From: Atkinson, Emily
Importance: Normal
Subject: Official State Department Cable/Credentials and UN Invite
Categories: Orange Category
Start Date/Time: Sun 11/12/2017 2:00:00 PM
End Date/Time: Sun 11/12/2017 2:30:00 PM
COP-23 Credentials - Signed by Secretary Tillerson
Signed COP Delegation Credentials.pdf
RE: Mandy Gunasekara: US Delegation to COP23 EPA reps

From: Dunham, Sarah
Location: WJC-N 5400
Importance: Normal
Subject: Bonn Climate Change Meeting (COP23) November 6 - 17
Start Date/Time: Fri 10/13/2017 4:00:00 PM
End Date/Time: Fri 10/13/2017 5:00:00 PM
Meeting Request Acting AA Sarah Dunham (COP23).docx
COP23 Overview for OAR and OA 10-13-17.docx

To: Dunham, Sarah; Lewis, Josh; Gunasekara, Mandy; Harvey, Reid; Nishida, Jane; Gunning, Paul; Irving, Bill; Krieger, Jackie; Harlow, David; Ferland, Henry
Cc: Murphy, Tina

From: Dieu, Martin
Location: Reagan Building 3rd Floor Executive Conference Room (across from Jane Nishida's office)
Importance: Normal
Subject: Meeting with Counselor Akio Takemoto, Chief Climate Negotiator for Japan's Ministry of Environment
Categories: Blue Category
Start Date/Time: Tue 9/19/2017 9:00:00 PM
End Date/Time: Tue 9/19/2017 9:45:00 PM
CV_Akio Takemoto.pdf

To: Dieu, Martin; Dravis, Samantha; Greenwalt, Sarah; Gunasekara, Mandy
Cc: Bolen, Brittany
Subject: Meeting with Counselor Akio Takemoto, Chief Climate Negotiator for Japan's Ministry of Environment

From: Dunham, Sarah
Location: WJC-N 5400 + Ex. 6 - Personal Privacy Participant Code: Ex. 6 - Personal Privacy
Importance: Normal
Subject: UNFCCC Briefing
Start Date/Time: Wed 7/26/2017 2:15:00 PM
End Date/Time: Wed 7/26/2017 3:15:00 PM

To: Dunham, Sarah; Lewis, Josh; Gunasekara, Mandy; Greenwalt, Sarah; Nishida, Jane; Harvey, Reid; Krieger, Jackie; Gunning, Paul; Irving, Bill; Ferland, Henry
Cc: Stewart, Lakita; Dominguez, Alex

From: Dominguez, Alexander
Location: 1200 Pennsylvania Avenue, NW (North) - Room 1332 WJCN
Importance: Normal
Subject: Corn Refiners Association (re: biogenic CO2)
Categories: Red Category
Start Date/Time: Wed 7/26/2017 8:00:00 PM
End Date/Time: Wed 7/26/2017 9:00:00 PM
Biogenic CO2 Coalition Comments EPA Significance Rule (filed) (12-16-16)....pdf
Biogenic CO2 Coalition Slides (9-21-16).pdf
Biogenic CO2 Case Studies (4-14-16).pdf
Biogenic Letter to Administrator Pruitt.pdf
Biogenic CO2 Coalition Overview .pdf

Location: 1200 Pennsylvania Avenue, NW (North) - Room 1332WJCN

Directions: Please use the William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station.

EPA Contact: For an escort from Security to the meeting call Ex. 6 - Personal Privacy or Ex. 6 - Personal Privacy

Request:

Discuss biogenic CO2

Attendees:

John Bode

Kyle Harris

David (Max) Williamson

Contact:

Keniece Barbee

Assistant to President and C.E.O.

Corn Refiners Association

1701 Pennsylvania Avenue, N.W.

Suite 950

Washington, DC 20006

Main: (202) 331-1634

Direct: (202) 534-3491

Fax: (202) 331-2054

www.corn.org

From: Wehrum, Bill
Location: WJC-N 5400 + Dial: Ex. 6 - Personal Privacy Participant Code Ex. 6 - Personal Privacy
Importance: Normal
Subject: Update on the UNFCC and IPCC
Start Date/Time: Wed 2/7/2018 6:00:00 PM
End Date/Time: Wed 2/7/2018 7:00:00 PM
Meeting Request for William Wehrum_UNFCCC_IPCC.DOCX

To: Wehrum, Bill; Harlow, David; Gunasekara, Mandy; Woods, Clint; Dunham, Sarah; Gunning, Paul; Kocchi, Suzanne; Irving, Bill; Desai, Mausami; Fawcett, Allen; Alsalam, Jameel; Birnbaum, Rona

From: Lataif, Emily P. EOP/WHO
Location: Rob Porter's Office (G-47)
Importance: High
Subject: Canceled: Legal meeting on Paris Agreement / Climate
Start Date/Time: Thur 5/11/2017 2:00:00 PM
End Date/Time: Thur 5/11/2017 3:00:00 PM

To: Allison, Christopher C (Chris)[AllisonCC@state.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; Kime, Robin[Kime.Robin@epa.gov]
Cc: Bacher, Kathryn P[BacherKP@state.gov]; Gates, Isabel N (OES-DRL)[GatesIN@state.gov]; LaRochelle, John S[LaRochelleJS@state.gov]
From: Biedlingmaier, Mark J
Sent: Fri 11/3/2017 8:36:36 PM
Subject: COP-23 Credentials - Signed by Secretary Tillerson
Signed COP Delegation Credentials.pdf

To: Bacher, Kathryn P[BacherKP@state.gov]; Gates, Isabel N (OES-DRL)[GatesIN@state.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]

Ok Kathryn, I will provide Mandy with a copy of this email as confirmation she is in the system and registered for the event. Thank you!

From: Bacher, Kathryn P [mailto:BacherKP@state.gov]
Sent: Thursday, November 02, 2017 7:07 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>; Gates, Isabel N (OES-DRL) <GatesIN@state.gov>
Subject: RE: Mandy Gunasekara: US Delegation to COP23 EPA reps

Hi Emily,

Since Mandy has attended COPs previously, she was already in the UNFCCC system (unlike Brittany). Her email on file may be one from a previous employer which is why she did not receive a confirmation email, but once she arrives at the conference center she will be all set because she is already registered and in the system. Both her and Brittany will just need to pick up their badges when they arrive on the first day.

Let me know if you have any other questions.

Thanks,

Kathryn

Official

UNCLASSIFIED

From: Atkinson, Emily [mailto:Atkinson.Emily@epa.gov]

Sent: Thursday, November 02, 2017 12:57 PM
To: Gates, Isabel N (OES-DRL); Bacher, Kathryn P
Subject: FW: Mandy Gunasekara: US Delegation to COP23 EPA reps
Importance: High

Hi Isabel and Kathryn,

Mandy Gunasekara has not received her invitation via email (Brittany Bolen did receive hers earlier this week). Could you confirm she is registered and resent her invite?

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Gunasekara, Mandy
Sent: Thursday, November 02, 2017 12:54 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Re: Mandy Gunasekara: US Delegation to COP23 EPA reps

I have not received it

Sent from my iPhone

On Nov 2, 2017, at 12:51 PM, Atkinson, Emily <Atkinson.Emily@epa.gov> wrote:

Hi Mandy,

Have you received an emailed UN invite this week? If you have, please forward it

to me – I need to use it to confirm your participation in the event.

If you have not, I will contact the UN group to ask that it be resent.

Thank you.

Emily

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Bacher, Kathryn P [mailto:BacherKP@state.gov]
Sent: Tuesday, October 24, 2017 5:00 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Kime, Robin <Kime.Robin@epa.gov>; Gates, Isabel N (OES-DRL) <GatesIN@state.gov>
Subject: RE: Mandy Gunasekara: US Delegation to COP23 EPA reps

Hi Emily,

Thanks for the information. Since Mandy has attended previous COPs, she is already in the system to be registered and accredited so I can easily take care of that. Please feel free to reach out if you have any other questions or concerns.

Best,

Kathryn

Official

UNCLASSIFIED

From: Atkinson, Emily [mailto:Atkinson.Emily@epa.gov]
Sent: Tuesday, October 24, 2017 4:52 PM
To: Bacher, Kathryn P
Cc: Kime, Robin; Gates, Isabel N (OES-DRL)
Subject: Mandy Gunasekara: US Delegation to COP23 EPA reps

Hi Kathryn,

Below is the write up for Mandy Gunasekara, along with her bio and the completed registration form. Please advise if you need any additional information to get her registration and UN invitation letter going. Thanks!

Mandy Gunasekara.

Mandy Gunasekara serves as the Senior Policy Advisor to the Administrator for the Office of Air and Radiation at the U.S. Environmental Protection Agency. Mandy advises the Administrator on all aspects of the agency's air program and Clean Air Act regulatory actions. Working within the statutory framework established by Congress, she oversees air quality regulatory reforms in areas including stationary and mobile sources, fuels, and climate change issues.

Gunasekara.Mandy@epa.gov

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

DEPARTMENT OF STATE
WASHINGTON

Madam:

I have the honor to inform you that the United States of America will be represented at the Twenty-Third Conference of the Parties to the United Nations Framework Convention on Climate Change, to be held in Bonn, Germany, November 6 – 17, 2017, by the delegation named on the enclosed list.

Please accept, Madam, the renewed assurances of my high consideration.

Ralph W. Tillman

Enclosure:

As stated.

The Honorable
Patricia Espinosa,
Executive Secretary,
UN Framework Convention on Climate Change,
Bonn.

DIPLOMATIC NOTE

UNITED STATES DELEGATION TO THE TWENTY-THIRD SESSION OF THE CONFERENCE OF THE PARTIES (COP-23) TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC) BONN, GERMANY, NOVEMBER 6-17, 2017

Representative

Thomas Shannon, Jr.
Under Secretary of State for Political Affairs
Department of State

Alternate Representative

Lilburn Talley
Director
Office of Global Change
Bureau of Oceans and International Environmental
and Scientific Affairs
Department of State

Advisors

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Department of State

Farhan Akhtar
Foreign Affairs Officer
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Christopher Allison
Deputy Director
Office of Global Change
Bureau of Oceans and International Environmental
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Department of State

Kathryn Bacher
Special Assistant
Office of Global Change
Bureau of Oceans and International Environmental
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George Banks
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National Security Council
Executive Office of the President

Brittany Bolen
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Francis Brooke, Jr.
Associate Director for Policy
Office of the Vice President
Executive Office of the President

Kimberly Carnahan
Foreign Affairs Officer
Office of Global Change
Bureau of Oceans and International Environmental
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Department of State

Randy Caruso
Foreign Affairs Officer
Office of Global Change
Bureau of Oceans and International Environmental
and Scientific Affairs
Department of State

Mausami Desai
Environmental Engineer
Climate Change Division
Environmental Protection Agency

Christine Dragisic
Foreign Affairs Officer
Office of Global Change
Bureau of Oceans and International Environmental
and Scientific Affairs
Department of State

Rebecca Fisher
Director
Office of Environment and Energy
Department of the Treasury

Isabel Gates
Senior Program Manager
Bureau of Oceans and International Environmental
and Scientific Affairs
Department of State

Hayley Gillooly
Foreign Affairs Officer
Bureau of Oceans and International Environmental
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Department of State

Mandy Gunasekara
Senior Policy Advisor
Office of Air and Radiation
Environmental Protection Agency

William Irving
Technical Expert
Office of Air and Radiation
Environmental Protection Agency

Holly Kirking-Loomis
Deputy Director
Office of Global Change
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Please accept, Madam, the renewed assurances of my high consideration.

