisions to Recommendations in the OIG Draft Report, "*Agents Assigned to Protective Service Detail Lack Statutory Authority to Protect the EPA Administrator*," Project No. OA-FY16-0265, dated May 30, 2018

FROM: Susan Parker Bodine, Assistant Administrator

TO: Arthur Elkins, Inspector General

CC: Matthew Z. Leopold, General Counsel
Holly W. Greaves, Chief Financial Officer

On June 29, 2018, the Office of General Counsel, the Office of Enforcement and Compliance Assurance, and the Office of the Chief Financial Officer provided comments (both narrative and a red-line strikeout) on OIG Project No. OA-FY16-0265, relating to the Administrator's protective service detail. On that date you also received an Opinion of the Office General Counsel identifying the source of the Agency's legal authority to provide protective services to the Administrator.

On July 23, 2018, we met with Charles Sheehan and members of the OIG staff to discuss the unsupported statements in the Draft Report for OIG Project No. OA-FY16-0265. It was our understanding from that meeting that the OIG recognized there were significant problems with the original Draft Report and would be making extensive changes, including considering revising the Report title, since the title of the Draft Report was inaccurate and misleading. Given this unusual circumstance and to ensure our comments are relevant to the actual report to be released by the OIG, we requested the opportunity to review and comment on the revised report. However, the OIG denied this request.

Instead, on August 1, we received an email with changes to recommendations 2, 3, and 4. We are left to assume that all of chapter 2, on which recommendations 1 and 2 were based, as well as all of chapter 3, on which recommendations 3, 4, and 5 were based, remain in the report, despite the unsupported statements in those chapters.

Accordingly, the June 29, 2018, comments, including the memorandum and the red-line strikeout, remain the Agency's response to the Draft Report, and this memorandum addresses only the revised recommendations. For those recommendations with which the Agency agrees, we have provided corrective actions and estimated completion dates. For those recommendations with which the Agency does not agree, we have explained our position and proposed alternatives to the recommendations.

It is important to understand, with respect to Recommendations 3 and 4, that a threat analysis, while informative, is not dispositive of a decision to provide protection nor what level of protection should be

provided. Further, the lack of threats does not mean that there is no risk or that protective services are not justified. If Recommendations 3 and 4 are not revised as suggested below, the Agency non-concurs on both.

Please include both today's comments and those submitted on June 29 in your final report on the Protection Service Detail.

AGENCY'S RESPONSE TO REPORT RECOMMENDATIONS:

Agreements:

No.	Revised Recommendation	Response	Intended Corrective Action(s)	Estimated Completion by Date, Quarter and FY
2	Implement the Office of General Counsel opinion through new policies, procedures and/or guidance that defines the amount of time agents must spend on investigating environmental crimes and how the time will be monitored and documented by supervisors.	Concur.	OECA/OCEFT will develop new policies, procedures and/or guidance that defines the amount of time agents must spend on investigating environmental crimes, informed by the General Counsel opinion.	Initiated tracking time agents spend investigating environmental crimes September 30, 2017 (4th quarter 2017). Develop policies, procedures, and/or guidance by September 30, 2018 (4th quarter FY 2018).
3	Have the Office of Criminal Enforcement, Forensics and Training complete and document a threat *analysis* for the EPA Administrator on a regular basis to *justify* the proper level of protection required for the Administrator.	Concur if revised to state, "Have OECA/OCEFT complete and document a threat analysis for the EPA Administrator on a regular basis." As discussed in the Agency's June 29, 2018 response to the draft report, a threat analysis, while informative, is not dispositive of a decision to provide protection nor what level of protection should be provided. Further, the lack of threats does not mean that there is no risk or that	1.OECA/OCEFT to conduct and document a threat analysis on a regular basis (approximately twice a year). 2.OECA AA and law enforcement professionals in the PSD to discuss threat analyses with the Administrator to inform decisions regarding level and type of protection.	Regular threat analyses initiated January 2018 (2nd quarter FY 2018).

		protective services are not justified.		
4	Using a justified level of protection based on a threat *analysis*, determine appropriate staffing and corresponding schedules for Protective Service Detail agents.	See comments above regarding recommendation 3. Concur if revised to state, "OECA should provide information, including the results of a threat analysis and discussions with the protectee, to help inform decisions regarding the appropriate level of protection. OCEFT should then establish the staffing and corresponding schedules for Protective Service Detail agents."	OECA/OCEFT to manage staffing and scheduling of the Administrator's protective service detail based on the level of protection.	Initiated February 2017 (2nd quarter FY 2017).

CONTACT INFORMATION:

If you have any questions regarding this response, please contact Gwendolyn Spriggs, OECA's Audit Follow Up Coordinator on 202-564-2439, or via email, spriggs.gwendolyn@epa.gov.

Attachments:
1. Agency response dated June 29, 2018
2. Agency tracked changes of Draft Report
3. OGC Legal Opinion dated June 29, 2018

cc: R. Jackson, OA/COS
C. Sheehan, OIG/DIG
K. Christensen, OIG/AIG
J. Trefry, OIG/Director
L. Starfield, OECA/PDAA
P. Traylor, OECA/DAA
H. Barnet, OCEFT/OECA/Director
P. Mazakas, OCEFT/OECA/Director
M. Monson, OGC/AFC
B. Trent, OCFO/AFC
G. Spriggs, OECA/AFC

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 29 2018

MEMORANDUM

SUBJECT: Response to the May 30, 2018, Office of Inspector General's Draft Report, "Agents Assigned to Protective Service Detail Lack Statutory Authority to Protect the EPA Administrator"

FROM: Matthew Z. Leopold, General Counsel
Office of General Counsel

Susan Parker Bodine, Assistant Administrator
Office of Enforcement and Compliance Assurance

Holly W. Greaves, Chief Financial Officer
Office of the Chief Financial Officer

TO: Arthur Elkins, Inspector General
Charles Sheehan, Deputy Inspector General
Office of Inspector General

Thank you for the opportunity to respond to the issues and recommendations presented in the Office of Inspector General Draft Report, Project No. OPE-FY16-0265 regarding the protection of the EPA Administrator. The Office of General Counsel and the Office of Enforcement and Compliance Assurance disagree with the facts and legal conclusions set forth in the draft report, as set forth in this letter as well as in the June 29, 2018, legal opinion of the General Counsel and the attached redline of the draft report. The Office of the Chief Financial Officer believes that the draft report includes misstatements, which are corrected in the attached redline.

Chapter 2: EPA PSD Agents Lack Statutory Authority to Perform Law Enforcement Functions

Chapter 2 of the draft report states: "We concluded that the EPA's Protective Service Detail (PSD) agents lack statutory authority to provide protective services for the EPA Administrator." That statement is incorrect as a matter of law. PSD agents possess proper authority to perform protective services for the Administrator under 5 U.S.C. § 301. Further, PSD agents' law enforcement authority, which includes the authority to make arrests and carry firearms, is derived from 18 U.S.C. § 3063, provided they have responsibility for the investigation of environmental crimes.

The Office of Inspector General (OIG) draft report improperly conflates the Agency's general authority to provide protective services with the "law enforcement authority" of PSD agents. The authority to provide protective services is separate and apart from PSD agents' authority to carry firearms, execute warrants, make arrests, and perform other law enforcement functions. This improper conflation results in numerous errors throughout the draft report. Prior to the issuance of the draft Chapter 2, Office of General Counsel (OGC) conveyed the clear legal authority for both the existence of the PSD itself and the PSD agents' law enforcement authority to the OIG auditors.

The Agency has clear authority to assign employees to provide protective services under 5 U.S.C. § 301, as confirmed by Comptroller General decisions. In 1975, the Comptroller General determined that "if a government official were threatened or there were other indications that he was in danger, and if it were administratively determined that the risk were such as to impair his ability to carry out his duties, and hence to affect adversely the efficient functioning of the agency, then funds of his agency, the use of which was not otherwise restricted, might be available to protect him, without specific statutory authority." See 54 Comp. Gen. 624 (Jan. 28, 1975). Thus, all agencies, including EPA, have authority to expend appropriated funds to protect government officials.

As OGC staff had previously informed your staff, PSD agents derive law enforcement authority from 18 U.S.C. § 3063 whenever they have responsibility for the investigation of environmental crimes. 18 U.S.C. § 3063 states in part:

> "Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the Environmental Protection Agency with responsibility for the investigation of criminal violations of a law administered by the Environmental Protection Agency, may— (1) carry firearms; execute and serve any warrant … ; and (3) make arrests without warrant … .".

Chapter 2 incorrectly states that "…because the duties of PSD agents do not comport with the plain language of 18 U.S.C. § 3063 … they are not authorized to carry firearms and conduct other law enforcement activities pursuant to that statute." Chapter 2 also incorrectly states that, "the agency appears to have taken the position that the law enforcement powers given to the Criminal Investigations Division (CID) agents under 18 U.S.C. § 3063 were automatically transferred to the agents' work in PSD." These assertions are inaccurate. OIG's analysis ignores PSD agents' actual current duties, specifically the vital fact that part of a PSD agent's time is spent on criminal investigatory work. OIG failed to include this key fact in its analysis, even though the Agency clearly noted this fact to the OIG. The fact that PSD agents currently spend some of their time investigating environmental crimes means that PSD agents *do* perform work that comports with the plain language of the statute. There is no "transfer" of authority from CID agents to PSD agents. PSD agents, like other CID agents, derive their law enforcement authority from 18 U.S.C. § 3063 provided they have responsibility for the investigation of environmental crimes.

The law enforcement authority conferred by 18 U.S.C. § 3063 is broad, as evidenced by the plain language of the statute which provides the authority for agents to make arrests for "any offense against the United States." 18 U.S.C. § 3063(3)(A). By meeting the plain language requirements of 18 U.S.C. § 3063 by maintaining responsibility for the investigation of environmental crimes, PSD agents carry that full law enforcement authority beyond the investigation of environmental crimes to their security work for the Administrator.

As requested in Chapter 2 of your draft report, on June 29, 2018, you received an opinion from the General Counsel that "articulates the underlying legal basis for the authority of the Protective Service Detail's agents." Therefore, the Agency has fulfilled your Chapter 2 recommendation and it is our expectation that Chapter 2 of the draft report will be deleted and the remainder of the draft report revised accordingly.

PSD Lacks Final Standard Operating Procedures for Providing Protective Services

Chapter 3 of the draft report concludes that: "The PSD lacks policies, procedures and standard operating procedures for the operational and administrative functions it performs" and "the services that the PSD provides to the Administrator are based on unsupported management decisions and discretion." The draft report draws this conclusion because the report rests on the inaccurate premise that a "formal threat assessment" is necessary to justify a level of protective services. Based on this faulty premise, the draft report then erroneously concludes that the absence of a "formal threat assessment" is the cause of the increase in the costs of protective services.

The draft report references Department of Justice definition of threat assessment from a report on managing terrorism and concludes that EPA must conduct a similar type of threat assessment to justify providing protective services. Specifically, the draft report recommends that the PSD conduct formal threat assessments that are based on "comprehensive and rigorous research and analysis," that incorporate "knowledge, assessments, and understanding of state, local, and private organizations and agencies," and that "assimilate germane, open source, or nonproprietary threat assessments, as well as intelligence information."

We disagree. While a threat assessment is a useful tool, it is just one tool. Further, the lack of threats does not mean that there is no risk or that protective services are not justified.

According to the Secret Service:

> "The purpose of U.S. Secret Service threat assessment and protective intelligence activities is to identify, assess, and manage persons who might pose a threat *to those we protect*, while the goal of these activities is to prevent assassination attempts."[1]

A threat assessment evaluates known threats. It does not address persons who do not make threats, who, according to the Secret Service, represent the majority of persons who attack public officials.[2] Thus, a threat assessment, while informative, is not dispositive of a decision to provide protection nor what level of protection should be provided. A protectee could be at risk even if there are no direct threats made against him or her.

For example, James Hodgkinson, who attacked members of the Republican Congressional baseball team on June 14, 2017, made no threats prior to his attack.[3] A threat assessment as envisioned in the draft report would not have identified a need for the protective services provided to the House Majority Whip, Steve Scalise, on that day. However, if his detail had not been present at the morning practice of the Republican team, it is likely that most of the members of that team would now be dead.

The Secret Service's review of Jared Lee Loughner's actions before he shot Representative Gabrielle Giffords leads to similar conclusions. Mr. Loughner did not threaten Representative Giffords prior to attacking her. However, he had developed a pattern of disturbing behavior. In a review of this shooting,

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[1] Protective Intelligence & Threat Assessment Investigations, A Guide for State and Local Law Enforcement Officials, Research Report, U.S. Department of Justice, Office of Justice Programs (July 1998), at iii (emphasis added).
[2] Protective Intelligence & Threat Assessment Investigations, supra note 1, at 14.
[3] The Congressional Shooter: A Behavioral Review of James Hodgkinson, Department of Homeland Security, United States Secret Service, National Threat Assessment Center, October 2, 2017, at 1.

the Secret Service found that in many cases attackers had previously come to the attention of law enforcement, even though they had not made threats against protectees. Based on this finding, the review recommends collection of information from a broader range of sources to assess an individual's risk for violence. Specifically, the Secret Service made recommendations regarding the scope of a threat assessment similar to those in the draft report:

> When someone comes to the attention of law enforcement for engaging in threatening or concerning behavior, a threat assessment investigation may be initiated to assess the individual's risk for engaging in targeted violence. When conducting a comprehensive assessment of the risk a person may pose, it is essential to gather detailed information from multiple sources to enhance your understanding of the individual's life circumstances and why the individual engaged in the behavior that brought him or her to the attention of law enforcement.[4]

However, the difference between the Secret Service recommendations and the draft report is that the Secret Service does not suggest that a broad, system-wide, threat assessment is a predicate to providing personal protective services. Even if a protection unit embraces this systems approach for threat assessment investigations, there is no guarantee that all threats can be identified and risk eliminated.