Ralph W. Tillman

Enclosure:

As stated.

The Honorable
Patricia Espinosa,
Executive Secretary,
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UNITED STATES DELEGATION TO THE TWENTY-THIRD SESSION OF THE CONFERENCE OF THE PARTIES (COP-23) TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC) BONN, GERMANY, NOVEMBER 6-17, 2017

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United States Senate

OAR Meeting Request Form
For Sarah Dunham

Date of this Request: 9/29/2017

Scheduling Point of Contact: Tina Murphy/Dorothy Garner

Technical Point of Contact: Bill Irving

Subject: Bonn Climate Change Meeting (COP23) November 6-17

Purpose: To meet with Sarah Dunham, Mandy Gunasekara (AO) and management to discuss the upcoming Framework Convention on Climate Change (FCCC) meeting in Bonn Germany, participation in the negotiations, side events, stakeholder meetings and potential bilateral discussions.

Next ADP Milestone:

- If applicable, due date to: OP __/__/__ (_ days review); OMB: __/__/__ (expected date of OMB clearance);
- Legal deadline: (specify court-ordered, settlement agreement, court promise, etc.)
- Other firm deadline:

First possible date for meeting: October 2, 2017
Last possible date for meeting: October 5, 2017 (if not possible then early in the week of 10/10)
Duration: 1 hour

Requested Audio / Video (*Mark with "X" if requested*)

____ **Video Location(s):**
List video locations needed (e.g., RTP, DC, Regions) – HQ will set up a bridge if needed
- **RTP**

____ **HQ Conference Line:**
If requested, HQ staff will provide in meeting invite

Invitees (please list by Office and in Outlook format, e.g. *Last, First*):
Please include the key OGC and/or Regional representatives as appropriate. Only key invitees are listed by office; others are Cc:

Office/Org	Name (*Last, First*)
OAR	Dunham, Sarah
OAR-OAP	Harvey, Reid
AO	Gunasekara, Mandy
OITA	Jane Nishida
OAR-OAP-CCD	Gunning, Paul
OAR-OAP-CCD	Bill Irving
OAR-OAP	Jackie Krieger

HQ Meeting Briefing Materials: Must provide to OAR IO by 4:00pm, 1 day before meeting

December 16, 2016

VIA ELECTRONIC FILING
Hon. Gina McCarthy, Administrator
U.S. Environmental Protection Agency
c/o E-Docket ID No. EPA–HQ–OAR–2015-0355
William Jefferson Clinton Federal Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Comments of the Biogenic CO_2 Coalition – EPA Proposed Revisions to the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a Significant Emission s Rate (SER) for GHG Emissions Under the PSD Program, 81 Fed. Reg. 68110 (Oct. 3, 2016)

Dear Administrator McCarthy:

The Biogenic CO_2 Coalition ("Coalition")[1] appreciates the opportunity to submit these comments on EPA's proposed Revisions to the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a Significant Emissions Rate (SER) for GHG Emissions Under the PSD Program , which t he agency has proposed under the federal Clean Air Act (referred to herein as the "Significance Rule").

The Coalition has previously commented on various EPA proposals to regulategreenhouse gases including, principally, EPA's proposed Standards of Performance for Greenhouse Gas Emissions From Stationary Sources: Electric Utility Generating Units, 79 Fed. Reg. 1430 (Jan. 8, 2014) (EPA -HQ-OAR-2013-0495) ("NSPS Rule "); Carbon Pollution Emission Guidelines for Existing Sources: Electric Utility Generating Units, 79 Fed. Reg. 34 830 (June 18, 2014) (EPA - HQ-OAR-2013-0602) ("CPP Rule"); and Proposed Finding That Greenhouse Gas Emissions From Aircraft Cause or Contribute to Air Pollution That May Reasonably Be Anticipated to En danger Public Health and Welfare and Advance Notice of Proposed Rulemaking , 80 Fed. Reg. 3775 8 (July 1, 2015) (EPA -HQ-OAR-2014-0828) ("Aircraft Rule "). Our prior comments on all greenhouse gas regulatory policies are incorporated by reference herein . Our comments have concerned primarily the implications of EPA's polic y approach to "biogenic CO_2," meaning carbon dioxide emitted from the processing or energy use of agricultural feedstocks.

[1] The Coalition consists of the following stakeholders: American Bakers Association, American Farm Bureau Federation, Corn Refiners Association, Enginuity Worldwide, National Corn Growers Association, National Cotton Council of America, National Cottonseed Products Association, National Oilseed Processors Association, and North American Millers' Association.

The stakeholders represented by the Biogenic CO_2 Coalition grow or process various agricultural crops and farm products, typically short-cycle annual herbaceous crops and crop residues. Together with others in the agricultural community, and supported by federal and state agriculture departments, our members are investing billions of dollars in the "bioeconomy," which promotes bioenergy technology and pioneering "green chemistry" approaches to produce food, fiber, consumer products, pharmaceuticals, bioplastics, biofuels, commercial chemicals, and a cornucopia of other bioproducts from crop-derived materials. The bioeconomy provides 21st century solutions to economic growth, domestic energy security, jobs, and environmental benefits in the form of bioenergy, biofuels, and bioproducts made from corn, oilseeds, crop residues, farm wastes and other agricultural feedstocks. America's bioeconomy currently contributes $393 billion in economic activity, provides 4.2 million American jobs, and is the leading source of domestic renewable energy in the United States. Importantly, the bioeconomy is poised to expand exponentially with the right policy environment. *See* USDA, *An Economic Impact Analysis of the U.S. Biobased Products Industry* (Oct. 2016) (the "2016 Biomass Report").[2]

While providing food, fuel and fiber to American families, the bioeconomy also reduces CO_2 by 400 million tons every year through uptake of carbon by growing crops, thus playing a critical role in achieving climate policy goals.[3] The benefits of agriculture as a renewable and sustainable resource are widely recognized, and the life-cycle carbon benefits of biogenic emissions from the use or processing of biomass have been universally acknowledged by policymakers and scientists.[4]

Members of the Biogenic CO_2 Coalition are eager to grow and expand the bioeconomy over the coming decades. Naturally, because bioproducts are made from carbon-based organic materials, some amount of carbon in those materials is cycled back into the atmosphere when agricultural feedstocks are used or processed by energy combustion, fermentation, or microbial wastewater treatment (referred to as "crop-derived CO_2" or "biogenic CO_2"). EPA's current policies and regulations – which in some situations treat biogenic CO_2 the same as fossil fuels and essentially put a carbon tax on farm products – are thwarting investment in the bioeconomy. EPA has failed to put science first by failing to distinguish between fossil-based emissions, which EPA has said contribute to global warming, and crop-derived emissions, which are carbon neutral by nature. Instead of recognizing the natural life cycle of agricultural carbon, EPA instead has inadvisedly labeled biogenic CO_2 as a harmful pollutant under the Clean Air Act.

Farm feedstocks are not the same as fossil fuels or petrochemicals. To the contrary, American farmers growing crop-based feedstocks have already done the hard work of uptaking carbon from the atmosphere during the growth cycle. When agricultural feedstocks are used for energy, turned into bioproducts, or processed for food, fiber and fuel, the "biogenic" emissions from these processes are simply returning carbon to the atmosphere that farmers have already removed from the carbon cycle as part of the natural carbon flow. The science of life-cycle

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[2] Available at www.biopreferred.gov/BPResources/files/BiobasedProductsEconomicAnalysis2016.pdf.

[3] *See* 2016 Biomass Board Report at 6 (Feb. 2016).

[4] *See* 2016 Biomass Board Report at 7 ("Biobased products . . . recycle carbon (CO_2) from the atmosphere, resulting in air quality improvements when compared to fossil fuel-based products").

emissions shows that emissions of crop-derived CO_2 resulting from energy use or processing of crop-derived feedstocks are harmless from a global warming standpoint and do not contribute to elevated atmospheric concentrations of greenhouse gases. Until this basic science is embraced fully by Administration policy, the bioeconomy will be hobbled from achieving its full promise.

Accordingly, as part of its pending mandate from the Supreme Court to revisit its interpretation of the scope of greenhouse gas regulation under the Clean Air Act (discussed below), EPA should define key terms in its regulations to exclude carbon-neutral biogenic emissions. Similarly, in the context of the proposed Significance Rule, EPA must not deny the scientific reality of life-cycle emissions and should categorize agricultural biogenic emissions as insignificant or *de minimis* for purposes of the PSD and Title V programs, as well as other Clean Air Act programs and policies, including EPA's Clean Power Plan.

I. UNDER SUPREME COURT MANDATE, EPA MUST REVISIT ITS INTERPRETATION OF THE CLEAN AIR ACT AND SET DE MIMINIS LEVELS FOR "POLLUTANTS"

As EPA acknowledges in the preamble of the proposed Significance Rule,[5] its proposal is a response to a series of federal court rulemaking challenges to EPA's greenhouse gas regulations, culminating in the U.S. Supreme Court's seminal decision in *Util. Air Regulatory Group v. EPA*, 134 S. Ct. 2427 (2014) ("*UARG*"), and the D.C. Circuit's amended judgment on remand from *UARG* in *Coalition for Responsible Regulation v. EPA*, No. 09-1322, 606 F. Appx 6, 8 (D.C. Cir. Apr. 4, 2015). These decisions vacated certain aspects of the Obama Administration's regulation of greenhouse gases under the PSD and Title V permitting programs and announced important principles of law, which EPA must now observe.[6] In *UARG*, the Supreme Court explicitly recognized the agency's authority to establish significance (or *de minimis*) levels for regulated pollutants. *See, e.g.*, *UARG*, 134 S. Ct. at 2449 ("EPA may establish an appropriate de minimis threshold . . . for a source's greenhouse-gas emissions"). Importantly, the Supreme Court also ruled that the agency's interpretation of the statutory term "pollutant" under the Clean Air Act is a context-specific definitional exercise and, as a corollary, directed EPA to interpret the statute in such a way as to give meaning to the context in which pollutants are identified or regulated. *See, e.g.*, *UARG*, 134 S. Ct. at 2439 ("where the term 'air pollutant' appears in the Act's operative provisions, EPA has routinely given it a narrower, context-appropriate meaning").

The D.C. Circuit echoed this material aspect of the Supreme Court's opinion by ordering EPA to respect the Supreme Court's mandate and on remand "consider whether any further revisions to its regulations are appropriate in light of *Util. Air Regulatory Group v. EPA*, 134 S. Ct. 2427, 189 L. Ed. 2d 372, and if so, undertake to make such revisions."[7] EPA has acknowledged

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[5] 81 Fed. Reg. at 68110-11.

[6] The Supreme Court in *UARG* invalidated EPA's greenhouse gas program to the extent it required stationary sources to obtain permits solely because the sources emit or have the potential to emit greenhouse gases above applicable thresholds, thereby limiting the applicability of permitting to "anyway sources" that would be regulated under the permitting programs regardless of greenhouse gas emissions.

[7] *Coal. for Responsible Regulation*, 606 F. Appx 6 at 8.

as much in the proposed rule.[8] Because EPA is under a legal mandate to re-examine its existing policies and regulations affecting greenhouse gas emissions with a context-specific lens – a principle that applies equally to biogenic emissions – the Significance Rule should reflect this watershed directive from the Supreme Court and should establish once and for all an exemption for agricultural biogenic emissions.

Put another way, EPA must consider whether Congress would have intended that biogenic emissions be classified as a subset of the larger set of pollutants within the definition of "any air pollutant." *See UARG*, 134 S. Ct. at 2448. As discussed below, due to the nature of biogenic emissions and their lack of harmful effect, EPA can not properly interpret the term "air pollutant" to include biogenic emissions within the context of the Clean Air Act regulatory programs and EPA's previous endangerment finding. As a corollary, if biogenic emissions are not properly interpreted as harmful pollutants under the category of "air pollutant," then biogenic emissions would not be considered as "regulated" pollutants and should not be subjected to Clean Air Act programs such as PSD and Title V permitting programs.

A contrary interpretation would result in exactly the "enormous and transformative expansion in EPA's regulatory authority without clear congressional authorization" that the Supreme Court sought to avoid in *UARG* by requiring EPA to re-visit its interpretation of "air pollutant" under the Clean Air Act statutory scheme. *UARG*, 134 S. Ct. at 2444, 2448. The agricultural community is legitimately concerned that EPA is using its current policy with regard to biogenic emissions as a basis for (1) regulating natural CO_2 from biological processes like bread baking, (2) attempting to define "sustainability" on the farm field, and (3) disqualifying agricultural feedstocks as low-carbon fuels under its Clean Power Plan. There is no indication in the Clean Air Act that Congress intended that EPA exercise this type of sweeping authority over agricultural production. *See UARG*, 134 S. Ct. at 2444 (courts should be skeptical "when an agency claims to discover in a long-extant statute an unheralded power to regulate a significant portion of the American economy"). The Supreme Court's ruling in *Michigan v. EPA*, 135 S. Ct. 2699 (2015), is similarly instructive, in that the Court's admonition that EPA cannot presume from Congressional silence an inability to consider economic ramifications would apply by the same logic to EPA's apparent position that it can ignore the lifecycle science of biogenic emissions. As in the case of EPA's overreach in regulating major sources of fossil emissions that was struck down in *UARG*, the concerns repeatedly raised by the agricultural community expressing alarm at the illogical impact of EPA's regulation on farms and food processors "should have alerted EPA that it had taken a wrong interpretive turn" with respect to biogenic emissions. *UARG*, 134 S. Ct. at 2446.

Because EPA is proposing changes to the definition of "greenhouse gases" in the Significance Rule,[9] EPA should take the opportunity to re-evaluate its interpretation of the Clean Air Act and endangerment finding based on an acknowledgment that biogenic emissions are part of the natural carbon flow cycle, and should clarify that its regulatory definitions exclude biogenic

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[8] 81 Fed. Reg. at 68112:1.

[9] 81 Fed. Reg. at 68112.

emissions from those regulatory programs aimed at "harmful" pollution. Clarifying the limitations of EPA's regulation will avoid an expansive interpretation of the Clean Air Act that would essentially put EPA in the position of regulating the entire agricultural sector, from growing crops on the farm field to baking bread.

Notwithstanding that EPA is under a mandate (issued nearly two years ago) to re-interpret the scope of its greenhouse gas program, the Sigificance Rule proposal does not currently address crop-derived biogenic CO_2 emissions. Nor has EPA proposed any separate significance level applicable specifically to biogenic emissions. EPA's failure to respond to the Supreme Court's mandate puts the agency in contempt of the D.C. Circuit's explicit remand order and in contempt of the Supreme Court's clear instructions. Unless EPA takes the actions described in these comments, including an exemption for agricultural biogenic emissions, EPA will not be able to "fully implement" the Court's mandate as the agency admits that it must do. [10] To the extent that EPA takes a second look at its prior positions concerning biogenic emissions under the *UARG* mandate and revises its flawed interpretive stance by appropriately exempting biogenic emissions, the agency may do so without re-publishing the Significance Rule for a further round of public comment under the Administrative Procedure Act, and therefore could include such an exemption in the final rule.[11]

II. EPA MUST DISTINGUISH SCIENTIFICALLY BETWEEN BIOGENIC AND FOSSIL EMISSIONS

In its various greenhouse gas regulations applicable to stationary sources, EPA failed to recognize the scientific distinction between CO_2 emissions from biogenic sources, such as annual agricultural crop feedstocks, and fossil-based emissions from combustion of fossil fuels. The basic science of carbon life-cycle analysis establishes that crop-based biogenic emissions are part of the natural carbon "flow," which is part of the natural biological stocks of carbon in the world's climate system.[12] In other words, biogenic CO_2 is part of the baseline of roughly 280 parts per million (ppm) of pre-industrial atmospheric CO_2 that is essential for a stable climate and life on Earth.

Under the Clean Air Act, EPA may regulategreenhouse gases from stationary sources only if such sources cause or contribute to "air pollution which may reasonably be anticipated to endanger public health or welfare."[13] In its 2009 Endangerment Finding, EPA identified "elevated" levels of CO_2 in the atmosphere, in other words, excess levels above the natural pre-industrial baseline, as the harmful pollutant endangering the environment.[14] However, as

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[10] 81 Fed. Reg. at 68112.

[11] *See Perez v. Mortgage Bankers Ass'n*, 135 S. Ct. 1199 (2015) (interpretative rules, even changes to previous definitive positions, are not subject to APA informal rulemaking procedures).

[12] *See, e.g.*, Seungdo Kim, Ph.D and Bruce E. Dale, Ph.D,*The Biogenic Carbon Cycle in Annual Crop-Based Products*, Michigan State University (Nov. 22, 2013) (available at www.biogenicCO_2.com).

[13] Clean Air Act § 111(b)(1)A), 42 U.S.C. § 7411(b)(1)(A).

[14] Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Ac, 74 Fed. Reg. 66496, 66516 (Dec. 15, 2009) (the "2009 Endangerment Finding") ("The Administrator finds

discussed below, biogenic CO_2 is part of the baseline of natural flows of carbon dioxide, not excess to the baseline.

Despite this indisputable science, EPA has in a number of settings entirely refused to recognize life-cycle science. For example, in guidance applicable to the PSD and Title V program, Assistant Administrator Janet McCabe stated that "EPA plans to propose revisions to the PSD rules to include an exemption for the [BACT] requirement for GHGs from waste-derived feedstocks and from non-waste biogenic feedstocks derived from sustainable forest or agricultural practices . . . if the applicant can demonstrate that these feedstocks in fact come from sustainably managed lands . . . all other biogenic feedstocks . . . would remain subject to the GHG BACT requirement at this time."[15] This rather backhand phrasing in the McCabe memo means from a legal perspective that biogenic CO_2 emissions are viewed by EPA as harmful pollutants that cause climate change. Similarly, in its controversial Clean Power Plan, EPA again treated biogenic CO_2 from agricultural feedstocks the same as fossil fuels by disqualifying biomass energy feedstocks as low-carbon fuels unless producers meet certain "sustainability" criteria. These phantom criteria, which are nowhere defined in the Clean Power Plan rulemaking and which appear nowhere in the statutory text of the Clean Air Act as authored by Congress, are inscrutible and unworkable, and again assume that biogenic CO_2 is a harmful pollutant.[16] Most recently, EPA stated in its August 2016 final Aircraft Rule in stark categorical terms that "there is no distinction between biogenic and non-biogenic CO_2."[17]

EPA never did propose an exemption for waste-derived or sustainable agricultural feedstocks as it signaled in the 2014 McCabe Memo, nor has it acknowledged the life-cycle carbon neutrality of crop-derived biogenic CO_2 emissions. Rather, the agency has continued to take the position that all biogenic CO_2 from agricultural processes will be regulated as if those emissions were from combustion of fossil fuels. This position has created paralyzing uncertainty in the context of facility permitting in the bioeconomy, as stakeholders have no idea how biogenic CO_2 will be treated in the regulatory context. Many proposed projects, involving millions of investment dollars and hundreds of American jobs, have been unable to proceed in the face of such uncertainty and attendant litigation risk, and the few that have gone forward have bogged down in years of

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that *elevated* concentrations of greenhouse gases in the atmosphere may reasonably be anticipated to endanger the public health and to endanger the public welfare of current and future generations.") (emphasis added).

[15] *See* Janet McCabe, Assistant Administrator, *Addressing Biogenic Carbon Dioxide Emissions from Stationary Sources*, dated Nov. 19, 2014 ("McCabe Memo"), posted at http://www.epa.gov/climatechange/downloads/Biogenic-CO_2-Emissions-Memo-111914.pdf.

[16] *See Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule*, 80 Fed. Reg. 64662, 64886 (Oct. 23, 2015) ("Given the importance of sustainable land management in achieving the carbon goals of the President's Climate Action Plan, sustainably-derived agricultural and forest biomass feedstocks may also be acceptable as qualified biomass in a state plan, if the state-supplied analysis of proposed qualified feedstocks or feedstock categories can adequately demonstrate that such feedstocks or feedstock categories appropriately control increases of CO_2 levels in the atmosphere and can adequately monitor and verify feedstock sources and related sustainability practices.").

[17] *Finding That Greenhouse Gas Emissions From Aircraft Cause or Contribute to Air Pollution That May Reasonably Be Anticipated To Endanger Public Health and Welfare*, 81 Fed. Reg. 54422 (Aug. 15, 2016).

litigation.[18] All of this has a stultifying effect on investment in the bioeconomy and rural development.

EPA's policy toward biogenic CO_2, and the unjustified burden placed on the agricultural sector, is not only misguided policy, it is illegal for several reasons. First, as described at greater length below, EPA has never completed an endangerment finding for biogenic CO_2, which is a prerequisite under the Clean Air Act for regulation as a pollutant. Accordingly, EPA should interpret its previous endangerment findings as having excluded biogenic emissions such that biogenic emissions from agricultural sources are not subject to regulation. Second, even if EPA had included biogenic emissions in its endangerment finding (which it did not), science supports a policy determination that biogenic emissions are insignificant and harmless from a global warming perspective. EPA's failure over the last half decade to acknowledge life-cycle science and its attempt to exert regulatory power over the agricultural system is without precedent and *ultra vires*. Notwithstanding the legal deficiencies in EPA's existing policies, the situation can readily be resolved by providing a *de minimis* determination for crop-derived biogenic CO_2 emissions in the Significance Rule.

III. EPA HAS NOT MADE AN ENDANGERMENT FINDING WITH RESPECT TO BIOGENIC CO_2 EMISSIONS

Prior to regulating emissions as pollution under the Clean Air Act, EPA must determine that the air emission at issue "causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare."[19] In its 2009 Endangerment Finding for greenhouse gases from motor vehicles, EPA determined that "*elevated* concentrations of greenhouse gases in the atmosphere may reasonably be anticipated to endanger the public health and to endanger the public welfare of current and future generations."[20] However, nowhere in this 2009 rulemaking did EPA study and determine with any acceptable level of scientific detail the effect of biogenic emissions on climate change or whether biogenic emissions properly should be considered a harmful pollutant under the Clean Air Act. As noted, biogenic emissions are part of the baseline levels of CO_2 that are necessary for life on Earth, not part of any "elevated" levels ascribed to emissions from fossil fuels.

A. EPA Must Distinguish Between Biogenic and Fossil Emissions In Terms of Contribution to "Elevated" Concentrations of Greenhouse Gas

The Clean Air Act and supporting case law provide EPA clear legal authority to distinguish between biogenic CO_2 emissions and greenhouse gas emissions from other sources such as fossil

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[18] *See, e.g.*, *Helping Hand Tools v. United States EPA*, 836 F.3d 999 (9th Cir. 2016) (multi-year litigation over whether facility must burn natural gas instead of biomass for electricity on the basis of opponents' denial of the science of life-cycle emissions).