Protective services are provided based on risk as well as threat assessments. Some protectees are at risk simply based on the positions they hold. We are, unfortunately, living in an era when political discourse is no longer polite and persons feel that political disagreements justify making statements on social media that incite violence. For example, in early June 2018, Occupy Wall Street posted the current EPA Administrator's home address and encouraged persons to "take yr pitchfork to him directly." The person who originally posted that message may not pose a threat, but someone like James Hodgkinson could read that message and decide to take action.

Mr. Hodgkinson had been a supporter of Occupy Wall Street and on March 22, 2017, Hodgkinson posted on his Facebook page that he signed a Change.org petition calling for the removal of the President and Vice President of the United States from office for treason. He also commented on his post saying, "Trump is a Traitor. Trump Has Destroyed Our Democracy. It's Time to Destroy Trump & Co." Later, Mr. Hodgkinson drove to the Washington, D.C. area from his home in Illinois and attacked the Republican Congressional baseball team.

The draft report appears to assume that more complex threat assessments can reduce or eliminate the need for physical protection, thereby reducing costs. That assumption is not supported. As noted above, a threat assessment is an investigation into a known threat to try to prevent attacks. However, since most attacks are not preceded by a threat, physical protection remains a necessity. Further, the cost of conducting threat assessments of the scope described in the draft report could increase, not decrease, the PSD costs. We note that in FY 2017 the protective intelligence unit of the Secret Service included 204 agents and received $43 million in appropriations. That unit includes the National Threat Assessment Center, which conducts research on targeted violence and publishes those findings.

In February 2017, the PSD was directed by the transition team for the new administration to provide 24/7 protection to the EPA Administrator, consistent with the level of protection provided to some other cabinet officials, and began to do so immediately upon his arrival. This level of protection has continued since that time due to continued risks and specific threats.

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[4] National Threat Assessment Center. (2015). Using a systems approach for threat assessment investigations. A case study on Jared Lee Loughner. Washington, DC: U.S. Secret Service, Department of Homeland Security.

At EPA, the OIG's Office of Investigations sets policy, coordinates, and has overall responsibility for criminal investigations of allegations of threats against EPA employees. If the threats are against the Administrator, the OIG shares its information with the PSD. The EPA Office of Homeland Security provides information to the PSD on any potential national security threats – domestic or international. The PSD uses information from multiple sources, including open-source information and information from our federal/state/local law enforcement partners, to provide protection. EPA will continue this information collection to identify risks to the safety of the EPA Administrator and to mitigate known threats. The Office of Criminal Enforcement, Forensics, and Training, since January 2018, now performs formal threat assessment every 90 days to inform decisions regarding protection of the EPA Administrator.

With respect to policies and procedures, OCEFT directives are applicable to the PSD and the PSD has standard operating procedures specific to protection work. OCEFT will update and finalize those SOPs.

Payment Made in Excess of Statutory Pay Limit - Payroll

The EPA's Office of the Chief Financial Officer is responsible for preparing the agency's biweekly time and attendance for transmission to the Department of Interior's Interior Business Center for payroll processing. OCFO internal controls related to biweekly pay cap requests and processing are in place and include 1) only allowing electronic updates and transmission of timecards to the pay roll provider from PeoplePlus, the agency's time and attendance system, ensuring biweekly pay is processed as intended and 2) only processing pay cap lift requests using the Pay Cap Lift SharePoint site ensuring requests are documented and authorized by the appropriate EPA personnel. IBC is implementing a new internal control in its payroll system, the Federal Personnel Payroll System, that will ensure that pay cap lift requests received from the agency are reviewed against the year worked. The combination of these processes and system improvements, coupled with the Office of Acquisition and Resource Management guidance on premium pay and premium pay requests will further strengthen the pay cap lift process and ensure the process performs as needed to avoid exceeding biweekly or annual pay caps inappropriately.

RESPONSE TO RECOMMENDATIONS:

OGC, OECA, and OCFO are including a redline version of the draft report with this response so that the OIG can better track our recommended edits for specific sections of the report. Additionally, we are providing narrative comments addressing the report's recommendations below.

RECOMMENDATION 1: *Obtain a formal legal opinion from the EPA's Office of General Counsel that articulates the underlying legal basis for the authority of the Protective Service Detail's agents.*

- EPA's Office of General Counsel has provided a formal legal opinion affirming the authority of the PSD to provide protective services to the EPA Administrator. Therefore recommendation 1 should be removed from the draft report and the report should be revised accordingly.

RECOMMENDATION 2: *If the Office of General Counsel concludes that Protective Service Detail agents lack statutory authority to provide protective services, determine and initiate the proper action to remedy the issue.*

- EPA's Office of General Counsel has provided a formal legal opinion affirming the authority of the PSD to provide protective services to the EPA Administrator. Therefore recommendation 2 should be removed from the draft report and the report should be revised accordingly.

RECOMMENDATION 3: *Have the Office of Criminal Enforcement, Forensics and Training complete and document a threat assessment for the EPA Administrator on a regular basis to identify the proper level of protection required for the Administrator.*

- ***OECA Response: Agree in part; disagree in part.***

  The OIG has acknowledged - and OECA agrees - that there is no legal requirement to conduct a threat assessment as a prerequisite to providing protective services. In fact, according to the Government Accountability Office report cited by OIG in the subject report, a majority (three-fourths) of the agencies providing protective services did not develop detailed, written threat assessments justifying their decisions to apply certain levels of protection and expend resources.

  OECA understands that the OIG believes conducting threat assessments is a "best practice" and agrees with this view. In fact, OECA currently conducts a threat assessment every 90 days and OCEFT is in the process of developing an SOP for threat assessments (which we anticipate finalizing by September 30, 2018, along with the other SOPs). However, the audit report should be clear that (1) a threat assessment is not a predicate to providing protective services, (2) while OECA believes that a threat assessment can be a useful source of relevant information, the assessment itself cannot dictate the level of protection, (3) a threat assessment investigates known threats but not all attackers make threats, (4) there is no legal requirement to conduct a formal threat assessment, and (5) a threat assessment is scalable and not every assessment applies the systems approach recommended by the OIG. Finally, the level of protection provided to a protectee should be informed by the professional judgment of law enforcement professionals, in consultation with the protectee.

  Additionally, when referring to the GAO, Department of Justice and Department of Homeland Security reports concerning threat assessments, the OIG report should clarify that these documents are designed for very different audiences with regards to a terrorist threat assessment versus a threat assessment performed in connection with protective services. The DHS Lexicon refers to homeland security risks and the DOJ report concerns the protection of critical infrastructure from terrorist acts; only GAO discusses threat assessments in the context of protective services.

  Importantly, the GAO report did not specify how protective intelligence should be shared among agencies; how best to link threat assessment with the need for protection and level of protection provided; who should provide protection; whether agencies should be provided with specific statutory authority to provide protection; what training should be provided to personnel protecting federal officials, nor who should provide it. Rather, GAO recommended that the Director of the Office of Management and Budget, in consultation with the President, designate an official or group to assess these matters. OECA is not aware of this group being convened by OMB.

  OECA is aware that on June 21, 2018, OMB released a government reform plan that recommends consolidating the protective details of certain government official under the U.S.

Marshalls Service. In this recommendation, OMB proposes that: "The number of Deputy U.S. Marshals provided for any approved protection of an official would vary based on the individual's threat assessment *and risk*." According to OMB, currently agencies have full autonomy in determining the size and scope of their details' activities. Under this proposal, "[d]eterminations as to whether protection would be provided and its size and scope would be made by the USMS in consultation with affected agency heads."

OECA believes that a number of salient points raised in the GAO report should be reflected in the OIG's final report to more accurately characterize that in fact threat assessments are done differently at different agencies based on many factors, and that EPA's practices are consistent with other agencies. These would include:

- "Security officials generally said they determined their officials needed protection as a result of possible threats and actual threats received from individuals who were (1) opposed to the policies and issues being handled by their agencies, (2) apparently suffering from mental problems, (3) opposed to the officials personally, and (4) terrorists."

- "Security officials also said the level of protection provided was determined by a variety of factors, including the sensitivity of issues being handled by the agency, the visibility of the protected officials to the public, travel needs, and the officials' personal preferences."

- "Who decided the level of protection to be applied varied from agency to agency. Security officials at six of the 27 agencies indicated that the protected officials decided their overall level of protection on the basis of their personal preferences and sometimes upon the recommendations of their security staffs. At eight agencies, security officials said the level of protection provided was decided jointly by them and the protected officials on the basis of actual and perceived levels of threat against the agencies and the protected officials. With regard to the other 13 agencies that provided protection, including the agencies with security protection as one of their primary missions, security officials said they, and occasionally with input from other staff, decided the level of protection on the basis of protective intelligence."

In addition, the OIG's final report should reflect the findings of the 1998 U.S. Secret Service study cited by GAO, including the finding that persons who make threats are often not the persons who actually carry out an attack. Thus, an assessment of known threats does not obviate the need for physical security.

RECOMMENDATION 4: *Using a justified level of protection based on a threat assessment, determine appropriate staffing and corresponding schedules for Protective Service Detail agents.*

- ***OECA Response: Disagree.*** OECA understands that the OIG believes conducting threat assessments is a "best practice" and agrees with this view as stated in our response to Recommendation 3. However, the assessment itself cannot solely dictate the level of protection. Recommendations regarding the level of protection are informed by the professional judgment of law enforcement professionals in consultation with the protectee.

RECOMMENDATION 5: *Create and implement comprehensive policies, procedures and standard operating procedures covering the Protective Service Detail operations and proper protection level determinations.*

- ***OECA Response: Agree in part.*** OCEFT's policies, procedures and guidance (collectively called "directives") flow from the law enforcement authority conferred by 18 U.S.C. § 3063, and govern Special Agents' conduct as law enforcement officers ranging from the carry and use of firearms, use of force, the execution of warrants, making of arrests, etc. These directives apply to all OCEFT law enforcement officers, including those serving on the PSD.

  In addition to OCEFT's directives, the PSD has standard operating procedures specific to protective services, which were developed by former United States Secret Service agents based on their protection experience and provide a level of consistency, effectiveness and efficiency to PSD operations. OCEFT is in the process of updating these SOPs, which we anticipate finalizing by September 30, 2018, and issued interim guidance governing PSD activities until the SOPs are finalized.

RECOMMENDATION 6: *Determine the amount of overtime that was improperly authorized for Protective Service Detail agents in calendar years 2016 and 2017 and identify the amounts paid as improper payments.*

- ***OECA Response: Disagree.*** We do not believe that these payments themselves were improper as they were made to the employees for actual work performed.

  Office of Management and Budget Circular A-123, Appendix C, Requirements for Effective Measurement and Remediation of Improper Payments; and the Improper Payments Elimination and Recovery Improvement Act of 2012 inform agencies as to what constitutes an "improper payment." Appendix C of the Circular defines an improper payment as any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts are overpayments or underpayments that are made to eligible recipients. The payments made to PSD agents were, in fact, payments made for actual overtime worked and as such, these payments were not improper even though the pre-approval requests for overtime may not have been according to best practices.

  OECA confirmed with EPA's Office of the Chief Financial Officer that OCFO agrees that the payments made to the PSD agents were not improper. OCEFT acknowledges that for a period of time, the PSD Special Agent in Charge was signing paper pre-approvals for overtime and has since corrected that to ensure even the paper pre-approvals are reviewed and signed by the appropriate OCEFT official.

RECOMMENDATION 7: *Report improper payments to Protective Service Detail agents to the Office of the Chief Financial Officer for inclusion in the annual Agency Financial Report.*

- ***OECA Response: Disagree.*** As state above, OECA does not believe PSD time, including overtime, were improper payments. As such, Chapter 4 should be revised to reflect that or struck in its entirety.

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Recommendation 8: *Revisit the office's decision to terminate the debt collection associated with the Protective Service Detail agent who had received the overpayment.*

- The Office of General Counsel, through the Acting EPA Claims Officer, on June 4, 2018, reopened the waiver decision in which the Protective Services Detail agent's debt for overpayment was terminated. Therefore, recommendation 8 should be should be removed from the draft report and the report should be revised accordingly.

Recommendation 9: *Request a pay audit of the calendar year 2017 wages for the Protective Service Detail agent who had received the overpayment and determine the amount the agent exceeded the 2017 pay cap.*

- ***OCFO Response: Agree.*** The OCFO's Office of Technology Solutions completed an internal analysis leveraging the IBC DataMart data and provided to the OIG on June 25, 2018. The analysis was of unauthorized payments above the annual statutory pay cap that have been made to other EPA employees in 2016 and 2017. The PSD agent information was included. OCFO requested a pay audit from IBC on June 27, 2018.

  Corrective Action Completion Date: September 30, 2018

OIG Recommendation 10: *Recover the $16,299.33 for which the waiver for the Protective Service Detail agent who had received the overpayment was denied and any additional overpayment determined by the pay audit.*

OCFO Response: Agree.

The OCFO will collect any and all debts upon completion of the OGC's review and final determination.

Corrective Action Completion Date: September 30, 2018.