[19] *See, e.g.*, 42 U.S.C. § 7411(b)(1)(A); *see also National Asphalt Pavement Ass'n v. Train*, 539 F.2d 775, 783 (D.C. Cir. 1976).

[20] Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule, 74 Fed. Reg. 66496, 66516 (Dec. 15, 2009) (emphasis added).

fuel combustion. Congress granted authority to EPA to regulate only those emissions that endanger the environment (*i.e.*, harmful emissions) as stationary source pollutants. Unlike CO_2 emissions from fossil sources, biogenic CO_2 emissions do not increase net atmospheric levels of CO_2.[21] EPA lacks the authority to regulate biogenic CO_2 emissions under the Clean Air Act because biogenic emissions do not adversely a ffect the environment. But even if EPA had the authority to regulate biogenic CO_2 emissions, it has signficant discretion to exclude or provide different treatment for such emissions.

EPA itself has recognized in other contexts the lack of any adverse effect from agricultural biogenic CO_2 emissions. For exa mple, EPA 's Mandatory Reporting of Greenhouse Gases Rule distinguishes biogenic CO_2 from other emissions , and actually exempts reporting of process emissions from the food processing industry .[22] Likewise, in its Renewable Fuel Standard 2 rulemaking, EPA explained that "[f]or renewable fuels, tailpipe emissions only include non -CO_2 gases, because the carbon emitted as a result of fuel combustion is offset by the uptake of biogenic carbon during feedstock production. "[23] The Department of Energy and USDA, along with virtually every government agency in the world to take up the issue, similarly have recognized the lack of any adverse effect from biogenic CO_2 emissions.[24] It would be remarkable if EPA, alone in the world, regulated biogenic emissions the same as fossil emissions.

B. EPA Did Not Consider Biogenic Emissions in the 2009 Endangerment Finding

In fact, EPA has never actually determined, one way or the other, that biogenic emissions contribute to climate change. EPA has based its regulation of CO_2 emissions from stationary sources, such as power plants, on the predicate of its 2009 Endangerment Finding for "tailpipe" emissions from motor vehicles. [25] Whatever the merit of EPA's position with respect to fossil - based emisisons, EPA never specifically addressed biogenic emissions in its 2009 Endangerment Finding.

In its 2009 Endangerment Finding addressing fossil fuel combustion in motor vehicles, EPA concluded that elevated concentrations of six well -mixed greenhouse gases (including CO_2) in the atmosphere are harmful to (*i.e.*, endanger) the environment.[26] EPA then determined that this harmful greenhouse gas pollution results directly from emissions of those six greenhouse gases

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[21] As has been well documented, net fluxes of biomass CO_2 to the atmosphere from agricultural sources are, at a minimum, "carbon neutral" in that any CO_2 emissions associated with the combustion of biomass are offset completely by the significant role domestic forests and agriculture play in sequestering carbon as the nation's leading carbon sink.

[22] *See generally* Mandatory Reporting of Greenhouse Gases, 74 Fed. Reg. 56260 (Oct. 30, 2009).

[23] *Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program; Final Rule* , 75 Fed. Reg. 14670, 14,787 (Mar. 26, 2010).

[24] *See* 2016 Biomass Board Report at 7 ("Biobased products . . . recycle carbon (CO_2) from the atmosphere, resulting in air quality improvements when compared to fossil fuel-based products").

[25] 74 Fed. Reg. 66496, 66540 (Dec. 15, 2009).

[26] *See, e.g.,* 74 Fed. Reg. at 66497: 2-3, 66498: 1, 66516: 2-3, 66536: 3.

from stationary sources and motor vehicles .[27] But it is evident from a review of the 2009 Endangerment Finding that EPA did not address the science of biogenic emissions.

One can search the 2009 Endangerment Finding in vain for any mention of biogenic emissions. The word "biogenic" appears nowhere in the endangerment finding and the term "biomass" is used twice, but neither in reference to the significance of biogenic emissions. There is no substantive discussion at all in the endangerment finding of biogenic emissions or the life-cycle aspects of biogenic feedstocks within the atomospheric and terrestrial carbon cycle. Nor did the endangerment finding, which EPA has asserted as the basis for regulation of all carbon dioxide emissions at stationary sources (including agricultural processing facilities and bioenergy plants) ever discuss the scientific distinction between biogenic emissions and fossil emissions from the perspective of elevated concentrations of greenhouse gas. Therefore, there is simply no extant endangerment finding applicable to agricultural biogenic CO_2 emissions that would justify regulation of biogenic CO_2 emissions as a harmful pollutant under the PSD or Title V program, or any other aspect of the Clean Air Act.

To the contrary, the 2009 Endangerment Finding was based on the IPCC Fourth Assessment Report of 2007 and EPA's annual *Inventory of U.S. Greenhouse Gas Emissions and Sinks*, both of which exclude biogenic CO_2 emissions on the basis of their carbon neutrality.[28] For example, one of EPA's principal conclusions in support of the 2009 Endangerment Finding was that fossil-based emissions from combusting petroleum fuel in motor vehicles represented twenty-three percent of total U.S. emissions of greenhouse gases.[29] But EPA's assessment of motor vehicle emissions as a share of United States greenhouse gas emissions specifically excluded biogenic CO_2 emissions because it was based on the United States Greenhouse Gas Inventory for year 2009.[30] The 2009 Inventory itself states at page 3-1: "Carbon dioxide emissions from [combustion of biomass and biomass-based fuels] are not included in national emissions totals because biomass fuels are of biogenic origin. It is assumed that the C [carbon] released during consumption of biomass is recycled as U.S. forest and crops regenerate, causing no net addition of CO_2 to the atmosphere." In the absence of a prerequisite endangerment finding applicable to biogenic CO_2 emissions, biogenic emissions from the processing of agricultural feedstocks or use as bioenergy cannot be considered a pollutant under the Clean Air Act or regulated as dangerous industrial pollutants.

A closer review of the history of EPA's positions with respect to biogenic emissions leading up to the 2009 endangerment finding confirms the interpretation that "harmful" greenhouse gas pollution does not include biogenic emissions. As noted, EPA's 2009 Endangerment Finding quantifies greenhouse gas emissions by reference to its 2009 Emissions

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[27] *See* 74 Fed. Reg. at 66497-99.

[28] *See, e.g.*, 74 Fed. Reg. at 66510; 66537.

[29] 74 Fed. Reg. at 66540.

[30] *See* 74 Fed. Reg. at 66539 n.41 and 66540; *Inventory of U.S. Greenhouse Gas Emissions and Sinks* (April 2009) p. 2-5 Table 2-1 n. b and p. 3-1 (excluding biogenic CO_2 emissions based on principles of carbon neutrality) ("2009 Emissions Inventory").

Inventory.[31] This is also reflected in the technical support documents accompanying the 2009 Endangerment Finding.[32] EPA has acknowledged that its 2009 Emissions Inventory conforms to the system of emissions accounting established by the Intergovernmental Panel on Climate Change (IPCC) and articulated in the 2006 IPCC Guidelines.[33] Consistent with the 2006 IPCC Guidelines recommendation that each inventory place emissions of CO_2 from combustion of biomass in the section devoted to forestry and land-use changes, as opposed to the section devoted to energy production, EPA's emissions inventories report emissions from combustion of biogenic feedstocks separately as a "Memo item" in the U.S. GHG Inventory and do not include biogenic emissions in the energy sector calculations.[34] Similarly, consistent with the IPCC guidance, any carbon stock changes related to the use of biogenic feedstocks in the energy sector, and the CO_2 emissions associated with those carbon stock changes, are accounted for under the forestry and/or agricultural sectors of the U.S. GHG Inventory.[35]

The *2006 IPCC Guidelines* as they apply to the land-use/forestry sector characterize biogenic emissions as carbon neutral because: "Biomass associated with annual and perennial herbaceous (*i.e.*, non-woody) plants is relatively *ephemeral,* i.e., it decays and regenerates annually or every few years. So emissions from decay are balanced by removals due to re-growth making overall net C [carbon] stocks in biomass rather stable in the long term."[36] Consequently, the *2006 IPCC Guidelines* recommend that: "The change in biomass is only estimated for perennial woody crops. For annual crops, increase in biomass stocks in a single year is assumed equal to biomass losses from harvest and mortality in that same year - thus there is no net accumulation of biomass stocks."[37] As further support for the notion that biomass emissions are carbon neutral, a "Frequently Asked Questions" (FAQ) document on the same IPCC website as the *2006 IPCC Guidelines* addresses the question "Do the IPCC Guidelines consider biomass used for energy to

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[31] *See*, *e.g.,* 74 Fed. Reg. at 66510:2-3; 66537:1 ("To date, the focus of UNFCCC actions and discussions has been on the six greenhouse gases that are the same focus of these [endangerment] findings. As a party to the UNFCCC, EPA annually submits the *Inventory of US. Greenhouse Gas Emissions and Sinks to the Convention*, which reports on national emissions of anthropogenic emissions of the well-mixed greenhouse gases."); 66539-40.

[32] EPA, *Technical Support Document for Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act*, Vol. 4 (Dec. 7, 2009) (EPA-HQ-OAR-2009-0171-11645) ("TSD4") at 2-3 ("Primary GHGs that are directly emitted by human activities in general are reported in EPA's annual *Inventory of US. Greenhouse Gas Emissions and Sinks* and include carbon dioxide . . . The primary effect of these gases is their influence on the climate system by trapping heat in the atmosphere that would otherwise escape to space."); TSD4 at 6 (Table 1.1); TSD4 at 11-12.

[33] 5 IPCC, 2006 IPCC Guidelines for National Greenhouse Gas Inventories (*http://www.ipccnggip.iges.or.jp/public/2006gl/index.html*); 2009 Emissions Inventory, at 1-2:1, 7-1.

[34] *See 2006 IPCC Guidelines* Vol. 1, at 1.5-1.6.

[35] *See* 79 Fed. Reg. at 1441 n.46.

[36] *2006 IPCC Guidelines* Vol. 4, at 2.11 (emphasis added).

[37] *Id.* at 5.7 (§ 5.2.1.1) (emphasis added); *see also id.* at 5.26 ("In subsequent years, change in biomass of annual crops is considered zero because carbon gains in biomass from annual growth are offset by losses from harvesting.").

be carbon neutral? "[38] The answer given by the FAQ with respect to annual herbaceous crop-derived biomass is: "For annual crops, the IPCC Guidelines assume that biomass carbon stock lost through harvest and mortality equal biomass carbon stock gained through regrowth in that same year and so there are no net CO_2 emissions or removals from biomass carbon stock changes."[39]

The IPCC indisputably views biogenic CO_2 emissions from annaul crops as carbon neutral because biogenic emissions are inconsequential to the global warming process on a life-cycle basis. Consistent with the *2006 IPCC Guidelines*, EPA's *2009 Emissions Inventory,* which as noted is the foundation of its 2009 Endangerment Findings, accounts for emissions from agricultural lands only to the extent of "changes in organic C stocks in mineral and organic soils due to land use and management, and emissions of CO_2 due to the application of crushed limestone and dolomite to managed land (*i.e.*, soil liming and urea fertilization)."[40] EPA's approach to emissions accounting expressly excludes any quantification of the carbon flux attributable to growth, harvest, and fate of agricultural crop material, because that flux is "relatively small and ephemeral."[41] EPA's use of the term "ephemeral" is a clear reference to the *2006 IPCC Guidelines* and the IPCC's recognition that biogenic emissions are insignificant from the standpoint of increases in atmospheric greenhouse gas concentrations that cause global warming.