OIG Recommendation 11: *Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap.*

OCFO Response: Agree.

The OCFO has worked to strengthen controls related to pay cap lift requests since early 2017.

In 2016, requests for a retroactive pay cap lift were manually processed – retroactively submitted timecards would be printed, signed, and sent to the Department of Interior's IBC Payroll Operations Center for manual time entry by IBC technical staff into the Federal Personnel Payroll System. Timecards also were manually recorded with the code "LB" or "lift biweekly" instructing the payroll provider to lift the pay cap and apply premium pay based on the employee's pay plan and locality to the annual limit. This manual adjustment/override process in PeoplePlus circumvented FPPS controls over biweekly limits which allowed the overpayments in question to occur.

In February 2017, the OCFO fixed a defect in PPL which allowed manual timecards submitted for retroactive pay cap lifts to be sent to the payroll provider. The defect fix eliminated this manual

override; the PPL system functionality now only permits electronic updates of timecards to be sent to IBC, thus permitting the system to perform an automated validation to ensure biweekly pay is processed as intended.

In September 2017, the OCFO introduced the Pay Cap Lift SharePoint site which is a tool that created a more effective way for the OCFO to receive pay cap lift requests. The process requires the Shared Service Center to enter and upload all pay cap lift request information and supporting documentation into one central location. The site automatically creates an EPA help desk ticket notifying the OCFO that a pay cap lift request for an employee has been submitted. The OCFO confirms the information supporting the request. If the request is not supported and or there is missing information, the OCFO works with the Shared Service Center and/or the employee until issues are resolved; requests that are not supported are not processed. If the information for the request is in order, the action is processed using the PPL which includes the employee's information and pay cap start and end dates. This information is electronically transmitted to the IBC and informs the payroll provider that it is "okay" to calculate overtime pay on the hours and dates submitted. The IBC internally calculates the biweekly pay amount for that time period, checking that the employee pay amount is not over the annual limit. The site provides a central location for submitting, supporting, tracking and processing of an employee's pay cap lift request.

At an IBC meeting earlier this month, the group voted on an FPPS system change which will check that "any biweekly pay cap lift request is edited against the proper year". This is an IBC internal control that will ensure that pay cap lift requests received from the agency are reviewed against the year worked. The implementation date is yet to be determined.

Finally, the Office of Administration and Resources Management's Office of Human Resources provides to the agency the pay cap request process guidance and controls in the following documents 1) Pay Administration Manual, Chapter 15-Policy on Limitation of Pay, October 1991, which provides pay cap waiver guidance and Delegation of Authority; 2) Pay Administration Manual, Appendix 3-Authorization for an Exception to the Biweekly Maximum Earnings Limitation, October 1991, which provides authorization by the designated Delegated Authority and the Human Resources Officer; and 3) Biweekly Pay Cap Waiver Standard Operating Procedures, June 2015, which provides procedures for processing waivers to the Biweekly Maximum Earning Limitation for employees working overtime in emergencies involving direct threats to life or property and/or natural disaster.

The combination of system improvements made to PPL, the implementation of the SharePoint site, and the IBC FPPS improvement, coupled with the OARM's OHR guidance on premium pay and premium pay requests will further strengthen the pay cap lift request process and ensure the process performs as needed to avoid exceeding biweekly or annual pay caps inappropriately.

By September 2018, in conjunction with the review of sensitive payments, the OCFO will conduct a statutory pay cap internal control review. This review, in accordance with OMB A-123, Appendix A, will validate existing controls are in place to mitigate agency employees exceeding the biweekly pay cap. In the event a pay cap lift is necessary, this review will verify proper waiver documentation is in place.

Corrective Action Completion Date: September 30, 2019

OIG Recommendation 12: *Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees in 2016 and 2017, and recover any overpayments as appropriate.*

- **OCFO Response: Agree.**

OCFO-OTS provided an analysis of unauthorized payments above the annual statutory pay cap that have been made to other EPA employees in 2016 and 2017 to the OIG.

Corrective Action Completion Date: June 25, 2018

CONTACT INFORMATION

If you have any questions regarding this response, please contact Gwendolyn Spriggs, OECA's Audit Follow Up Coordinator on (202) 564-2439, or via email spriggs.gwendolyn@epa.gov; Benita Deane, OCFO's Audit Follow Up Coordinator on (202)- 564-2079, or via email deane.benita@epa.gov; Mahri Monson, OGC's Follow Up Coordinator on (202) 564-2657, or via email monson.mahri@epa.gov.

cc: Larry Starfield
Patrick Traylor
Gwendolyn Spriggs
Henry Barne
Pam Mazakas
Jessica Taylor
Carolyn Dick Mayes
David Bloom
Howard Osborne
Jeanne Conklin
Quentin Jones
Meshell Jones-Peeler
Malena Brookshire
Kevin Minoli
Mahri Monson
Benita Deane

Attachments

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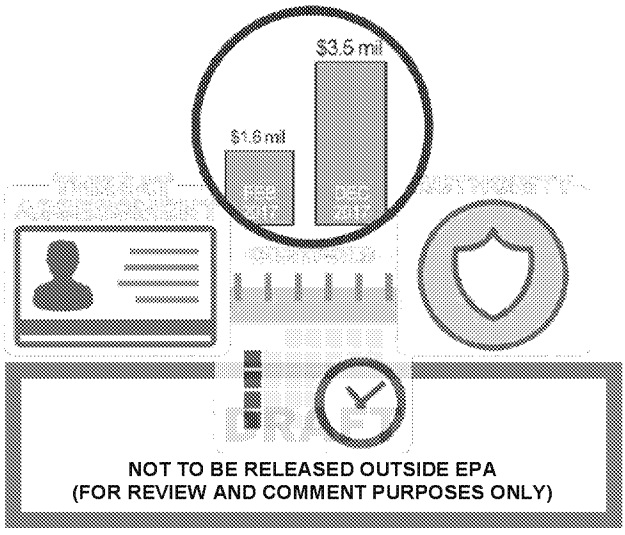
U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Hotline Report:
Operating efficiently and effectively

Agents Assigned to Protective Service Detail ~~Lack~~ Have Statutory Authority to Protect the EPA Administrator

Project No. OA-FY16-0265 **May 30, 2018**



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(FOR REVIEW AND COMMENT PURPOSES ONLY)

Report Contributors:

John Trefry
Jean Bloom
Philip J. Cleveland

Abbreviations

EPA	U.S. Environmental Protection Agency
GAO	U.S. Government Accountability Office
IBC	U.S. Department of the Interior's Interior Business Center
LEAP	Law Enforcement Availability Pay
MARS	Monthly Activity Reporting System
OCEFT	Office of Criminal Enforcement, Forensics and Training
OCFO	Office of the Chief Financial Officer
OECA	Office of Enforcement and Compliance Assurance
OGC	Office of General Counsel
OIG	Office of Inspector General
PSD	Protective Service Detail
SAC	Special Agent in Charge
U.S.C.	United States Code

Cover image: The image shows how the PSD incurred over $3.5 million in costs for the 11-month period February 1, 2017, through December 31, 2017—an increase of over 110 percent over the prior 11-month period's costs of $1.6 million.

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U.S. Environmental Protection Agency
Office of Inspector General

Project No. OA-FY16-0265
May 30, 2018

At a Glance

Why We Did This Audit

The U.S. Environmental Protection Agency (EPA) Office of Inspector General received a hotline complaint that alleged timekeeping irregularities and potential salary cap violations by members of the EPA Administrator's Protective Service Detail (PSD). The PSD provides physical protection and protective escorts to the Administrator. The complaint alleged that PSD agents were not working their complete 8-hour shifts nor their required 2-hour average overtime requirement for Law Enforcement Availability Pay. In addition, the complaint alleged PSD agents may be exceeding the bi-weekly and/or annual pay cap limitations set by 5 U.S.C. § 5547(a) and (b), *Limitation on Premium Pay*.

We initiated this audit to determine whether the Administrator's PSD has adequate controls for the scheduling, approving and monitoring of employee time. Our assessment of internal controls included a review of the statutes related to the PSD.

This report addresses the following:

- Operating efficiently and effectively

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

Listing of OIG reports.

Agents Assigned to Protective Service Detail Lack Statutory Authority to Protect the EPA Administrator

What We Found

Failure to properly justify the level of protective services provided to the Administrator has allowed costs to increase from $1.6 million to $3.5 million in just 11 months.

Our audit determined that the EPA agents assigned to the EPA's PSD lack statutory authority to perform the assigned functions. According to the U.S. Government Accountability Office, only two federal agencies—the U.S. Secret Service and U.S. Department of State—have statutory authority to protect executive branch officials. Many agencies rely on other authorities to provide protection to its officials, such as having their protective personnel deputized by the U.S. Marshals Service to provide agents with law enforcement authority.

Further, we found that the services provided to the Administrator by the PSD were not determined based on a threat assessment. The EPA PSD has no final, approved standard operating procedures that address the use of threat assessments to determine the level of security required to protect the Administrator, or how those services are to be provided. The PSD incurred over $3.5 million in costs for the period February 1, 2017, through December 31, 2017—an increase of over 110 percent over the prior 11-month period's costs of $1.6 million.

We also found that the authorization and approval of overtime hours for agents assigned to the PSD did not follow EPA policy. Additionally, managers did not adequately follow internal controls for scheduling, approving and monitoring employee time. As a result, the PSD's recorded Law Enforcement Availability Pay hours may not have been reliable.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance request a formal legal opinion that articulates the law enforcement authority for the PSD and take needed action per that opinion. Also, we recommend that the PSD complete a formal risk assessment on a regular basis to identify the proper protection required for the Administrator. Further, we recommend that the EPA create and implement comprehensive policies, procedures and standard operating procedures for all PSD operations, including threat assessments.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

May 30, 2018

MEMORANDUM

SUBJECT: Draft Report:
Agents Assigned to Protective Service Detail Lack Statutory Authority
to Protect the EPA Administrator
Project No. OA-FY16-0265

FROM: John M. Trefry, Director
Forensic Audits

TO: Susan Bodine, Assistant Administrator
Office of Enforcement and Compliance Assurance

Holly Greaves, Chief Financial Officer

Matthew Leopold, General Counsel

This is a draft report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This draft report is subject to revision by the OIG and, therefore, does not represent the final position of the OIG on the subjects reported. It is provided to you solely for the purpose of obtaining your review and comments. You are not authorized to distribute or disclose this draft or its contents, except that you may distribute it to other persons in your organization to obtain their review and comments on the subjects reported.

Action Required

We request that you provide a written response to the findings and recommendations in this draft report within 15 days of the draft report date. The response should address the factual accuracy of the draft report and indicate whether you concur or do not concur with each finding and recommendation. The response should also indicate planned completion dates for all recommendations. If you do not concur with a recommendation, please provide any alternative actions you wish to be considered for the final report. Your response should identify any corrective actions already initiated or planned. The final report will include an assessment of your response, and we reserve the right to modify our report in light of your response. Please email both an Adobe PDF and Microsoft Word version of your response to trefry.john@epa.gov.

If you or your staff have any questions regarding this report, please contact me at (202) 566-2474 or trefry.john@epa.gov; or Jean Bloom, Project Manager, at (617) 918-1475 or bloom.jean@epa.gov.

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Chapter 1
Introduction

Purpose

As a result of a hotline complaint, the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) conducted an audit of the EPA Administrator's Protective Service Detail (PSD). The complaint alleged timekeeping irregularities and potential salary cap violations by agents assigned to the Administrator's PSD. The complaint also alleged that PSD agents were not working their complete 8-hour shifts nor their required 2-hour average overtime requirement for Law Enforcement Availability Pay. In addition, the complaint alleged that PSD agents may be exceeding the bi-weekly and/or annual pay cap limitations set by law.

The objective of our audit was to determine whether the PSD has adequate controls for the scheduling, approving and monitoring of employees' time.

Background

On March 2, 2001, then President George W. Bush issued an order titled *Authorization for Home-To-Work Transportation,* which applied to the EPA Administrator and other federal officials. The order authorized transportation of the EPA Administrator to and from work "… in a government vehicle from her residence to her place of employment. …" The authorization was issued under 31 U.S.C. 1344(b)(1)(C) - Public Law 99-950, as amended.

On September 27, 2001, the EPA Administrator delegated responsibility for protective services to the agency's Office of Criminal Enforcement, Forensics and Training (OCEFT), within the Office of Enforcement and Compliance Assurance (OECA). This delegation resulted from an internal EPA meeting held to discuss the ability of the agency's various organizations to provide protective services for the Administrator following the events of September 11, 2001. Prior to 2001, protective service functions had not received significant attention within the EPA.

OCEFT was identified as the organization most capable of providing security for the Administrator because OCEFT had a number of agents who were former members of the U.S. Secret Service, were authorized to carry firearms, and were in a dispersed field structure. This decision resulted in the creation of the PSD. The core mission of OCEFT was (and remains) the investigation of environmental crimes, and the new PSD activities were generally viewed as ancillary. ~~This decision resulted in the creation of the PSD. At that time, the core mission of OCEFT was the investigation of environmental crimes, and the new PSD activities were generally viewed as ancillary.~~

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In the *Report of the Management Review of the Office of Criminal Enforcement, Forensics and Training* (November 2003), a team led by the Deputy Regional Administrator for Region 4 made recommendations for improvements to OECA. One of the recommendations was that the agency revisit how it implements protective services for the Administrator—specifically, the decision on what level of protection is needed for the Administrator and how to provide that protection. The recommendation stated that the agency should fund OCEFT above and beyond its core mission of criminal environmental investigations, provide adequate training and equipment for those conducting investigations, and make every effort to minimize the effect of protective services on the work of Special Agents investigating environmental cases.