The U.S. Department of Agricuture has similarly concluded that biogenic CO_2 emissions are insignificant on a life-cycle basis as their effect is ephemeral. In July 2014, USDA, through its Office of Chief Economist, issued Technical Bulletin 1939,[42] which stated at page 3.43 of that bulletin that: "Both IPCC (2006) and U.S. Environmental Protection Agency (2011) consider herbaceous biomass carbon stocks to be ephemeral, and recognize that there are no net emissions to the atmosphere following crop growth and senescence during one annual crop cycle (West et al., 2011)." Similarly, in May 2014, the World Resources Institute (WRI) and World Business Council on Sustainable Development (WBCSD), which are recognized private-sector leaders in formulating greenhouse gas emissions inventory guidance, issued guidance[43] which at page 62 states: "The biomass associated with annual and perennial herbaceous vegetation is relatively ephemeral – reductions in these biomass stocks from harvesting, the burning of crop residues, or the integration of crop residues into soils, are balanced by stock increases from plant re-growth over a period of only one to a few years. Consequently, companies should also not report any sequestration in herbaceous biomass stocks." The use of the term "ephemeral" in both of the above-quoted passages is no accident. The term was originally used by the IPCC in its 2006 emissions inventory guidance to characterize CO_2 emissions from combustion or microbial treatment of herbaceous crop-derived material and was later repeated in the IPCC's FAQ

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[38] *See* Q2-10, at 9 (http://www.ipcc-nggip.iges.or.jp/faq/FAQ.pdf).

[39] *Id.*

[40] *2009 Emissions Inventory* at 7-1.

[41] *2009 Emissions Inventory* at 7-27:2, 7-39:1, 7-43:1, 7-47:2.

[42] USDA, *Quantifying Greenhouse Gas Fluxes in Agriculture and Forestry: Methods for Entity-Scale Inventory* (http://www.usda.gov/oce/climate_change/estimation.htm).

[43] WRI/WBCSD, *GHG Protocol Agricultural Guidance* (http://www.ghgprotocol.org/standards/agriculture-guidance).

document, which equated "ephemeral" in this context with carbon neutral—a scientific view being echoed now by USDA and WRI/WBCSD.

In sum, because EPA excluded biogenic emissions from its *2009 Emissions Inventory,* and because EPA's 2009 Endangerment Finding defined "harmful" pollution by reference to those greenhouse gases in the 2009 Emissions Inventory (*i.e.,* those emissions that the global scientific community had identified as elevated concentrations of greenhouse gas), biogenic emissions were never part of EPA's 2009 Endangerment Finding and there is no predicate for regulation of biogenic emissions as harmful pollution under the Clean Air Act. This conclusion is consistent with the scientific consensus that emissions of crop-based biogenic CO_2 are inconsequential to the global warming process – they effect no change in carbon stocks and, therefore, cause no harm.

The position that biogenic CO_2 emissions are insignificant and do not warrant an endangerment finding comports with numerous other EPA pronouncements regarding the carbon-neutral or *de minimis* nature of agricultural feedstock emissions. For example, the final rule for EPA's 2007 Renewable Fuel Standard Program (RPS1) required the exclusion of CO_2 from the combustion by motor vehicles of corn ethanol in comparisons of the lifecycle greenhouse gas emissions of such fuel against the lifecycle emissions of gasoline.[44] As EPA explained in that rule: "[I]n the long run the CO_2 emitted from biomass-based fuels combustion does not increase atmospheric CO_2 concentrations, assuming the biogenic carbon emitted is offset by the uptake of CO_2 resulting from the growth of new biomass. *Thus ethanol's carbon can be thought of as cycling from the environment into the plant material used to make ethanol and, upon combustion of the ethanol, back into the environment from which it came.* As a result, CO_2 emissions from biomass-based fuels combustion are not included in their lifecycle emission results and are not used in the CO_2 displacement index calculations shown above."[45] Similarly, EPA's proposal in May 2009 of the current Renewable Fuel Standard Program (RFS2) took the same position not only with respect to combustion by motor vehicles of corn ethanol, but also with respect to combustion of biomass in boilers to produce the corn ethanol.[46] EPA explained in that rulemaking, which was contemporaneous with its work on the 2009 endangerment finding, that "the CO_2 emitted from biomass-based fuels combustion does not increase atmospheric CO_2 concentrations, assuming the biogenic carbon emitted is offset by the uptake of CO_2 resulting from the growth of new biomass."[47]

Three months after promulgation of the 2009 Endangerment Finding, EPA reiterated in the final RFS2 rule its position that biogenic CO_2 emissions are insignificant.[48] The final RFS2 rule, which EPA was finalizing at the same time that it promulgated the 2009 endangerment finding, relied on emission factors in the Argonne National Laboratory's spreadsheet analysis tool known

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[44] *See* 72 Fed. Reg. 23900, 23982-83 (May 1, 2007).

[45] *Id.* (emphasis added).

[46] *See* 74 Fed. Reg. 24904, 25039: 3, 25040:1 (May 26, 2009).

[47] *Id.* at 25040:1.

[48] *See* 75 Fed. Reg. 14670, 14787:2 (Mar. 26, 2010).

as "Greenhouse gases, Regulated Emissions, and Energy use in Transportation" (GREET).[49] The GREET model assigns a zero value to all CO_2 emissions from (i) combustion of annual herbaceous crop-derived biomass to generate steam at a fuel ethanol plant; (ii) fermentation of biomass to generate fuel ethanol; and (iii) combustion of the fuel ethanol by motor vehicles.[50] In fact, the EPA study explains (at page 76): "Conversion of corn starch to ethanol produces excess CO_2 emissions. Because the CO_2 generated is from the atmosphere during the photosynthesis process, it should not be classified as CO_2 emissions . . . In this study, we assume that lignin is burned in cellulosic ethanol plants to provide steam needed for ethanol production and electricity. While combustion of lignin undoubtedly produces CO_2 emissions, these emissions come from the atmosphere through the photosynthesis process for biomass growth. Thus, the CO_2 emissions from biomass combustion are treated as zero in the GREET model. For the same reason, the CO_2 emissions from ethanol combustion in ethanol vehicles are treated as zero." Consistent with the GREET model, EPA's Regulatory Impact Analysis for the final RFS2 rule echoes conclusions in the final RFS2 rule, noting that: "The emission factors for the different fuel types are from GREET and were based on assumed carbon contents of the different process fuels . . . The emissions from combustion of biomass fuel source are not assumed to increase net atmospheric CO_2 levels. Therefore, CO_2 emissions from biomass combustion as a process fuel source are not included in the lifecycle GHG inventory of the biofuel production plant."[51] Likewise, in administering the RFS2 program, EPA has continued to exclude biogenic emissions from combustion and fermentation of agricultural feedstocks from its comparisons of the lifecycle emissions of newly-proposed biofuels against the lifecycle emissions of corresponding fossil fuels.[52]

EPA has continued to maintain the position that biogenic emissions are harmless in other contexts subsequent to the 2009 Endangerment Finding, such as its Climate Leaders voluntary greenhouse gas reduction program[53] and its 1605(b) voluntary reporting program which it co-administers with the Department of Energy. The government's position in these programs has been simply that "carbon dioxide emissions of biogenic fuels do not 'count' as anthropogenic emissions."[54] Consistent with this position, EPA has continued using the same language regarding

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[49] *See* 75 Fed. Reg. at 14769:3, 14782:2.

[50] *See* M.Q. Wang, *GREET 1.5 - Transportation Fuel-Cycle Model, Vol. 1: Methodology, Development, Use, and Results,* at 76 (ANL/ESD-39, Vol. 1) (Aug. 1999) (https://www.anl.gov/energy-systems/publication/greet-15-transportation-fuel-cycle-model-volume-1-methodology-development).

[51] *See* EPA, *Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis,* at 424 (Feb. 2010) (EPA-420-R-10-006) (https://www.epa.gov/sites/production/files/2015-08/documents/420r10006.pdf) ("*RFS2 RIA*").

[52] *See, e.g.,* Wang *et al.*, *Energy and greenhouse gas emission effects of corn and cellulosic ethanol with technology improvements and land use changes,* Biomass and Bioenergy, Vol. 35, at 1885, 1891:2, 1892:2 (2011) ("A positive energy balance by corn ethanol is possible because only fossil energy used to produce ethanol is taken into account in energy balance calculations. The energy for corn plant growth via photosynthesis is solar energy and is not considered.").

[53] EPA, *Climate Leaders, Greenhouse Gas Inventory Protocol Core Module Guidance, Direct Emissions from Stationary Sources,* § 1.2 (May 2008) (EPA-430-K-08-003) ("[I]t is assumed that combustion of biofuels do not contribute to net addition of CO_2 to the atmosphere.").

[54] U.S. DOE, *Technical Guidelines, Voluntary Reporting of Greenhouse Gases (1605(b)) Program,* at 51 ("By accounting convention, though, carbon dioxide emissions of biogenic fuels do not 'count' as anthropogenic

the harmless nature of biogenic emissionsand relying on the same IPCCguidance in its greenhouse gas emission inventories.[55]

EPA's position that biogenic CO_2 emissions are insignificant is securely rooted in fundamental science. As explained by leading experts in lifecycle emissions from Michigan State University, Dr. Seungdo Kim and Bruce E. Dale, in the attached technical report (Attachment A, hereto), each carbon atom released in the form of CO_2 directly from combustion, fermentation or wastewater treatment of agricultural crop -based materials is the same carbon atom th at the herbaceous plants incorporated into that matter through photosynthesis. Those processes merely return to the atmosphere carbon atoms that were already there only a short time ago. Thus, biogenic emissions cause no change in carbon stocks, do not contribute to elevated concentrations of greenhouse gases, and cause no harm through the global warming process.[56]

It was in the context of this regulatory history that EPA finalized its 2009 Endangerment Finding, which assumed that biogenic CO_2 emissions we re insignificant and not part of the "harmful" greenhouse gas pollution identified as endangering the environment. The context and EPA's contemporaneous positions with regard to biogenic CO_2 also explain the complete lack of any discussion of biogenic emi ssions in the 2009 Endangerment Finding. In other words, EPA felt no need to discuss biogenic emissions since it was not making an endangerment finding that implicated emissions from agricultural feedstocks. Any other interpretation of the 2009 Endangerment Finding ignores the history of EPA's rulemaking and program administration and the contextual setting in which biogenic emissions have been considered carbon neutral by global consensus.

The only indication that EPA ever considered biogenic emissionsin its 2009 Endangerment Finding comes from EPA's response-to-comments document ("2009 RTC"), which was issued by EPA in conjunction with the 2009 endangerment finding. In the 2009 RTC, a stakeholder asked EPA to exclude biogenic CO_2 emissions from the endangerment finding on the grounds that biogenic emissions do not contribute to endangerment of health and welfare. In its response, EPA rejected that request, stating that "all CO_2 emissions, regardless of source, influence radiative forcing equally once it reaches the atmosphere and therefore there is no distinction between biogenic and non -biogenic CO_2 regarding the CO_2 and other well -mixed GHGs within the

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emissions under the Framework Convention on Climate Change because the carbon embedded in biogenic fuels is presumed to form part of the natural carbon cycle. "); 77 ("Reporters that operate vehicles using pure biofuels within their entity should not add the carbon dioxide emissions from those fuels to their inventory of mobile source emissions because such emissions are considered biogenic and the recycling of the carbon is not credited elsewhere. ") (Jan. 2007) (http://www.eia.gov/oiaf/1605/January2007/1605bTechnicalGuidelines.pdf).

[55] *See, e.g., Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2011,* at 7-1, 7-31, 7-44, 7-49, 7-54 (Apr. 12, 2013) (EPA-430-R-13-001), available at (https://www3.epa.gov/climatechange/Downloads/ghgemissions/US-GHG-Inventory-2013-Main-Text.pdf); *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2012,* at 7-1, 7-35, 7-49, 7-54, 7-60 (Feb. 21, 2014), available at (https://www3.epa.gov/climatechange/Downloads/ghgemissions/US-GHG-Inventory-2014-Main-Text.pdf).

[56] *See* S. Kim, PhD and B. Dale, PhD, *The Biogenic Carbon Cycle in Annual Crop -Based Products* (Nov. 20, 2013) (Attachment A, hereto).

definition of air pollution that is reasonably anticipated to endanger public health and welfare."[57] However, in light of the absence of any such discussion of biogenic emissions in the proposed endangerment finding or the final 2009 Endangerment Finding itself, it is apparent that the EPA staff member who prepared that response was mistaken as to the definitional foundation of the 2009 Endangerment Finding. Moreover, as discussed at length above, EPA had based the endangerment finding on the IPCC and emissions inventory approaches, which acknowledged the scientific principle that biogenic emissions are carbon neutral on a life-cycle basis and are not counted as part of the "elevated" concentration of greenhouse gases which results from society's burning of fossil fuels. Accordingly, EPA's response that molecules of CO_2 are identical was non-responsive to the core question of whether biogenic CO_2 contributes to "elevated" levels of atmospheric CO_2 compared to pre-industrial concentrations. As noted, it is only the elevated concentration that EPA has determined endangers the environment, which is understandable as the non-elevated concentration of CO_2 in the atmosphere keeps the earth at habitable temperatures. In short, a single response to a stakeholder comment, which is inconsistent with and divorced from the record basis for the agency action, cannot form a rational basis to interpret the 2009 Endangerment Finding as concluding that biogenic emissions are harmful and cause global warming. To the contrary, the 2009 Endangerment Finding supports the conclusion that biogenic emissions are harmless.

Despite EPA's recent assertions in the McCabe memo, Clean Power Plan and elsewhere that there is no distinction between biogenic CO_2 and fossil CO_2, EPA has nonetheless recognized in other contexts that there is indeed a scientific distinction. As a striking example, EPA's ill-fated "Deferral Rule" itself evidences that EPA never actually determined in the 2009 Endangerment Finding whether biogenic CO_2 emissions are "dangerous" pollutants, such that the agency is free to decide whether and how biogenic CO_2 emissions should be regulated going forward. Two years following its 2009 Endangerment Finding for fossil fuel emissions from motor vehicles, and in response to a stakeholders petition for administrative reconsideration, EPA attempted to defer application of its greenhouse gas regulations to biogenic CO_2 emissions from stationary sources under the PSD and Title V rules until it could complete a scientific review of the climate effects of biogenic emissions.[58] At the same time, EPA began developing an accounting process for evaluating the life-cycle of biogenic feedstocks know as the Biogenic Accounting Factor framework, and charged its Science Advisory Board with supporting its study of biogenic emissions.[59] That review process has now taken more than six years and appears nowhere close to completion. But the fact that EPA constituted the scientific review process in the first place

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[57] *See* EPA, *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act: EPA's Response to Public Comments, Vol. 9: The Endangerment Finding,* at 5 (2009) (EPA-HQ-AR-2009-0171-11676) ("*2009 RTC Vol. 9*").

[58] *Deferral for CO_2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs*, 76 Fed. Reg. 43490 (July 20, 2011).

[59] EPA Office of Air and Radiation, Office of Atmospheric Programs, Climate Change Division, *Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources* (2d Draft) (Nov. 2014) ("BAF Framework"); *see also* Office of Atmospheric Programs, Accounting Framework for Biogenic CO_2 Emissions from Stationary Sources (Sept. 2011) (https://www 3.epa.gov/climatechange/Downloads/ghgemissions/Biogenic-CO_2-Accounting-Framework-Report-Sept-2011.pdf) ("Biogenic Accounting Framework").

illustrates that EPA never reached a definitive conclusion in the 2009 Endangerment Finding as to the nature of biogenic CO_2 as a harmful pollutant.

The Deferral Rule was originally intended for a period of three years ; however, at about the time the rule expired of its own terms , the D.C. Circuit vacated the rule by rejecting the administrative law doctrines that EPA had invoked to defend the rule. [60] Importantly, however, EPA had (somewhat mystifyingly) expressly declined to rely on any scientific basis for its authority to exempt insignificant or *de minimis* emissions from regulation in defending the Deferral Rule.[61] In light of this procedural history, the D.C. Circuit 's invalidation of the Deferral Rule presents no precedential impediment for EPA either to properly interpret the 2009 Endangerment Finding as having not addressed biogenic emissions or to exempt biogenic emissions under its general authority to exempt insignificant emissions on the basis of sound science.[62] Put simply, it seems obvious that EPA would not have needed a deferral rule, nor embarke d on a multi -year scientific study of biogenic emissions, if it had already studied the issue sufficiently in its 2009 Endangerment Finding.

In short, EPA 's 2009 Endangerment Finding did not actually address the science of biogenic CO_2 in determining whether biogenic CO_2 from agricultural sources was "harmful" such that it should be regulated as a "pollutant." Accordingly, under the Supreme Court 's precedent, any regulation of biogenic CO_2 under the Clean Air Act would be *ultra vires* , arbitrary , and capricious until EPA completes a thorough, meaningful and scientifically informed endangerment finding specific to biogenic CO_2 sources, considering the context of Congress 's use of the term "pollutant" in the Clean Air Act. EPA should acknowledge this fact in the Significance Rule rulemaking and either determine that biogenic CO_2 emissions are not currently subject to a predicate endangerment finding or include an exemption for biogenic CO_2 emissions from short-cycle agricultural biomass feedstocks.

IV. EPA MUST DEFINE KEY TERMS TO CLARIFY THE EXCLUSION OF BIOGENIC EMISSIONS

In order to fully implement the Supreme Court's mandate, EPA must definekey regulatory terms such as "any pollutant ", "greenhouse gases ", and "subject to r egulation" in the proper context, considering the scientific nature of biogenic emissions. This context necessarily includes

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[60] *Ctr. for Biological Diversity v. EPA*, 722 F. 3d 401 (D.C. Cir. 2013).

[61] 722 F.3d at 409.

[62] Indeed each of the pane l judges in the Deferral Rule litigation suggested that EPA retained the broad authority described above to permanently exclude biogenic CO_2 emissions, provided the Agency justified its decision in the rulemaking record. 722 F.3d at 412 ("leav[ing] for another day the question whether the agency has authority under the Clean Air Act to permanently exempt biogenic carbon dioxide sources from the PSD permitting program"); 722 F.3d at 420 (Henderson, J. dissenting) (recognizing the "availability of a *de minimis* exception" to permanently exclude biogenic CO_2 emissions). Even Judge Kavanaugh's concurring opinion, which asserted that EPA's regulatory discretion was limited by the agency's prior interpretation of its Clean Air Act authority suggested that EPA retained at some limited options to permanently exclude biogenic CO_2 emissions. 722 F.3d at 413 n.1 (Kavanaugh, J. dissenting) (suggesting that EPA could exempt biogenic CO_2 emissions by amending or reinterpreting its Endangerment Finding).

acknowledgement that EPA has not thoroughly considered the *de minimis* nature of biogenic emissions and has not made an endangermen t finding specific to biogenic emissions, which is a predicate to regulation under the Clean Air Act. Accordingly, EPA must revisit the definitions in its PSD program (and elsewhere in the Clean Air Act) with these limitations in mind, and must craft regu latory definitions in a manner so as to effectively exclude biogenic emissions from regulation under all portions of the Clean Air Act.

A. Definition of "Any Pollutant"

First, EPA must interpret the phrase "any air pollutant" as it appears in the Clean Air Act to exclude biogenic emissions, in light of the fact that EPA has not made an endangerment finding specific to biogenic emissions. There is no indication in the Cle an Air Act that Congress would have intended that phrase to encompass emissions that are not actually harmful on a life -cycle basis. Nor would Congress have allowed EPA to simply ignore life -cycle science. As EPA acknowledges in the proposal, greenhou se gases are "unique ."[63] Accordingly, any attempt to regulate these unique emissions should be based on careful consideration by the agency of the biological carbon cycle of CO_2 emissions and the necessity to human life and welfare of a baseline concentration of CO_2 in the atmosphere, both of which are core aspects of the unique nature of greenhouse gases.

B. Definition of "Greenhouse Gases"

Similarly, the definition of "greenhouse gases" or "GHGs" should be phrased in EPA's regulations in each instance of use to exclude biogenic CO_2. For example, the proposed definition under 40 C.F.R. § 51.166(b)(31) in the Significance Rule should read as follows, with the addition of the italized phrasing: "Greenhouse gases (GHGs) means the air pollutant definted in § 86.1818-12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorcarbons, perfluorocarbons and sulfur hexafluoride, *excluding biogenic emissions from agricultural feedstocks."* 81 Fed. Reg. at 68142:2.

C. Definition of "Subject to regulation"

The definition of "subject to regulation" should also be phrased in EPA's regulations in each instance of use to exclude biogenic CO_2. For example, the proposed defini tion under 40 C.F.R. § 51.166(b)(48) should read as follows with the addition of the italized phrasing: "Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict thequantity of emissions of that pollutant released from the regulated activity. Pollutants subject to regulation include, but are not limited to, greenhouse gases as defined in paragraph (b)(31) of this section , *but excluding biogenic emissions from agricultural feedstocks."* 81 Fed. Reg. at 68142:3.

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[63] 81 Fed. Reg. at 68122:2 ("The EPA's judgment at this time is that the approaches we have previously used to establish SERs are not workable for the establishment of a GHG SER due the unique nature of GHG emissions").

V. IF BIOGENIC EMISSION S ARE CURRENTLY SUBJECT TO REGULATION, EPA SHOULD DETERMINE THAT CROP -BASED BIO GENIC EMISSIONS ARE INSIGNIFICANT

A. EPA Has Authority to Exempt Crop-Based Biogenic Emissions as Insignificant

As EPA recognizes in its proposed Significance Rule, it has discretion to determine that certain emissions are *de minimis* and to exempt such emissions from Clean Air Act regulatory programs.[64] In its landmark decision addressing greenhouse gases in *Massachusetts v. EPA*, the Supreme Court, although holding that EPA has the authority to regulate greenhouse gas emissions as "air pollution" generally, also recognized that "an agency has broad discretion to choose how best to marshal its limited resources and pe rsonnel to carry out its delegated responsibilities. "[65] Similarly, in *Alabama Power Co. v. Costle*, 636 F.2d 323, 360-61, 400 (D.C. Cir. 1979), the D.C. Circuit recognized EPA 's discretion "to exempt from PSD review some emission increases on grounds of *de minimis* or administrative necessity" where regulation would "yield a gain of trivial or no value." The Supreme Court's flagship *Chevron* decision also addressed EPA's discretion to define the scope of Clean Air Act perm itting programs, overturning a D.C. Circuit decision that failed to defer to EPA 's interpretation of what constitutes a "stationary source" subject to special permitting conditions in nonattainment areas. [66] And as discussed above, the Supreme Court has reminded EPA more recently in *UARG* that the agency must interpret statutory provisions in practical context.