The organizational roles and responsibilities ~~operating procedures~~ for the Administrator's PSD are ~~is~~ outlined in an October 2015 Memorandum of Understanding between the Office of the Administrator and OCEFT. Under this agreement, the Office of the Administrator agrees to provide a copy of the Administrator's schedule and travel plans to the PSD as far in advance as practical for planning purposes and agrees to supplement PSD travel resources as required based on the level of travel required by the Administrator. OCEFT agrees to manage the day-to-day operations and that all law enforcement officers comply with applicable policies and procedures.

As of October 2016, when the PSD was providing Portal-to-Portal (door to door)[1] protection for the prior Administrator, it employed six full-time agents, but the Director of OCEFT believed it required eight agents to be fully staffed. As of January 2018, under the current Administrator, the PSD was comprised of 19 agents ~~required 18 agents (nine performing full-time PSD duties and nine part-time OCEFT agents)~~ to provide 24-~~24~~-hour/7-days-a-week protection for the Administrator. See Figure 1~~1~~.

Commented [A1]: Graphic needs correction to comport with corrected text. (PSD has 19 agent positions. In January 2018 it was fully staffed. It currently has some vacancies.)

[1] Portal-to-Portal protection relates to transportation of the Administrator to and from work in a government vehicle from their residence to their place of employment.

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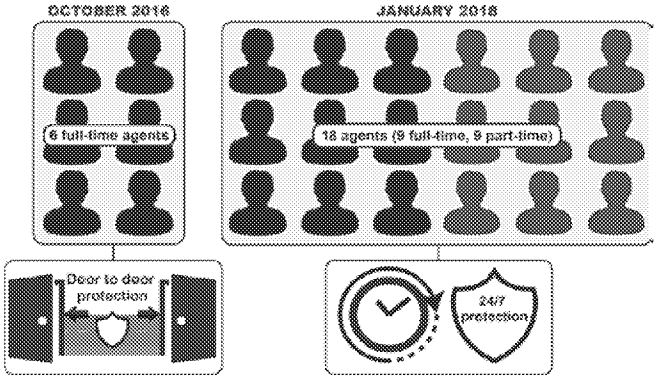
Figure 1: PSD staffing comparison (October 2016 and January 2018)



Source: EPA OIG image.

Responsible Offices

OCEFT, within OECA, has overall responsibility for the PSD. This includes monitoring the budget and ensuring adequate resources are available as needed. The Office of the Chief Financial Officer (OCFO) maintains a Human Resources and Payroll Customer Service Help Desk that aids with human resources, payroll, and time-and-attendance issues.

Prior Audit Reports

During our audit, we identified an unusual pay adjustment for $23,413 paid to a member of the PSD. As a result, we issued a management alert report on September 27, 2017, *Management Alert: Controls Failed to Prevent Employee from Receiving Payment in Excess of Statutory Limit* (Report No. 17-P-0410). Our purpose was to notify the agency that an internal control weakness resulted in an unauthorized payment to a PSD agent on January 17, 2017. That prior report is currently unresolved. Chapter 6 of this current report, "Payment Made in Excess of Statutory Pay Limit," provides additional details.

Scope and Methodology

We conducted this audit from September 2016 to May 2018 in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions presented in this report.

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The OIG's Office of Audit and Evaluation, which conducted this audit, is independent of the OIG's Office of Investigations. The investigators do not participate in audits and have not participated in this audit of the security detail.

To address the hotline allegations and determine whether the PSD had adequate controls for the scheduling, approving and monitoring of employees' time, we performed the following:

- Obtained an understanding of internal controls for PSD time and attendance.
- Compared hours identified in OCEFT's Monthly Activity Reporting System—its management information system—with hours identified in PeoplePlus—the agency's time-and-attendance system.
- Interviewed OCEFT management, PSD agents, and the former Chief of Staff to obtain an understanding on how the PSD services are determined.
- Reviewed regulations and statutes related to the powers of EPA law enforcement officers.
- Obtained cost information related to PSD services.

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Chapter 2
EPA PSD Agents ~~Lack~~ Have Statutory Authority to Perform Law Enforcement Functions

We examined the issue of whether PSD agents have authority to perform law enforcement functions. ~~EPA lacks specific statutory authority to provide protective services, unlike some other agencies (U.S. Secret Service and the U.S. State Department) that have specific authority to provide such protective services. Consequently, o~~Our draft report called for a formal legal opinion from the Office of General Counsel articulating the underlying legal basis for the authority of the PSD to provide protective services.

OGC issued a formal legal opinion explaining that the Agency has authority to expend appropriated funds to provide protective services for the Administrator under 5 U.S.C. § 301. Further, the protective service agents derive law enforcement authority under 18 U.S.C. § 3063, provided they have responsibility for the investigation of environmental crimes. Together, these statutes authorize the Agency to provide a protective service detail to the Administrator comprised of protective service agents with full law enforcement authority to carry firearms, execute warrants, and make arrests.

> ~~We concluded that the EPA's PSD agents lack statutory authority to provide protective services for the EPA Administrator. In 2000, the U.S. Government Accountability Office (GAO) concluded that only two agencies—the U.S. Secret Service and U.S. Department of State—have specific statutory authority to protect executive branch officials. Law enforcement authority is granted by statute or other authorities, such as a deputation by the U.S. Marshals Service. When agencies provide protection to their officials without authority to do so, potential problems can arise, particularly with respect to whether their protective personnel have the necessary law enforcement authorities to make arrests, conduct investigations and carry a firearm. However, based on OCEFT and Office of General Counsel (OGC) discussions, PSD believes it is justified to provide protective services under 18 U.S.C § 3063.~~

~~Powers of the EPA Under Federal Law~~

~~Federal law at 18 U.S.C. § 3063, *Powers of the Environmental Protection Agency*, states, in part:~~

> ~~Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the EPA with responsibility for the investigation of criminal violations of a law administered by the Agency may (1) carry firearms; (2) execute and serve any warrant or other processes issued under the authority~~

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~~of the United States; and (3) make arrests without warrant for: (a) any offense against the United States committed in such officer's presence; or (b) any felony offense against the United States if such officer has probable cause to believe that the person to be arrested has committed or is committing that felony offense.~~

~~According to the agency, PSD agents are designated EPA Special Agents in the same manner as other agents hired to work within OCEFT, including Criminal Investigations Division agents who are clearly covered by 18 U.S.C. § 3063. Consequently, the PSD agents are provided credentials signed by the Administrator that declare them to be federal criminal investigators. However, because the duties of PSD agents do not comport with the plain language of 18 U.S.C. § 3063 (which confers law enforcement powers on persons "with responsibility for the investigation of criminal violations of a law administered by the EPA"), they are not authorized to carry firearms and conduct other law enforcement activities pursuant to that statute.~~

~~We compared the agency powers identified in 18 U.S.C. § 3063 to that of agents of the U.S. Department of Justice and U.S. Department of State who are authorized by statute to provide protective services to specified senior leadership.[2] In contrast, the statute governing EPA law enforcement agents omits any such authorization. Also, we compared the EPA powers to the powers, authorities and duties of the U.S. Secret Service (18 U.S.C. § 3056). We found that 18 U.S.C. § 3056(c)(1), Parts (a) through (c), mirrored all the same law enforcement powers identified in 18 U.S.C. § 3063 but without limitations. EPA law enforcement powers authorized in 18 U.S.C. § 3063 are limited to the investigation of criminal violations of a law administered by the EPA. Further, 18 U.S.C. § 3056 states, in part, that the U.S. Secret Service is authorized to protect the President, his family, former Presidents, presidential candidates and other distinguished foreign visitors, to name but a few. No similar language exists in the powers of the EPA. Therefore, we believe EPA PSD agents lack statutory authority to provide protective services to the Administrator.~~

~~Past Agency Efforts to Establish Law Enforcement Authority for PSD~~

~~PSD began providing protective services for the Administrator in 2001. The function of protecting the Administrator was moved from the OIG to PSD under "Temporary Amendment to EPA Delegation of Authority 1-6A," in the part titled "Security." The delegation was signed by then EPA Administrator Christine Todd Whitman and dated September 27, 2001.~~

~~[2] See 22 U.S.C. § 2709(a)(3) (authorizing Diplomatic Security agents to "protect and perform protective functions directly related to maintaining the security and safety of (…)" listed officials; 28 U.S.C. § 533 (authorizing the Attorney General to appoint Investigative and other officials (…) to assist in the protection of the person of (the President and the Attorney General)").~~

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~~The progression the agency has gone through since 2001 to provide a basis for law enforcement authority for the PSD is complicated and at times confusing. Initially, OCEFT's Special Agents were temporarily assigned to the PSD to provide protective services as needed, and then rotated back to their normal duties in the Criminal Investigations Division at the conclusion of details. The agency appears to have taken the position that the law enforcement powers given to the Criminal Investigations Division agents under 18 U.S.C. § 3063 were automatically transferred to the agents' work in PSD. It is not clear, however, how—under the law—enforcement authority to conduct investigations related to environmental laws could be transferred to the security function of protecting the Administrator.~~

~~According to OCEFT, starting in 2010, the agents in PSD did not perform work that comported with the statutory authority set out in 18 U.S.C. § 3063. EPA, therefore, requested U.S. Marshals Service deputation for PSD agents so that they would be authorized to carry firearms and exercise other law enforcement authority. According to the GAO, U.S. Marshal Service deputation is one way for agencies that lack statutory authority for protection services to be able to obtain the authority to do so. However, the deputation process has its limits. In fact, the GAO opined that agencies that do not have statutory authority for protection services and are relying on the deputation process should instead seek the statutory authority from Congress.~~

~~In 2017, the agency stopped using the U.S. Marshal Service's deputation and opted to have the PSD agents either work part of their time in the Criminal Investigations Division investigating environmental crimes or be permanently assigned to the PSD (with no significant training in investigating environmental crimes). The agency has returned to the earlier position that law enforcement authority for the PSD derives from 18 U.S.C. § 3063.~~

~~We understand that the OGC and OCEFT have been working to resolve the law enforcement authority issue. They have asserted to the OIG that the law enforcement authority of 18 USC § 3063 is broad and runs to agents working in the PSD. Further, they have asserted that a PSD agent without responsibility for investigating environmental crimes can make arrests without warrant for any offense against the United States under the EPA law enforcement authority. To date, however, OGC has not provided a written opinion that sets out in detail the legal bases for their position.~~

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Conclusion

~~We believe that PSD agents do not have statutory authority to provide protective services to the Administrator. EPA Special Agents get their authority from 18 U.S.C. § 3063, *Powers of the Environmental Protection Agency*. Agents authorized under this authority are allowed to make arrests and carry firearms as long as their function is the evaluation of environmental crimes. Even though 18 U.S.C. § 3063 does not set out a statutory basis for the EPA's protective service, the OGC and OCEFT believe there is an implied basis.~~

Recommendations

~~We recommend that the Assistant Administrator for Enforcement and Compliance Assurance:~~

1. ~~Obtain a formal legal opinion from the EPA's Office of General Counsel that articulates the underlying legal basis for the authority of the Protective Service Detail's agents.~~

2. ~~If the Office of General Counsel concludes that Protective Service Detail agents lack statutory authority to provide protective services, determine and initiate the proper action to remedy the issue.~~

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Chapter 3
PSD Lacks Final Standard Operating Procedures to ~~Address Threat Assessments~~for Providing Protective Services

The Comptroller General has determined that "if a government official were threatened or there were other indications that he was in danger, and if it were administratively determined that the risk were such as to impair his ability to carry out his duties, and hence to affect adversely the efficient functioning of the agency, then funds of his agency, the use of which was not otherwise restricted, might be available to protect him, without specific statutory authority." See 54 Comp. Gen. 624 (Jan. 28, 1975). Further, there is no statutory or regulatory requirement that prescribes the methodology for making such an administrative determination.

As noted in the Opinion of the General Counsel dated June 29, 2018, EPA also has law enforcement authority, which relates to the authority to carry weapons and detain individuals.

In 2000, the Comptroller General identified a lack of standardization for protective services for executive branch officials and recommended that OMB assess and made recommendations on obtaining access to sources of protective intelligence, linkage between threat assessments and the need for and level of protection, training, and whether to centralize protection in one agency.

OMB did not carry out this recommendation. However, on June 21, 2018, OMB released a government reform plan that recommends consolidating the protective details of certain government officials under the U.S. Marshalls Service. In this recommendation, OMB proposes that: "The number of Deputy U.S. Marshals provided for any approved protection of an official would vary based on the individual's threat assessment *and risk*."[3] According to OMB, currently agencies have full autonomy in determining the size and scope of their details' activities. Under this proposal, "[d]eterminations as to whether protection would be provided and its size and scope would be made by the USMS in consultation with affected agency heads."

In the absence of government-wide standards or consolidation of protective details, agency standards for making decisions on protective services, adopting

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[3] Delivering Government Solutions in the 21st Century, Reform Plan and Reorganization Recommendations, June 2018, at 97 (emphasis added).

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standard operational procedures for providing those services would be a best practice.

OCEFT established guidelines for the PSD when it began providing protective services in 2001. In 2011, OCEFT issued draft operating procedures for the PSD, but has not finalized those draft procedures. While OCEFT instructed the PSD to follow those draft procedures, the ~~The EPA~~ PSD has no final, approved standard operating procedures (SOPs) that address the protection of the ~~the use of threat assessments to determine the level of security required to protect the~~ Administrator or how those services are to be provided. ~~Due to staff shortages, the PSD has not updated and finalized draft procedures dating back to 2011.~~ The failure to have effective and current standard operating procedures can result in the organization having unclear lines of authority and~~,~~ inconsistent practices~~, inappropriate or inadequate staffing, and excessive or unnecessary costs. The PSD incurred over $3.5 million in costs from February 1, 2017, through December 31, 2017—an increase of over 110 percent over the prior period's costs.~~

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Standard Operating Procedures

Law enforcement groups generally establish their policies, procedures and/or standard operating procedures based on their authority to carry out their functions. Policies, procedures and/or SOPs ~~standard operating procedures~~ help establish consistent practices in law enforcement and lead to operations being carried out in a consistent manner.

Commented [A4]: Yes – consistency, not level of protection.

OCEFT's law enforcement authority is conferred by 18 U.S.C. § 3063. The environmental statutes administered by EPA, such as the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act, establish pollution control requirements and authorize incarceration and fines for criminal violators. ~~For example, OCEFT receives its authority through various environmental statutes—such as the Clean Air Act, Clean Water Act and Safe Drinking Water Act—which establish standards for the areas covered (i.e., clean air, clean water and safe drinking water). From these authorities, the~~ OCEFT develops policies, procedures and SOPs -- collectively called "directives" --) ~~standard operating procedures~~ that detail specific activities performed while investigating environmental crimes. Numerous OCEFT's directives – for example, those regarding the use of government vehicles, the lawful use of force, etc. -- are applicable to the PSD.

In addition, the PSD has SOPs relating specifically to protection.

In November 2003, the Agency recognized the need for ~~2011—8 years after the lack of~~ formal guidance governing PSD activities, ~~was identified~~ in the *Report of the Management Review of the Office of Criminal Enforcement, Forensics and Training* ~~(November 2003)~~, compiled by a committee led by the Deputy Regional

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Administrator for Region 4. In the wake of that 2003 Review, the PSD adopted a set of SOPs that drew on some agents' experience performing protective work for the Secret Service and other agencies. In August of 2011, —the PSD drafted a document titled *Protective Service Detail Standard Operating Procedures*. This document, which is still in draft, states that the mission and purpose of the PSD is to provide dignitary protection services to the Administrator and safeguard the Administrator from harm and situations likely to endanger his or her person. Current PSD officials said that the draft standard operating procedure is out of date, not useful and is currently undergoing revision. Although more than 6 years have passed since the draft document was prepared, PSD management said that due to staff shortages there had not been enough time to update the manual.

In response to our work to date, OCEFT in now in the process of updating the SOPs~~developing policies and procedures~~ for the PSD, and anticipates having them~~m policies and procedures~~ completed by September 30, 2018. ~~March 2019.~~

Threat Assessments

The creation and use of a formal "threat assessment" in determining the extent of protective services is not a legal requirement, but the OIG believes that it is a best practice. OCEFT management believes that a threat assessment can be a useful source of relevant information about threats, to be considered by law enforcement professionals and then discussed with the person to be protected. The assessment itself does not determine the level of protection.

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The PSD ~~did~~ does not conduct or use a threat assessment to determine the ~~service it needed~~level of protection to provid~~e~~e the ~~current~~ EPA Administrator. Rather, the level of protection is an administrative decision, informed by awareness of risks and the potential impact of those risks to the efficient functioning of the agency. In February 2017, the PSD was directed by the transition team to provide 24/7 protection to the EPA Administrator, consistent with the level of protection provided some other cabinet officials, and began to do so immediately upon his arrival. This level of protection has continued since then due to continued risks and specific threats. EPA is now performing threat assessments every 90 days, which inform the protection provided.

According to the Secret Service: "The purpose of U.S. Secret Service threat assessment and protective intelligence activities is to identify, asses, and manage persons who might pose a threat to those we protect, while the goal of these activities is to prevent assassination attempts."[4] At EPA, that function is carried out by several offices. The EPA Office of Homeland Security (OHS) provides information on any potential national security threats – domestic or international – and shares this information with the PSD. The EPA OIG Office

[4] Protective Intelligence & Threat Assessment investigations, A Guide for State and Local Law Enforcement Officials, Research Report, U.S. Department of Justice, Office of Justice Programs (July 1998), at iii.

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of Investigations investigates instances of threats that have been made against EPA employees, including the Administrator. The PSD uses information from multiple sources, as well as open-source information and information from federal/state/local law enforcement partners, to provide protection.

Threats have been made against EPA Administrators. A summary of such threats that were investigated by the OIG Office of Investigations can be found in~~used~~ a report titled *Summary of Pending and Recent Threat Investigations* requested from the OIG. The OIG report consisted of four parts:

1. Summary and Threat Statistics.
2. Threats Directed Against Administrator Scott Pruitt and/or his family.
3. Threats Directed Against Former Administrator Gina McCarthy.
4. Threats Directed Against Other EPA Employees.

This summary demonstrates that the number of threats has increased. The information in the OIG summary report ~~only consisted~~ consists of statistical data of threats received by the OIG. The report ~~included~~ includes quantitative data regarding the number of threats as well as details of some specific threats. The report did not ~~assess~~ discuss the potential danger presented by any of these threats. ~~This information is considerably narrower in scope and only an element of what would be contained in a threat assessment as defined by the U.S. Department of Homeland Security or GAO. The OIG only provides statistics, and the OIG's report should not in any way be considered a threat assessment.~~

As noted by the GAO, a 1998 U.S. Secret Service report on its study of the thinking and behavior of people who were known to have attached or approached to attack public officials in the United States from 1949 to 1996, those who make threats are often not the persons who actually carry out an attack.[5] For example, James Hodgkinson, who attacked members of the Republican Congressional baseball team on June 14, 2017, made no threats prior to his attack.[6] Thus, an assessment of actual threats, while informative, is not dispositive of the level of protection provided to a protectee.

The PSD's failure to have updated and final policies, procedures and standard operating procedures can result in the organization not operating effectively, efficiently or consistently. Although the PSD operates under SOPs developed by former Secret Service agents and based on their protection experience, which provides a level of consistency, effectiveness and efficiency to PSD operations, these SOPs have not been issued in final form. Further, there is a lack of clarity within OCEFT regarding the responsibilities of OHS, the OIG, and the PSD. The PSD's SOPs should be finalized to avoid ~~. It also leads to~~ ambiguity with respect to how the security detail operates. Further, OCEFT should issue SOPs regarding

[5] Protective Intelligence and Threat Assessment investigations, supra note 1, at 14.
[6] The Congressional Shooter: A Behavioral Review of James Hodgkinson, Department of Homeland Security, United States Secret Service, National Threat Assessment Center, October 2, 2017, at 1.

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how it uses information provided by the OHS and OIG to inform the operation of the PSD, and methodologies for identifying additional threats against the EPA Administrator that are not brought to the attention of those offices.

~~Without performing a threat assessment to determine the security required for the Administrator, the costs incurred represent an inefficient use of agency resources. Because the PSD does not use threat assessments to determine the proper level of protection required for the Administrator,~~ Tthe level of service ~~it~~ the PSD provides ~~defaults to a~~has been determined by management ~~decision~~ judgements~~from the Office of the Administrator~~. For example:

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- In 2016, the former EPA Administrator delegated the authority to declare the work of the PSD to be critical to the mission of the EPA. Less than 1 month later the OECA Assistant Administrator declared PSD work mission critical.
- In 2017, the ~~Office of the Administrator~~transition team requested to expand PSD services to provide 24-hour/7-day-a-week protection for the new Administrator.
- In an unsigned May 1, 2017, memorandum, the acting Special Agent in Charge for the PSD requested that the Office of the Administrator Travel Coordinator place the current Administrator in either business or first-class travel accommodations because continued use of coach seats would endanger his life.
- On June 2, 2017, the OCFO's acting Controller signed a memorandum in response to the Office of the Administrator's Deputy Chief of Staff request to allow business and first-class travel for the Administrator because use of coach-class accommodations would endanger his life or government property.

~~On April 3, 2018, OCEFT management asserted that OCEFT is performing a threat assessment every 90 days for operational purposes. OCEFT said it will be working with other EPA offices and the OIG to determine which office is best positioned to perform threat assessments in the future.~~

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GAO and Other Reports on the Use of Threat Assessments

The GAO's *Standardization Issues Regarding Protection of Executive Branch Officials*, dated July 2000, ~~notes~~ states that for agencies with security protection as one of its primary missions, threat assessments form the basis for determining the need and scope of protection. However, nearly three-fourths of the agencies that provided protection through other authorities—such as deputation by the U.S. Marshal Service—said that they had not prepared detailed, written threat assessments justifying their decisions to apply certain levels of protection and

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expend resources. ~~Moreover, the lack of thorough threat assessments that document the level of protection needed makes it difficult to determine the basis for, reasonableness of, and appropriate cost for the protection being provided.~~

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The GAO's report further emphasized the importance placed on threat assessments by other agencies. Specifically, it cited an Air Force requirement that detailed, written threat assessments be prepared regarding its protected officials. The assessment should be the initial element of any protective operation and inform ~~form~~ the ~~basis for determining the~~ need and scope of a formal protective service operation.

The U.S. Department of Homeland Security Risk Steering Committee's *DHS Risk Lexicon*, dated September 2008, defines a threat assessment as a "process of identifying or evaluating entities, actions, or occurrences, whether natural or man-made, that have or indicate the potential to harm life, information, operations and/or property."

Commented [A8]: Why cite 2008? Was updated in 2010.

~~The U.S. Department of Justice, in its September 2005 report *Assessing and Managing the Terrorism Threat*, states:~~

> ~~The intelligence process is the foundation of threat assessment. ... Threat assessments must be compiled from comprehensive and rigorous research and analysis. Law enforcement cannot function unilaterally. Threat assessments that do not incorporate the knowledge, assessments, and understanding of state, local, and private organizations and agencies with the potential threats being assessed are inherently incomplete. (emphasis added).~~

Commented [A9]: Not relevant. This is in the context of the following definition of threat assessment:
"A systematic effort to identify and evaluate existing or potential terrorist threats to a jurisdiction and its target assets. Due to the difficulty in accurately assessing terrorist capabilities, intentions, and tactics, threat assessments may yield only general information about potential risks."

The report cited addresses terrorist threats to critical infrastructure. It has nothing to do with determining the level of protection for government officials. In fact, the section quoted goes not to say:

"For example, a threat assessment of water district facilities should include the most comprehensive data available from local police, sheriff, and fire departments; health services; emergency management organizations; and other applicable local, state, and federal agencies that may be affected by an attack on the water district's infrastructure."

~~Additionally, the report notes that the "threat assessment should also assimilate germane, open-source, or nonproprietary threat assessments, as well as intelligence information." The report also identifies essential data that should be collected prior to performing the assessment.~~
Agencies with protection as one of its core missions (e.g. the Secret Service or Diplomatic Security Service) that provide protective services to a variety of officials, including on a temporary basis, utilize threat assessments to further reduce risk to protectees. These agencies have robust intelligence units and individuals trained in the acquisition and analysis of threat related intelligence. The analysis, provided by experts, is used by law enforcement professionals when recommending and creating a projected plan for protection. A threat assessment is not a legal requirement. As noted in the above-referenced GAO report, "nearly three-fourths of the agencies that provided protection . . . said they had not prepared detailed, written threat assessments justifying their decisions to apply certain levels of protection and expend resources."

On April 3, 2018, OCEFT management asserted that OCEFT is performing a threat assessment every 90 days for operational purposes. As described above,

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OCEFT obtains information from OIG, OHS, and other sources to gather information on the current vulnerabilities or potential threats towards the Administrator and uses this information to inform PSD's protective services~~OCEFT said it will be working with other EPA offices and the OIG to determine which office is best positioned to perform threat assessments in the future.~~

~~Cost of Protective Services Increasing~~

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~~We compared the total cost of the PSD under the current Administrator for the 11-month period of February 1, 2017, through December 31, 2017, to the cost incurred under the prior Administrator for that person's last 11-month period—between March 1, 2016, and January 31, 2017. We found that total costs of the PSD more than doubled from the prior Administrator, as shown in Table 1 and Figure 2. These increases were due primarily to the new 24 hour/7-day-a-week protection required by the Office of the Administrator and increased costs to travel first class.~~

~~**Table 1: PSD cost comparisons for current and prior Administrators**~~

Cost element	3/1/16–1/31/17	2/1/17–12/31/17	% increase
~~Payroll~~	~~$1,208,798~~	~~$2,330,502~~	~~92.8%~~
~~Travel~~	~~233,887~~	~~739,580~~	~~216.2~~
Other	224,771	445,857	98.4
~~**Total**~~	~~**$1,667,456**~~	~~**$3,515,940**~~	~~**110.8%**~~

~~Source: OCEFT resource management staff.~~

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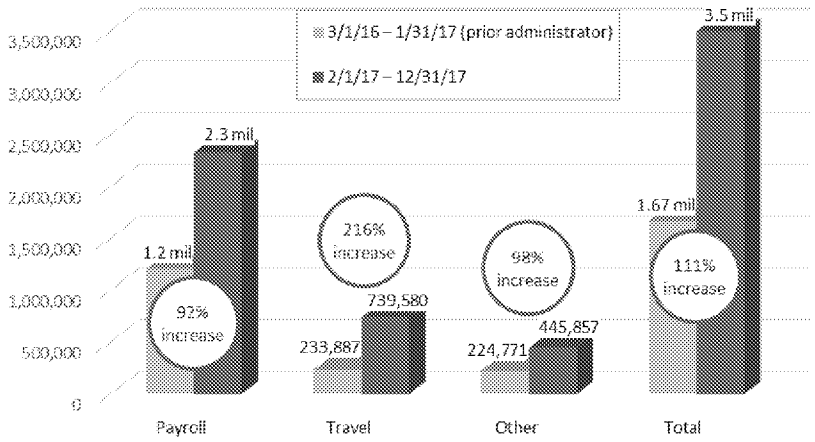
Figure 2: PSD cost comparison for current and prior Administrators



Source: EPA OIG image.