In reliance on this broad discretion, EPA has previously intepreted the Clean Air Act with a contextual lens in analogous situations. Notably, EPA has limited PSD permitting to th ose pollutants that are "subject to regulation" under the Clean Air Act, notwithstanding that the statute itself refers to "any pollutant."[67] Likewise, even though the Clean Air Act may be read to require

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[64] 81 Fed. Reg. at 68120.

[65] *Massachusetts v. EPA*, 549 U.S. 497, 527-29, 533 (2007) (citing *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842-845 (1984)); *see also Am. Coke & Coal Chems. Inst. v. EPA*, 452 F.3d 930, 941-42 (D.C. Cir. 2006) ("The court owes particular deference to EPA when its rulemakings rest upon matters of scientific and statistical judgment within the agency's sphere of special competence and statutory jurisdiction. "). Courts have noted EPA's discretion regarding the timing and approach to the regulation of po llutants following the Court's decision in *Massachusetts v. EPA*. For example, in the remand from the Supreme Court's decision, Judge Tatel observed that "nothing in section 202, the Supreme Court's decision in *Massachusetts v. EPA*, or our remand order imposes a specific deadline by which EPA must determine whether a particular air pollutant poses a threat to public health or welfare." *Massachusetts v. EPA*, No. 03-1361, separate statement of Tatel, J. concurring in part and dissenting in part from denial o f petition, June 26, 2008, at 1. Similarly, the Northern District of California also rejected an argument that EPA is compelled to regulate all forms of greenhouse gases following *Massachusetts*. *See S.F. Chapter of A. Philip Randolph Inst. v. EPA* , 2008 U.S. Dist. LEXIS 27794 at 10-11 (N.D. Cal. Mar. 28, 2008). Consistent with the D.C. Circuit's conclusion, the California district court recognized that "[t]he Supreme Court was careful not to place a time limit on the EPA, and indeed did not even reach the question whether an endangerment finding had to be made at all."

[66] *Chevron, U.S.A., Inc. v. NRDC*, 467 U.S. 837, 841-42 (1984).

[67] *See Coalition for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102, 134-35 (D.C. Cir. 2012) (*per curiam*) (finding that the Clean Air Act does not require EPA to regulate "a 'physical, chemical, [or] biological' substance

PSD permitting for any change to a major source tha t increases emissions of any air pollutant by any amount, *see* Clean Air Act §§ 111(a)(4), 169(2)(C), EPA has limited the permitting requirements to modifications that result in a "significant" net increase in actual emissions.[68] For example, carbon monoxid e emissions increases of up to 99 tons per year are considered insignificant (*de minimis*) under EPA 's implementing regulations. [69] Thus, EPA has a long - standing policy of applying the *de minimis* doctrine to exclude from regulation under the PSD and Title V permitting programs those sources whose emissions increases are deemed insignificant from an air quality perspective, despite the fact that the literal language of the Clean Air Act requires permits for *any* emissions increase.[70]

EPA has also exerci sed its d iscretion to distinuish among various families of chemical compounds to exclude regulation of those emissions that have negligible environmental impacts. For example, EPA excludes emissions of certain volatile organic compounds (VOCs) as smog precursors b ecause they don 't react in the atmosphere like other compounds and do not cause environmental impacts regardless of the fact that these compounds are both "volatile" and "organic" and therefore meet EPA 's definition of VOCs. [71] Likewise, EPA has distinguish ed among different categories of particulate matter (PM) based on differences in environmental and public health impacts.[72] Thus, EPA has distinguished between fine and coarse PM and established distinct significance levels for particulate matter smaller t han 10 microns in diameter and smaller than 2.5 microns in diameter based on the particle size's impact on public health.

In the greenhouse gas context, EPA exercised its discretion to limit the scope and reach of its greenhouse gas regulations by cho osing to limit the pollutants that qualify as "greenhouse gases" to "the aggregate group of six" specified chemicals and excluded other chemicals that also have climate impacts. [73] In fact, EPA limited the "pollutant" greenhouse gas to these six

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EPA had determined was harmless "), *reversed in part by UARG v. EPA* ; *see also Alabama Power*, 636 F.2d at 352 n.57.

[68] *See* 40 C.F.R. §§ 52. 21(b)(2)(i), 52.21(i); *see also United States v. DTE Energy Co.* , 711 F.3d 643, 645 (6th Cir. 2013).

[69] 40 C.F.R. § 52.21(b)(23)(i); *see also* 45 Fed. Reg. 52676, 52705 -09 (Aug. 7, 1980) (setting significance levels for PSD permitting programs based on *de minimis* exception).

[70] *See* 40 C.F.R. § 52.21(b)(23)(i) and (j)(2); 45 Fed. Reg. at 52722; *Alabama Power*, 636 F.2d at 405.

[71] *See* 40 C.F.R. § 51.100(s); 40 C.F.R. §§ 52.21(b)(2)(ii) and 52.21(b)(30); 40 C.F.R. § 51.100(d); 57 Fed. Reg. 3941, 3943 -44 (Feb. 3, 1992) (disagreeing with comment that definition exceeded EPA's statutory authority, asserting that "it is an administrative necessity and reasonable to define VOC to include all organic compounds except those EPA has determined to be negligibly reactive.").

[72] 40 C.F.R. § 52.21(b)(23)(i); *Alabama Power*, 636 F.2d at 369 n.134 ("EPA has discretion to define the pollutant termed "particulate matter" to exclude particulates of a size or composition determined not to present substantial public health or welfare concerns.").

[73] *See* 75 Fed. Reg. 25324, 25397 (May 7, 2010) (identifying the six compounds as "[t]he primary greenhouse gases of concern"); *id.* at 25398-99 (describing light-duty vehicle emissions standards as regulating "the single air pollutant" constituting the aggregate of the six identified gases).

compounds despite its findings that they only account for 75% of total anthropogenic heating.[74] Similarly, in its rulemaking restricting emissions of carbon dioxide from new electric power plants, EPA acknowledged that it has broad discretion to exclude from regulation not only subcategories of a particular source categories, but also particular emissions. Thus, EPA excluded from that rule all emissions of non-CO_2 greenhouse gases, including methane and other powerful greenhouse gases, and to justify its position, EPA explained that such emissions "represent less than 1 percent of total estimated GHG emissions" from electric power plants.[75]

In its proposed Significance Rule, EPA identifies various factors that would support a *de minimis* finding for greenhouse gases: (1) the regulatory context, including the nature of the pollutant and the dangers caused by increases in that pollutant; (2) the nature and purposes of the regulatory program; and (3) the administrative and implementation burdens of, and the gain achieved from, regulating the activities at or below a certain level. 81 Fed. Reg. at 68121:1. Because the science dictates that biogenic CO_2 emissions are part of the natural annual carbon cycle and do not increase atmospheric CO_2 concentrations, each of these factors commands that EPA exclude biogenic emissions as *de minimis* for all Clean Air Act purposes.

B. Science Supports a De Minimis Determination Because Biogenic Emissions Are Not Harmful

As discussed above, biogenic emissions from agricultural feedstocks are not harmful to the environment because they do not contribute to elevated levels of greenhouse gas concentrations. For the same scientific reasons, biogenic CO_2 emissions are clearly insignificant, whether from the perspective of net life-cycle effect on atmospheric greenhouse gas concentrations or as a fraction of nationwide greenhouse gas emissions, which are dominated by fossil fuel combustion. For illustration, looking only at the electricity sector, direct stack emissions of CO_2 from bioenergy sources are at most 0.04 percent of the direct emissions of CO_2 from combustion of fossil fuels, based on conservative calculations using statistics published by the U.S. Energy Information Administration.[76] Specifically, the amount of CO_2 emitted in 2012 by the electric power sector through combustion of coal, natural gas, petroleum liquids and petroleum coke was nearly 1,982,000 million kilograms, whereas the amount of CO_2 emitted in that year by that sector through combustion of "other waste biomass" *(i.e.,* agricultural crop byproducts, straw, sludge waste and other biomass, excluding wood and wood-derived fuels) was 817 million kilograms, or approximately 0.04 percent of the fossil CO_2 emissions. There are no comprehensive statistics on biogenic emissions from all sources, but the volume of emissions from bioenergy is vastly smaller in volume than the 1 percent threshold that EPA used to justify the exclusion of five greenhouse

[74] 74 Fed. Reg. at 66517, 66520 (excluding other gases because they are not thought to be a primary driver of radiative heating, or because their climate impact is unknown).

[75] 79 Fed. Reg. 1430 at 1446:1-2 (Jan. 8, 2014).

[76] Calculations based on EIA, *Electric Power Annual 2012,* tables 5.1.D, 5.2.D, 5.3.D, 5.4.D, 5.8.E (Dec. 2013) (http://www.eia.gov/electricity/annual/epa.pdf) (statistics on fuel consumption by btu) and EPA's Climate Leaders Program, *Emission Factors for Greenhouse Gas Inventories,* at 1 (Nov. 7, 2011) (https://www.epa.gov/sites/production/files/2015-11/documents/emission-factors_2011.pdf) (emission factor for GHG emissions per btu).

gases, other than carbon dioxide, from the reach of its new source performance standards (NSPS) rulemaking for new or modified electric power plants.[77]

EPA's own Biogenic Accounting Framework, which the agency issued in revised form on November 19, 2014, strongly corroborates the Coalition's position as it relates to CO_2 emissions.[78] The *2014 BAF* repeatedly treats as a scientifically sound working assumption the proposition that the CO_2 emissions resulting *directly* from the combustion of such biomass are carbon neutral.[79] In fact, in the *2014 BAF,* EPA provided hypothetical examples to illustrate how the *BAF* would operate in the case of corn stover combustion, concluding that any factor combustion of corn stover would be zero or tiny.[80] Similarly, emissions of biogenic CO_2 associated with processing agricultural crops, assuming they sho uld legally be considered (which is not the case), are also harmless from a global warming standpoint.

Although EPA has identified some questions regarding life cycle analysis of long-rotation biomass from forest products, EPA does not need to study emis sions from the agricultural sector further. In fact, the Biogenic CO_2 Coalition has on numerous occasions inquired of EPA whether it needs additional information regarding the life-cycle emissions profile of short-rotation agricultural biomass, and the ag ency has not indicated that more data is needed. Indeed, as reviewed in the report by Professors Kim and Dale, which has been presented to EPA in comments submitted by the Biogenic CO_2 Coalition in various rulemakings,[81] the data currently before the agency is more than adequate to support a finding that biogenic CO_2 emissions from agricultural crops are insignificant on a life-cycle basis. The Kim-Dale Report examined the biogenic carbon cycle for combustion of crop residues using corn stover as an example of agricultural feedstocks under three different scientifically accepted methodologies: (i) life cycle biogenic carbon balance; (ii) mass balance; and (iii) EPA's proposed *Biogenic Accounting Framework*. *See* Kim-Dale Report pp. 30-35). The report studied the release and sequestration of biogenic carbon during agricultural production of corn and corn stover, the transportation and storage o f corn and corn stover, and the ultimate combustion of the corn stover for bioenergy. The report found under all

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[77] *See* 79 Fed. Reg. at 1446:1-2 (excluding all emissions of non-CO_2 greenhouse gases on the basis that such emissions "represent less than 1 percent of total estimated GHG emissions" from EGUs).

[78] *See* EPA Office of Atmospheric Programs, *Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources,* (Nov. 2014) ("*2014 BAF*")(http://www.epa.gov/climatechange/ghgemissions/biogenicemissions.html).