Conclusion

The PSD is subject to OCEFT's directives and has SOPs specific to protection work, but these remain in draft form, and have not been updated since 2011. ~~The PSD lacks policies, procedures and standard operating procedures for the operational and administrative functions it performs. Further,~~ Tthe ~~services~~ protection that the PSD has provided~~s~~ to the Administrator ~~are~~ is based on ~~unsupported~~ management ~~decisions~~ judgements~~and discretion without being based on a formal threat assessment as defined by the GAO, U.S. Department of Homeland Security, and U.S. Department of Justice. As a result, the costs of providing security services to the Administrator have more than doubled compared to the costs of services provided to the prior Administrator. While the OCEFT has expressed a commitment to prepare policies and procedures and perform regularly scheduled threat assessments, there is no sense of urgency on the part of the agency to complete these efforts in a timely manner.~~

OCEFT has expressed a commitment to update PDS's SOPs, including policies and procedures regarding the collection of information necessary to develop threat assessments that will inform the provision of protective services.

Commented [A11]: The statement that a lack of a threat assessment resulted in increased costs is not supported. A threat assessment according to the Secret Service is to investigate known threats to prevent attacks by persons who make threats.

> "The purpose of U.S. Secret Service threat assessment and protective intelligence activities is to identify, assess, and manage persons who might pose a threat to those we protect, while the goal of these activities is to prevent assassination attempts."

It does not determine level of protection because most attackers do not make threats.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance:

~~3.~~1. Identify the scope of protection for the EPA Administrator, informed by a threat assessment performed quarterly by~~Have~~ the Office of Criminal Enforcement, Forensics and Training, risks, the professional judgement of law enforcement professionals in that office, and in consultation with the protectee. ~~complete and document a threat assessment for the EPA Administrator on a regular basis to identify the proper level of protection required for the Administrator.~~

~~4.~~2. ~~Using a justified level of protection based on a threat assessment, determine~~Have the Office of Criminal Enforcement, Forensics and Training determine appropriate staffing and corresponding schedules for Protective Service Detail agents, informed by threats assessments, risks, and the professional judgement of law enforcement professionals in that office.

~~5.~~3. Have the Office of Criminal Enforcement, Forensics and Training update and finalize the ~~Create and implement comprehensive~~ policies, procedures and standard operating procedures covering the Protective Service Detail operations ~~and proper protection level determinations~~.

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Chapter 4
Authorization of PSD Overtime Did Not Follow Policy

OCEFT did not provide proper authorization of overtime requests for agents assigned to the Administrator's PSD. The requests were authorized by an acting Special Agent in Charge (SAC), but that did not meet the level of approval required in the EPA's *Pay Administration Manual*. The OIG identified $106,507 of overtime payments made without the proper level of authorization. This occurred because OCEFT was not aware of the requirements for the higher level of authorization. OCEFT has since acknowledged the error and made corrections in its authorization process.

Authorization and Approval of Overtime

We reviewed EPA Form 2560-7, *Request for Overtime Authorization*, for agents authorized to perform work for the PSD during September 2016. We found that all overtime authorization forms were prepared by the acting SAC, in advance, based on requirements of the Administrator's travel schedule. The acting SAC also approved the overtime authorizations for each agent, while the OCEFT Deputy Director approved overtime authorizations requested by the acting SAC. The acting SAC was also responsible for approving overtime charges in PeoplePlus. Details are in Table 2.

Table 2: Overtime/compensatory time requests

Week ending	Overtime request forms submitted	Agents requesting overtime*	Approved by acting SAC
09/10/2016	3	5	3
09/17/2016	4	8	4
09/24/2016	3	5	3
10/01/2016	3	9	3

Source: OIG analysis of agency data.

* Individual forms were not submitted by each agent.

The requirements for authorization and approval of overtime are in the *EPA Pay Administration Manual*, Chapter 4, Section 6 (May 17, 1990), "Authority to Authorize Overtime and Holiday Work," which states:

> The Administrator, Deputy Administrator, Associate Administrators, Assistant Administrators, the Inspector General, the General Counsel, Deputy General Counsels, Regional Counsels, Regional Administrators, office directors, directors of headquarters staff offices or field equivalents, laboratory directors, Headquarters division directors, and regional division directors are

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> authorized to approve overtime and holiday work and to establish work schedules for compensable pre-shift and work-shift activities in accordance with governing laws, regulations and Agency rules and procedures. This authority may be re-delegated to a level that will assure compliance with legal and regulatory requirements. …

Additionally, OCEFT Policy P-02, *Premium Pay for OCEFT GS-1811 Criminal Investigators,* Section 3.2(b)(iv), states:

> EPA permits office directors and division directors to approve overtime work, and allows re-delegation of this authority. OCEFT has re-delegated the authority to assign regularly scheduled overtime work, compensable by overtime premium pay, to the assistant division director level.

Based on OCEFT policy, the acting SAC was not authorized to approve overtime requests. OCEFT officials acknowledged they were unaware of the requirements and implemented immediate corrective action to have all future requests authorized by the Deputy Director. Our review of requests made between February 26 through April 22, 2017, showed that either the OCEFT Director or Deputy Director authorized all overtime requests.

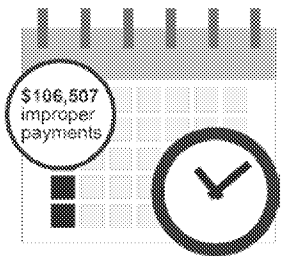
Improper Payments

As a result of the improper authorizations, PSD agents incurred overtime costs without proper authorization. As shown in Table 3, PSD agents received an estimated $106,507 in overtime payments for the period January 1, 2016, through March 4, 2017.[7]

Table 3: Estimated overtime payments

Period covered (calendar year)	Overtime costs
2016 (through 12/24/16)	$95,500
2017 (12/25/16–03/04/17)	11,007
Total costs	**$106,507**

Source: OIG analysis of agency data.



The OIG considers the overtime payments resulting from the improper authorizations to be improper payments as defined by Office of Management and Budget Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments;* and the Improper Payments Elimination and Recovery Improvement Act of 2012. Appendix C of the circular defines an improper payment as:

Commented [A12]: We (OCFO) agree improper payments should be reflected in the AFR. We (OCFO) would like to discuss this section in more detail as we don't believe this was an improper payment.

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[7] We did not determine the extent of improper authorization or any costs associated prior to the period and costs presented in Table 3.

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> any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts are overpayments or underpayments that are made to eligible recipients.

Additionally, the term payment is further defined to mean:

> any disbursement or transfer of Federal funds (including a commitment for future payment, such as cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, non-Federal entity, or Federal employee, that is made by a Federal agency. ...

Under the Improper Payments Elimination and Recovery Improvement Act of 2012, the definition of an improper payment was amended to include payments made to federal employees.

Conclusion

Although the PSD agents were entitled to overtime pay, and there is no need to recover the funds, we concluded that ~~worked~~ overtime without proper authorization results in an administrative improper payment totaling~~, resulting in improper payments of~~ $106,507 between January 2016 and March 2017. We could not determine the total amount of improperly authorized overtime worked or the period of time the improper authorizations occurred because the issue predates the period of time covered by the audit.

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Agency Actions

Based on our discussion with the agency, OCEFT took immediate action to have the Deputy Director approve all requests for overtime. As a result, no recommendation is being made regarding the authorization of overtime.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance require that the Office of Criminal Enforcement, Forensics and Training:

6. Determine the amount of overtime that was improperly authorized for Protective Service Detail agents in calendar years 2016 and 2017 and identify the amounts paid as improper payments.

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~~7.~~5. Report improper payments to Protective Service Detail agents to the Office of the Chief Financial Officer for inclusion in the annual Agency Financial Report.

Chapter 5
PSD Did Not Follow Policy for Recording and Monitoring Law Enforcement Availability Pay Hours

PSD agents have historically had~~The EPA Administrator requires around-the-clock protection, resulting in PSD agents having~~ complex work schedules requiring large amounts of overtime, weekend work, shift differentials and Law Enforcement Availability Pay (LEAP) hours. PSD agents and their supervisors did not adequately follow policies and procedures for recording and monitoring LEAP hours worked. Failing to follow all applicable policies and procedures increases the risk for fraud, waste and abuse.

Time-and-Attendance and Management Information Systems

On a biweekly basis, PSD agents are responsible for accurately entering hours worked and leave taken into an electronic timesheet within PeoplePlus—the EPA's time-and-attendance system. Agents attest to the accuracy of the data they enter, and approving officials review and certify to the accuracy of the data. The certified data is then sent to the OCFO's Office of Technology Solutions for processing and transmittal to the agency's payroll provider—the U.S. Department of the Interior's Interior Business Center (IBC).

PSD agents, in accordance with 5 U.S.C. § 5545a, *Availability Pay for Criminal Investigators*, are provided premium pay or LEAP for being available for unscheduled duty. LEAP pay is premium pay that is paid to federal law enforcement officers who are criminal investigators. To qualify for LEAP pay, an agent must work, or be available to work, an average of 2 additional hours for each "regular workday" (i.e., a day in which the agent works at least 4 regular hours, not counting overtime, unscheduled duty, training, travel, or approved leave/excused absence).

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PeoplePlus ~~is not used~~does not have the capability to record agents' LEAP hours. ~~Rather~~Consequently, PSD agents ~~are responsible for submitting their overtime, leave and~~record LEAP hours ~~into~~ in OCEFT'~~s the~~ Monthly Activity Reporting System (MARS)~~—OCEFT's~~ an internal management information system—by the tenth workday of the following month. MARS is not a time-and-attendance system; it is a separate stand-alone system that does not integrate with PeoplePlus. MARS is considered a management tool. All supervisors are responsible for reviewing and approving entries in MARS for their agents by the end of the month in which they were submitted. This information is used to demonstrate

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whether the agents are meeting their average 2-hour-per-regular-workday availability pay requirements. Agents receiving LEAP must make an annual certification that they have met, and are expected to meet, the average 2-hour-per-regular-workday availability requirement. This certification must be approved by the investigator's supervisor and be supported by the information in MARS.

Policy Not Followed

We found that PSD agents and supervisors complied with policies and procedures for scheduling employee time. However, we found that PSD agents and supervisors did not follow existing policies and procedures for recording and monitoring LEAP hours in MARS. As a result, LEAP hours recorded in MARS may not be adequate to support the agent's annual certifications. Examples of internal controls not being followed included the following:

- Our review of individual agents' MARS entries found that the reports were not completed in a timely manner. We selected 1 month to review and determined that five of six reports were submitted over a month late. Further, our review of the sampled MARS reports for the same period found that none were approved by management. PSD agents said MARS reports were not done timely because they were busy doing protective duties rather than timekeeping responsibilities—an administrative burden.

- We were informed that PSD agents use PeoplePlus as the starting point for the data inserted into MARS. Despite this, we could not reconcile information in PeoplePlus to the information in MARS. Our analysis found that five of 14 agents who charged hours to the PSD had hours reported in MARS that did not agree with the hours reported in PeoplePlus. The differences between the two systems for the month reviewed ranged from 8 hours to as much as 44 hours.

OCEFT explained supervisors are responsible for assigning and overseeing each agent's workload, including overtime that is scheduled in advance of the administrative work week, as well as staffing and scheduling events like execution of a search warrant. Supervisors also review and approve agents' PeoplePlus time entries on a biweekly basis.

Conclusion

Because policies for recording and monitoring LEAP hours were not followed, there is no assurance that the information in MARS was accurate. Discrepancies were found between the information in MARS and PeoplePlus. We found that MARS information was not entered timely nor reviewed by supervisors in a timely manner These deficiencies can be attributed to agents' lack of awareness of MARS responsibilities, and an opinion that compliance with timekeeping responsibilities was an administrative burden and not of sufficient priority.

Commented [A13]: OCFO Comment - PeoplePlus, not MARS, is the system of record for hours and payroll is based on hours in PeoplePlus and not MARS.

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Because we have initiated a separate audit of ~~OCEPT's~~ OCEFT's LEAP pay recording due to the issues identified, no recommendations are being made in this report.

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Chapter 6
Payment Made in Excess of Statutory Pay Limit

A PSD agent received a $23,413 payment in 2017 for overtime that exceeded the annual pay cap of the prior calendar year. Because the overtime hours were worked and recorded in 2016 but not processed and paid until January 2017, neither the agency nor its payroll provider initially recognized that the payment resulted in the employee exceeding the 2016 annual pay cap. The OCFO began coordination on the accuracy of the original payment with IBC in March 2017.~~The PSD informed us about the original payment and we reported it to the OCFO in April 2017,~~ and a debt collection notice was issued to the agent on July 14, 2017. We issued a management alert report on September 27, 2017, *Management Alert: Controls Failed to Prevent Employee from Receiving Payment in Excess of Statutory Limit* (Report No. 17-P-0410), to notify the agency of the internal control weakness that resulted in an unauthorized payment.

Commented [A14]: OCFO Comment - The IBC Bill for Collection document states the gross earnings of $21,449.20 with a net total of $16,299.33 of which he was billed.

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Debt Collection Notice

On July 14, 2017, the IBC—the EPA's payroll provider—sent a Bill for Collection to the subject PSD agent informing him that he may have received an excess federal salary payment of $16,299.33. IBC stated that the reason for the overpayment was "an erroneous overpayment/credit," and requested either payment in full by August 13, 2017, or other repayment options. Starting on July 19, 2017, the PSD agent began filing a formal debt collection waiver request, which stated in part:

> … I do not believe that this was an erroneous overpayment/credit. It was payment for hours properly preapproved, scheduled, and worked. There was, and still to this day is, enough confusion by many people … to be able to say that no one really knows at this point if this was truly an erroneous payment. Therefore, I respectfully request that this waiver request be granted and this matter is allowed to be put behind me. …

According to the IBC, in July 2017, at the EPA's request, a manual adjustment was made to remove the $16,299.33 salary payment from the gross wages of the PSD agent because the amount was in dispute. This perceived temporary manual adjustment was intended to remain only until the agency ruled on the waiver request. Consequently, the agent was not required to make any payments against this debt until a final determination was made.

Waiver Determination

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On November 1, 2017, the EPA's OGC denied the agent's waiver request. The OGC stated, in part, that after an audit was performed, it was determined by both the IBC and OCFO that the annual pay cap cannot legally be exceeded and may not roll over into the following calendar year. An employee forfeits any additional compensation once he or she hits that year's pay ceiling. Further, the waiver was precluded since the employee was aware that he or she was being overpaid.

After the waiver was denied, the OCEFT Deputy Director and OCFO officials provided the OGC additional information about the debt collection. The OGC was informed that the PSD agent was a criminal investigator earning a base pay of $136,160, and that his 25 percent LEAP differential would raise his annual salary to over $170,200—clearly above the annual pay limit of $161,900. Without receiving the January 2017 lump sum payment, the agent's pay would already be reduced to ensure he would not exceed the 2017 annual limit. The OCFO further concluded that the lump sum payment the agent received in January 2017 would count toward the annual limit of $161,900 and the controls in place would prevent payments above the annual limit. Based on this information, the OGC determined that the cost of further collection was likely to exceed the amount recoverable and the debt was terminated. The OCFO was instructed to work with the IBC to close out this debt.

~~We found the information presented to the OGC by OCEFT and OFCO to be incorrect and misleading.~~ The OGC was not informed that the disputed payment of $16,299.33 was manually adjusted because the amount was in dispute and therefore removed from being considered part of the gross wages of the PSD agent. Additionally, the OGC was not informed that, because of the manual adjustment, repayments were deferred until a final determination was made on the waiver. ~~Although the OCFO was instructed to work with the IBC to close out the debt, we have found no evidence that suggests the OCFO took any additional actions.~~ As a result, the lump sum payment was not included in the calculation of the 2017 annual pay limit, and the PSD agent was paid more than $191,000, far exceeding the annual pay cap of $161,900.

Commented [A15]: OCFO Comment - The agency provided supporting documentation related to the highlighted issue. Therefore, we recommend striking this language.

Management Alert

Our management alert report—issued September 27, 2017—had recommended the following to the EPA Chief Financial Officer:

1. Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap.

2. Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees.

3. Recover any overpayments above the annual statutory pay cap.

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OCFO indicated that it agreed with the recommendations and submitted planned corrective actions and revised corrective actions to resolve the management alert's findings on three separate occasions (November 6, 2017, December 6, 2017, and January 17, 2018); however, we found the actions to be incomplete based on the information provided. In June 2018, the OCFO was able to demonstrate that the new controls implemented would prevent future instances of an employee overpayment. However, the OIG maintains that: ~~On November 6, 2017—approximately 1 week after the OGC's determination on the PSD agent's debt waiver request—the OCFO submitted its Planned Corrective Actions to resolve the management alert's findings. The OCFO indicated it agreed with the recommendations and believed all recommendations were addressed and all corrective actions completed. The agency indicated in its comments that:~~

1. ~~There was no need to design or implement new controls in PeoplePlus because the manual adjustment process that circumvented the system controls was eliminated in February 2018~~OCFO did not provide the scope of its analysis to determine how it could conclude that there were no additional overpayments beyond those identified.

2. ~~An analysis was conducted and two additional employees received pay in excess of the statutory limit.~~The agency has not provided documentation to support the OGC basis for termination of the debt nor that the debt was recouped to prevent exceeding the annual pay cap in calendar year 2017.

3. ~~The IBC determined the validity of the PSD agent's debt, as well as for two additional employees identified, and the debts for all three employees are currently moving through the debt collection process.~~

~~On December 6, 2017, the OIG responded to the OCFO stating that the planned corrective actions did not meet the intent of the recommendations and were incomplete. Regarding each recommendation, we found that the agency:~~

1. ~~Did not demonstrate that a manual override caused the unauthorized payment or identify any new controls that would prevent an unauthorized payment from occurring.~~

2. ~~Did not identify the scope of its analysis or identify the cause(s) for the salary overpayments.~~

3. ~~Did not recover any overpayments.~~

~~On January 17, 2018, the OCFO submitted revised planned corrective actions stating that all recommendations had been addressed and corrective actions completed by November 30, 2017. The agency comments indicated:~~

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1. There is no need to design new controls in PeoplePlus because a manual adjustment overrode the payroll provider's controls. In response to a request to retroactively lift the biweekly pay cap for certain employees, manual timecards were submitted to the payroll provider (IBC). However, in February 2017, PeoplePlus was modified to permit only electronic updates allowing the system to perform automated checks to ensure it processes biweekly pay as intended. The responsibility of ensuring that employees do not exceed the biweekly and annual pay caps lies with the payroll provider. The payroll provider's Federal Personnel/Payroll System is set up to check each pay period to ensure employees do not exceed either cap and performs the necessary cutbacks to ensure that, without the appropriate request, the biweekly and annual caps are not exceeded.

2. Agency staff, using IBC data, identified two additional staff in comparable positions in 2016 who exceeded the annual pay cap. These overpayments were caused by the same manual adjustment process identified above.

3. A debt was established for the PSD agent. Subsequently, the agent requested a waiver of the debt from the OGC. The OGC denied the waiver and terminated the debt because it would be costly and time-consuming for the agency to pursue, not yielding any recoverable amount. Because the 2016 pay occurred in 2017, the employee could not exceed the biweekly pay cap in 2017 and therefore effectively would not exceed the annual pay cap in either 2016 or 2017. Based on the OGC decision, the OCFO terminated the debts of the other two employees. As a result, there were no longer any debts to recover from any of the three employees.

On March 29, 2018, the OIG responded to the revised OCFO's planned corrective actions stating that the responses received were not acceptable. The OIG comments were as follows:

1. The agency has not demonstrated any additional controls that would prevent an unauthorized payment from occurring other than those controls provided by its payroll provider (IBC).

2. The agency's response neither identified the scope of its analysis nor identified the cause(s) for the instances identified.

3. We found that the agency has not provided documentation to support the OGC basis for termination of the debt nor that the debt was recouped to prevent exceeding the annual pay cap in calendar year 2017.

The OCFO provided additional comments on May 17, 2018. The OCFO continues to believe that its January 17, 2018, corrective action plan fully addresses the OIG's concerns. In addition, the OCFO plans to provide additional details on the reviews conducted to address the recommendations. Lacking any

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~~new information, we continue to consider the response incomplete and the recommendations remain unresolved.~~

Conclusion

The OGC, based on the information provided to it, incorrectly terminated a debt owed by a PSD agent~~ey Incorrect and misleading information provided by OCEFT and OCFO resulted in the OGC incorrectly terminating a debt owed by a PSD agent. OCEFT and the OCFO provided incorrect and misleading information to the OGC~~ because the OCFO was not aware of the earlier decisions to suspend debt payments and remove the lump sum payments from the calculation of the annual pay cap. This ~~misleading information~~ was also ~~used as~~ the basis to justify the termination of two other debts.

Recommendations

We recommend that the General Counsel:

~~8.~~6. Revisit the office's decision to terminate the debt collection associated with the Protective Service Detail agent who had received the overpayment~~ and, as a result of this action, coordinate with the OCFO to recover the $16,299.33 from the Protective Service Detail agent for which the waiver was denied and any additional overpayment determined by the pay audit~~.

We recommend that the Chief Financial Officer:

~~9.~~7. Request a pay audit of the calendar year 2017 wages for the Protective Service Detail agent who had received the overpayment and determine the amount the agent exceeded the 2017 pay cap.

~~10. Recover the $16,299.33 for which the waiver for the Protective Service Detail agent who had received the overpayment was denied and any additional overpayment determined by the pay audit.~~

~~11.~~8. Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap.

Commented [A16]: We (OCFO) understand the findings of the audit; however, based on current business processes, IT design, and internal controls we recommend striking this recommendation.

~~12.~~9. Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees in 2016 and 2017, and recover any overpayments as appropriate.

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Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status[1]	Action Official	Planned Completion Date	Potential Monetary Benefits (in $000s)
1	7	Obtain a formal legal opinion from the EPA's Office of General Counsel that articulates the underlying legal basis for the authority of the Protective Service Detail's agents.		Assistant Administrator for Enforcement and Compliance Assurance		
2	7	If the Office of General Counsel concludes that Protective Service Detail agents lack statutory authority to provide protective services, determine and initiate the proper action to remedy the issue.		Assistant Administrator for Enforcement and Compliance Assurance		
3	12	Have the Office of Criminal Enforcement, Forensics and Training complete and document a threat assessment for the EPA Administrator on a regular basis to identify the proper level of protection required for the Administrator.		Assistant Administrator for Enforcement and Compliance Assurance		
4	12	Using a justified level of protection based on a threat assessment, determine appropriate staffing and corresponding schedules for Protective Service Detail agents.		Assistant Administrator for Enforcement and Compliance Assurance		
5	12	Create and implement comprehensive policies, procedures and standard operating procedures covering the Protective Service Detail operations and proper protection level determinations.		Assistant Administrator for Enforcement and Compliance Assurance		
6	15	Require that the Office of Criminal Enforcement, Forensics and Training determine the amount of overtime that was improperly authorized for Protective Service Detail agents in calendar years 2016 and 2017 and identify the amounts paid as improper payments.		Assistant Administrator for Enforcement and Compliance Assurance		$106
7	15	Require that the Office of Criminal Enforcement, Forensics and Training report improper payments to Protective Service Detail agents to the Office of the Chief Financial Officer for inclusion in the annual Agency Financial Report.		Assistant Administrator for Enforcement and Compliance Assurance		
8	22	Revisit the office's decision to terminate the debt collection associated with the Protective Service Detail agent who had received the overpayment.		General Counsel		
9	22	Request a pay audit of the calendar year 2017 wages for the Protective Service Detail agent who had received the overpayment and determine the amount the agent exceeded the 2017 pay cap.		Chief Financial Officer		
10	22	Recover the $16,299.33 for which the waiver for the Protective Service Detail agent who had received the overpayment was denied and any additional overpayment determined by the pay audit.		Chief Financial Officer		
11	22	Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap.		Chief Financial Officer		

Commented [A17]: Revise the recommendations according to the suggestions in the body of the report once the final recommendations are agreed upon.

Commented [A18]: OCFO Comment – Recommendation should be incorporated into Recommendation #8.

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RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status[1]	Action Official	Planned Completion Date	Potential Monetary Benefits (in $000s)
12	22	Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees in 2016 and 2017, and recover any overpayments as appropriate.		Chief Financial Officer		

Commented [A17]: Revise the recommendations according to the suggestions in the body of the report once the final recommendations are agreed upon.

[1] C = Corrective action completed.
R = Recommendation resolved with corrective action pending.
U = Recommendation unresolved with resolution efforts in progress.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

JUN 29 2018

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Legal Opinion Regarding Protective Service Detail

FROM: Wendy L. Blake, Associate General Counsel WLB
General Law Office
Office of General Counsel

THRU: Kevin S. Minoli, Principal Deputy General Counsel KSM
Office of General Counsel

THRU: Matthew Z. Leopold, General Counsel MZL
Office of General Counsel

TO: Henry E. Barnet, Director
Office of Criminal Enforcement, Forensics & Training

The Office of General Counsel has been asked to opine on (1) the source of the Agency's legal authority to provide protective services for the Administrator, and (2) the basis of the protective service agents' authority to carry firearms, execute warrants, and make arrests, otherwise known as "law enforcement authority," while in the performance of their protective services duties. The Agency has authority to expend appropriated funds to provide protective services for the Administrator under 5 U.S.C. § 301. Further, the protective service agents derive law enforcement authority under 18 U.S.C. § 3063 provided they have responsibility for investigating environmental crimes. Together, these statutes authorize the Agency to provide a protective service detail to the Administrator comprised of protective service agents with full law enforcement authority to carry firearms, execute warrants, and make arrests.

Background

The U.S. Environmental Protection Agency employs a Protective Service Detail ("PSD") staffed by agents responsible for providing personal protective services to the Agency's Administrator.[1] The PSD is a separate component of the Criminal Investigation Division ("CID") in the Office of Criminal Enforcement, Forensics, and Training ("OCEFT"), Office of Enforcement and Compliance Assurance. Across the federal government, federal law enforcement personnel such as PSD agents must possess authority to exercise law enforcement functions including carrying firearms, executing warrants, and making arrests. For instance, the criminal investigators in CID who conduct investigations of environmental crimes, derive their law enforcement authority from 18 U.S.C. § 3063, "Powers of the Environmental Protection Agency," which states, in part:

> Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the Environmental Protection Agency with responsibility for the investigation of criminal violations of a law administered by the Environmental Protection Agency, may—
>
> (1) carry firearms;
>
> (2) execute and serve any warrant or other processes issued under the authority of the United States; and
>
> (3) make arrests without warrant for-
>
> (A) any offense against the United States committed in such officer's presence; or
>
> (B) any felony offense against the United States if such officer has probable cause to believe that the person to be arrested has committed or is committing that felony offense.

This statute provides full law enforcement authority to carry firearms, execute warrants, and make arrests. This authority is broad, allowing CID criminal investigators to carry firearms and make arrests without warrants for offenses against the United States committed in their presence (or if

[1] Currently all PSD agents are classified as Criminal Investigators, GS-1811.

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they have probable cause to believe that someone has committed or is committing a felony), even at times when they are not actively investigating environmental crimes.

We understand from OCEFT that when CID criminal investigators assigned to the PSD first undertook the performance of protective services in the wake of the September 11, 2001 terrorist attacks, they possessed law enforcement authority related to their criminal investigative work conferred by 18 U.S.C. § 3063. Nearly a decade later, the PSD began to employ law enforcement officers hired from outside the Agency who were not envisioned to have "responsibility for the investigation of criminal violations" of environmental laws — the prerequisite for § 3063 authority. OCEFT consulted with the Office of General Counsel ("OGC") about this issue, and in 2010 obtained law enforcement authority for PSD agents through deputation by the U.S. Marshals Service. These deputations granted PSD agents law enforcement authority for a set period of time (as specified in the deputations). In the fall of 2016, OCEFT again consulted with OGC regarding transitioning PSD agents' law enforcement authority back to 18 U.S.C. § 3063. OGC concurred with OCEFT's view that PSD agents with actual "responsibility for the investigation of criminal violations" may appropriately rely on § 3063 for law enforcement authority.

Analysis

A. The Agency Has Authority to Expend Appropriated Funds on Protective Services

It is well established that the Agency has the authority to expend resources for the personal protection of the Administrator. Such authority is derived from 5 U.S.C § 301, commonly referred to as a "housekeeping statute." Section 301 authorizes an agency head to "prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and

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property." 5 U.S.C. § 301. The Comptroller General of the United States, who also heads the U.S. Government Accountability Office ("GAO"), has interpreted this general grant of administrative authority as permitting federal agencies to expend appropriated funds to assign employees to provide protective services, and has advised that under § 301, an agency may authorize the use of its appropriated funds, personnel, and assets to protect agency officials.[2] The Comptroller General further advised that this authority extends to agencies without specific statutory authority for protective services. In a decision analyzing the authority of the U.S. Department of the Treasury to provide a protective service detail to the Secretary of the Treasury, the Comptroller General opined,

> ...if a Government official were threatened or there were other indications that he was in danger, and if it were administratively determined that the risk were such as to impair his ability to carry out his duties, and hence to affect adversely the efficient functioning of the agency, then funds of his agency, the use of which was not otherwise restricted, might be available to protect him, without specific statutory authority.

In re the Secret Serv. Prot. for the Sec'y of the Treasury, 54 Comp. Gen. 624, 628-29, (Jan. 28, 1975).[3] The Comptroller General's conclusion rests on the view that the deployment of security personnel is "an executive function essential to the management of a department and the performance of its business." *Id.* at 628-29.

Additionally, in *In re the Secret Serv. Prot. for the Sec'y of the Treasury*, the Comptroller General stated that the GAO "would generally not object" to an agency providing protection

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[2] *See, e.g., In re the Secret Serv. Prot. for the Sec'y of the Treasury*, 54 Comp. Gen. 624, 628-29, (Jan. 28, 1975), *as modified*, 55 Comp. Gen. 578, B-149372 (Dec. 18, 1975); *Matter of Home & Auto. Sec. Sys. for US. Customs Serv. Pers.*, B-251710 (July 7, 1993).

[3] *See also* U.S. Gov't Accountability Office, GAO/GGD/OSI-00-139, "Security Protection, Standardization Issues Regarding Protection of Executive Branch Officials," B-283892, at 12 (July, 2000) (noting that agencies may provide protection to their officials "if it is administratively determined that the efficiency of the agencies would be affected because of threats or other legitimate concerns over the safety of officials that would impair their abilities to carry out their duties").

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services to its officials "where there is legitimate concern over the safety of an official and where the agency's functioning may be impaired by the danger to that official - to an agency." *Id.* at 629. On this basis, the GAO further opined that the "Secretary [of the Treasury] - in a proper case - may arrange for his protection by personnel of the Department of the Treasury or by the Secret Service, but in the latter case only on a reimbursable basis" even when the Secretary was not one of the officials the Secret Service was specifically authorized to protect under 18 U.S.C. § 3056. *Id.* at 630.[4]

Many federal agencies, like EPA, that lack specific statutory authority to provide protective services rely on the Comptroller General's interpretation of 5 U.S.C. § 301 to justify the expenditure of appropriated funds on protective services.[5] As the GAO noted in a report analyzing protection of executive branch officials across different federal agencies, "[f]rom fiscal years 1997 through 1999, ... security protection was provided to officials holding 42 executive branch positions at 31 executive branch agencies." *Id.* at 2. The GAO catalogued security services provided to 14 Cabinet secretaries, four deputy or undersecretaries, and 24 other high-ranking officials. *Id.* at 7. Of these, "[o]nly two executive branch agencies ... –the Secret Service and the State Department—had specific statutory authority to protect executive branch officials, including the authority to carry firearms in carrying out their protective responsibilities." *Id.* at 11. The report goes on to explain that "[a]lthough none of the other agencies cited specific statutory authority to

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[4] The Comptroller General's reasoning has appeared in other cases reviewing the protective services of other federal agencies. *See e.g.*, U.S. Gov't Accountability Off., GA0-04-261SP, Principles of Federal Appropriations Law (3d ed. 2004) (citing favorably to 54 Comp. Gen. 624 and *Matter of Home & Auto. Sec. Sys. for US. Customs Serv. Pers.*, B-251710 (July 7, 1993), in which the Comptroller General determined that the U.S. Customs Service may provide security devices for agents based on the risk created by their law enforcement responsibilities, the threat environment, and past threats against Customs personnel).

[5] *See* GAO Report, Security Protection, Standardization Issues Regarding Protection of Executive Branch Officials, B-283892 (2000).

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protect their officials, that does not mean that the agencies are not authorized to provide such services." *Id.* The GAO cited to its prior opinions in the report, explaining:

> In decisions of the Comptroller General, we have recognized that under certain circumstances, agencies can expend appropriated funds to protect their officials as a necessary expense. Such protection is warranted if it is administratively determined that the efficiency of the agencies would be affected because of threats or other legitimate concerns over the safety of officials that would impair their abilities to carry out their duties.
>
> *Id.* at 11-12.

Accordingly, pursuant to 5 U.S.C. § 301 and the above noted Comptroller General decisions interpreting 5 U.S.C. § 301, the Agency has the authority to expend appropriated funds on the protection of the Administrator. We next turn to the issue of how agents that perform protective services for the Administrator derive their law enforcement authority to carry firearms, execute warrants, and make arrests.

B. PSD Agents Have Law Enforcement Authority Under 18 U.S.C. § 3063

In order for PSD agents to carry firearms, execute warrants, or make arrests in the performance of their protective duties, they must have law enforcement authority. There is no statutory provision that provides EPA with law enforcement authority specifically for law enforcement officers who solely provide protective services. As stated above, however, 18 U.S.C. § 3063 does provide law enforcement authority for EPA law enforcement officers "with responsibility for the investigation of" environmental crimes. Section 3063 specifically provides:

> any law enforcement officer of the Environmental Protection Agency with responsibility for the investigation of criminal violations of a law administered by the Environmental Protection Agency, may—
>
> (1) carry firearms;
> (2) execute and serve any warrant…; and
> (3) make arrests…".

Therefore, whether an agent can have law enforcement authority rests on whether he or she has been designated with "responsibility" for the investigation of environmental crimes. The most

important rule of statutory construction is to begin with the language of the statute.[6] As the Supreme Court has stated, "we begin with the understanding that Congress 'says in a statute what it means and means in a statute what it says there.'"[7] "When the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms. [internal quotations omitted]."[8] To determine the meaning of a statute's text, judges evaluate the "natural reading"[9] or "ordinary understanding"[10] of disputed words. Courts often refer to dictionaries to find this ordinary meaning.[11]

Here, the statute is clear. "[A]ny law enforcement officer … with responsibility for investigat[ing]" environmental crimes has law enforcement authority under 18 U.S.C. § 3063. The statute is neither ambiguous nor otherwise unclear in its meaning. When considering the ordinary meaning of the text of the statute, "with responsibility" can be reasonably interpreted to mean that PSD agents are to be available to be called on and do perform environmental criminal investigatory work.[12]

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[6] *See, e.g., Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1 (2000); *see also Robinson v. Shell Oil Co.*, 519 U.S. 337 (1997); *Conn. Nat'l Bank v. Germain*, 503 U.S. 249 (1992); *Mallard v. U.S.D.C. So. Dist. of Iowa*, 490 U.S. 296, 300 (1989).

[7] *Hartford Underwriters Ins. Co.*, 530 U.S. at 6 (quoting *Conn. Nat'l Bank v. Germain*, 503 U. S. at 254).

[8] *Id.* (citing *United States v. Ron Pair Enters., Inc.*, 489 U. S. 235, 241 (1989) (quoting *Caminetti v. United States*, 242 U. S. 470, 485 (1917))); *see also Zuni Pub. Sch. Dist. No. 89 v. Dep't of Educ.*, 550 U.S. 81, 93 (2007) ("[N]ormally neither the legislative history nor the reasonableness of the Secretary's method would be determinative if the plain language of the statute unambiguously indicated that Congress sought to foreclose the Secretary's interpretation.").

[9] *Am. Hosp. Ass'n v. NLRB*, 499 U.S. 606, 611 (1991).

[10] *Babbitt v. Sweet Home Chapter of Cmnys. for a Great Or.*, 515 U.S. 687, 697 (1995). *See also Astrue v. Capato*, 132 S. Ct. 2021, 2030, 2130 (2012).

[11] *E.g., MCI Telecomms.Corp. v. AT&T Co.*, 512 U.S. 218, 227-29 (1994).

[12] In the Merriam-Webster dictionary, "responsibility" is defined as:

> 1: the quality or state of being responsible: such as
>
> > a: moral, legal, or mental accountability
> >
> > b: reliability, trustworthiness
>
> 2: something for which one is responsible; burden

responsibility, MERRIAM-WEBSTER ONLINE DICTIONARY, https://www.merriam-webster.com/dictionary/responsibility.

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We understand from OCEFT that all PSD agents' position descriptions include criminal investigatory responsibilities. Further, according to OCEFT, PSD agents presently perform environmental criminal investigatory work in addition to their protective service duties. Their criminal investigatory work includes activities such as executing warrants; serving subpoenas; conducting witness interviews; analyzing documents relevant to environmental criminal investigations; and evaluating incoming tips on potential criminal environmental violations. In light of the plain language of the statute, PSD agents derive law enforcement authority under 18 U.S.C. § 3063 provided they have responsibility for performing environmental criminal investigative work.[13]

A PSD agent's supervisor is in the best position to determine the actual responsibilities of his or her employees. To aid a supervisor in documenting the conclusion that an employee has responsibility for the investigation of environmental crimes, we recommend OCEFT develop a system that documents and tracks the following: the percentage of time each employee is expected to spend on investigating environmental crimes each year; the nature of environmental criminal investigatory activities actually conducted each year; and the percentage of time actually spent on such activities each year. We also recommend that OCEFT continue to ensure that all agents investigating environmental crimes include those responsibilities as part of their position

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The word "responsible," in turn, is defined as, as applicable here:

1a: liable to be called on to answer

1b(1): liable to be called to account as the primary cause, motive, or agent a committee responsible for the job

1b(2): being the cause or explanation mechanical defects were responsible for the accident

1c: liable to legal review or in case of fault to penalties …

responsible, MERRIAM-WEBSTER ONLINE DICTIONARY, https://www.merriam-webster.com/dictionary/responsible.

[13] Where PSD agents have responsibility for the investigation of environmental crimes, they may carry firearms, make arrests, and execute warrants even at times when they are not carrying out criminal investigatory duties, such as when they provide protective services for the Administrator.

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descriptions. There is no black letter law definition or answer as to what percentage of time or activities conducted are sufficient to conclude that an employee has "responsibility for" the investigation of environmental crimes. Ultimately, the extent to which an employee has responsibility for the investigation of environmental crimes is a judgment made by the employee's supervisor.

Conclusion

In summary, the Agency's authority to expend appropriated funds to provide protective services for the Administrator is derived from 5 U.S.C. § 301. Furthermore, PSD agents derive law enforcement authority from 18 U.S.C. § 3063 provided they have responsibility for performing environmental criminal investigative work. We recommend that OCEFT develop a system that documents and tracks the information identified above to aid the supervisor in documenting the conclusion that an employee has responsibility for the investigation of environmental crimes.

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