[79] *See, e.g., 2014 BAF, Appendix D: Feedstock Categorization and Definitions,* at D-10 ("[T]he net atmospheric biogenic contribution from the growth and harvest of the feedstock itself *[i.e.,* "conventional crops"] is in balance"); *Appendix 1: Illustrative Forestry and Agriculture Case Studies Using a Retrospective Reference Point Baseline,* at 1-14 ("GROW is set to 0 because the ratio of net growth to removals is 0."); *Appendix L: Illustrative Forestry and Agriculture Case Studies Using a Future Anticipated Baseline,* at L-17 ("The GROW term defaults to 0 for agricultural biomass sources in this methodology. The assumption is that, with annual crops, biogenic CO_2 'growth' in this context equals what is harvested (removed) from the system for energy generation."); *2014 BAF,* at 6 n.18, 16 (§2.4.1.), 43 (§4.4).

[80] *See* 2014 BAF *Appx 1,* at 1-14 to 1-15; *Appx M,* at M-10 (Table M-5 and §6.1); *Appx M,* at M-11 (Table M-6, last row).

[81] *See, e.g.*, Seungdo Kim, Ph.D and Bruce E. Dale, Ph.D, *The Biogenic Carbon Cycle in Annual Crop-Based Products*, Michigan State University (Nov. 22, 2013) (available at www.biogenicCO_2.com).

three methods that the indirect biogenic carbon emissions were net negative—*i.e.,* that the biogenic carbon cycle yields a net sequestration of carbon (and a net benefit to the environment). As discussed above, both IPCC and EPA, as well as private sector organizations, consider herbaceous biomass carbon stocks to be ephemeral in the inventory context, and recognize that there are no net emissions to the atmosphere during the annual crop cycle.

Interestingly, EPA admits in the Significance Rule that it actually has no way to determine the impact of greenhouse gases on the global environment,[82] and thus EPA has no way to determine the danger posed by any level of emissions, whether biogenic or fossil. In light of that admission, it is difficult to understand how EPA made the 2009 endangerment finding with respect to fossil fuels, but certainly EPA now concedes that it could not have made any endangerment findings with respect to harm from biogenic emissions. Regardless, for the reasons discussed herein, biogenic emissions can be found to present no danger due to their net carbon-neutral nature. Therefore EPA can properly determine biogenic emissions to be insignificant or de minimis, regardless of the amount of emissions, provided that the biogenic emissions are from short-rotation agricultural feestocks.

C. The PSD Program Is Not Suited for Regulation of Biogenic Emissions

The PSD program, at its core, was designed by Congress to prevent air quality from eroding in areas that were relatively clean where the more stringent requirements applicable to nonattainment areas were not triggered. Because biogenic emissions are not harmful and do not adversely affect either ambient air or global greenhouse gas concentrations, it serves no regulatory purpose to consider them in the PSD context. As the Supreme Court has chastened EPA, "the Act does not envision an elaborate, burdensome permitting process for . . . harmless airborne substances." *UARG*, 134 S. Ct. at 2440.

D. Regulation of Biogenic Emissions Is Burdensome With No Gain

Because biogenic emissions are scientifically harmless, there would be no gain achieved by regulating biogenic emissions as greenhouse gas pollution under the Clean Air Act. Any emissions reduction that could be achieved at the end of the day through application of BACT under the PSD program, could not actually be required under the balancing factors in the Clean Air Act, as any cost of control technology would be uneconomic compared to the lack of any benefit from reducing biogenic emissions since biogenic emissions do not cause harm. EPA cannot use the PSD program to force stationary sources to provide environmental benefits, as opposed to reducing environmental harms associated with emissions from that facility.

For the same reasons, any administrative or implementation burden would outweigh the non-existent gain from such regulation. However, it is worth noting that EPA seems to severely underestimate the regulatory burden caused by applying the PSD permitting program and Clean Power Plan rules to biogenic feedstocks. As discussed further in Parts VI and VII, below, the

[82] 81 Fed. Reg. at 68123:1 ("current climate modeling tools are not capable of isolating the precise correlations between singular, incremental facility-specific GHG emissions changes, ambient CO_2 concentrations, and climate impacts").

uncertainty associated with permitting fermentation units and other sources of biogenic emissions from feedstock processing has deterred investment in the bioeconomy and thrown up unnecessary barriers to construction or expansion projects. Similarly, the Obama Administration's current approach to biogenic emissions in its Clean Power Plan effectively disqualifies renewable bioenergy as a solution to reducing fossil fuel greenhouse gas emissions. As noted above, EPA has taken the position that other aspects of the PSD program such as ambient impacts analysis would not apply to greenhouse gases, but as noted that conclusion is subject to question following the *UARG* decision and may lead to litigation.

Accordingly, new source review for biogenic CO_2 emissions under the PSD program, and BACT review in particular, would be a pointless exercise since the outcome would be predetermined – there is simply no appropriate BACT for biogenic emissions. Making the PSD applicable to biogenic emissions would simply compound the administrative burden for facilities going through new source review for other emissions and would expose the facility to (unfortunately) real litigation risks such as have been documented in recent years.

VI. EPA HAS NOT SATISFIED THE REGULATORY FLEXIBILITY ACT

EPA's proposed rule includes a certification of no effect on small business. 81 Fed. Reg. at 68140. EPA also concluded that the proposed significant emissions rate of 75,000 tpy would relieve regulatory burdens. However, EPA did not undertake a sufficient analysis of economic impacts in the context of biogenic emissions.

EPA's failure to distinguish between fossil emissions and biogenic emissions effectively disqualifies bioenergy as a low carbon energy source and imposes burdens on all biogenic sources, including small businesses that are engaged in entrepreneural development of biomass technologies, such as low carbon and renewable fuels. Similarly, if EPA fails to amend its current policies as required by the Supreme Court mandate, its PSD regulations would continue to impose unnecessary permitting burdens on small businesses that may have emissions of biogenic CO_2 in excess of the proposed (or final) significant emissions rate.

It is obvious from the proposed Significance Rule that EPA has not studied the regulatory impact on biogenic source categories at all. The proposed rule summarizes EPA's review of fossil-fuel combustion sources and certain non-combustion facilities such as landfills, cement production and petroleum refineries. However, EPA neglected to assess emissions from fermentation units such as those that process agricultural feedstocks used to produce bioproducts. 81 Fed. Reg. at 68132. EPA did not request information relating to such plants from stakeholders nor apparently did EPA make any effort to characterize this sector. Emissions from large fermentation units, while carbon neutral, can nominally be well in excess of EPA's proposed significant emissions rate of 75,000 tons per year.

Similarly, in evaluating regulatory burdens, EPA only looked at PSD permits that were applied for and advanced through the regulatory process. 81 Fed. Reg. at 68128. This approach suffers from a critical flaw in overlooking projects that have been deterred by EPA's hostile policies with regard to biogenic emissions, and therefore never entered the PSD system. Accordingly, EPA's conclusion in the Significance Rule proposal that "PSD has not imposed unreasonable administrative and enforcement burdens," 81 Fed. Reg. at 68137:2, is patently

arbitrary and capricious because EPA never examined thosestill-born projects that never advanced to the permitting stage precisely because of the weight of those anticipated burdens.

EPA also apparently failed to recognize that the national GHG inventory and greenhouse gas reporting rule s exempt biogenic emissions or distinguish such emissions from fossil -based greenhouse gases, particularly as applied to the food processing sector. 81 Fed. Reg. at 68132. EPA's assessment of biomass energy focused on forest -derived biomass in the pulp and paper sector and appears to have overlooked biomass opportunities from agricultural biomass and residues. 81 Fed. Reg. at 68129:3.

Finally, EPA oddly acknowledges that it did not actually determine a *de minimis* level for greenhouse gas emissions; rather it has merely proposed a finding that smaller projects (with non-GHG emissions near the lower most applicability thresholds) would have *de minimis* associated greenhouse gas emissions.[83] In other words, EPA did not study whethera higher significance level would be appropriate pursuant to the Supreme Court's *UARG* mandate, nor did EPA consider whether a higher signficance level should be established for biogenic emissions (the Coalition posits that such a level should, in effect, be set at infinity).

Because EPA has not studied sources of biogenic emissions at all, it cannot determine whether the assumed regulatory costs in the proposed rule would be applicable to such sources. For example, EPA's assertion that the average cost to undergo BACT review forgreenhouse gases is only $24,000 is implausible based on the experience of Coalition members. 81 Fed. Reg. at 68136. This is particularly concerning given the lack of clarity as to how BACT review must be conducted, lack of data on available control technologies or techniques in the context of the carbon neutral life cycle of biogenic emissions, and potential costs of litigation (which unfortunately is quite likely based on past experience).[84]

In sum, unless EPA recognizes the de minimis nature of any le vel of biogenic emissions, it must conduct a more thorough regulatory impacts review under applicable law.

VII. EPA HAS NOT SATISFIED E.O. 13211 ENERGY SUPPLY REVIEW

Because EPA has not considered the effect of its current regulations on bioenergy sources, EPA has not complied with Executive Order 13211with respect to agency actions affecting energy supply. 81 Fed. Reg. at 68141. EPA's failure to distinguish between fossil emissions and biogenic

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[83] 81 Fed. Reg. at 68122:2 ("The proposed SER is not a level of GHGs below which the EPA has concluded there is a *de minimis* impact on the gloval climate. Rather, the *de minimis* level proposed in this rule relfects only a level of GHG emissions from an 'anyway source' below which the EPA is prposing to find that there would be trivial or no value in applyint the BACT requirement").

[84] For example, the Supreme Court's decision in UARG strongly suggested that an impacts analysis would be required for all sources triggering PSD review, which EPA incorrectly assumes is not applicable but would add signficant additional costs if stationary sources were forced into new source review for biogenic emissions . *See UARG*, 134 S. Ct. at 2457 (Alito, J., concurring in part and dissenting in part) (not ing that EPA may not ignore the statutory text of section § 165 of the Clean Air Act requires "an analysis of the ambient air quality . . . at the site of the proposed major emitting facility and in the area potentially affected by the emissions from such facility for each pollutant regulated under [the Clean Air Act]).

EPA-HQ-2018-007113 Production Set #1

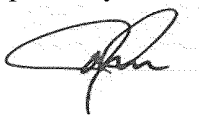
emissions effectively disqualifies bioenergy as a low carbon energy source and imposes burdens on bioenergy stationary sources, which in turn significantly limits the quantity and diversity of American energy supply, distribution and use. Unless EPA exempts biogenic emissions, as requested in these comments, EPA must undertake the evaluation required by E.O. 13211.

* * * * *

For the legal and scientific reasons detailed above, the Coalition views any regulation of emissions of crop-derived CO_2 as unlawful and unjustifiably burdensome. Accordingly, the Coalition respectfully requests that EPA: (1) categorically exclude from the Clean Air Act, including the definition of "pollutant" and Clean Air Act regulations generally, those CO_2 emissions resulting from the combustion or processing of agricultural feedstocks derived from short-rotation herbaceous crops; (2) determine that such biogenic CO_2 emissions are insignificant and *de minimis*, regardless of amount, in recognition of the established science on lifecycle carbon flow; and (3) expressly confirm that such exclusion and significance determination excludes biogenic CO_2 from treatment as "a pollutant subject to regulation" for purposes of the PSD and Title V permitting programs under the Clean Air Act.

The undersigned associations appreciate the opportunity to comment on this proposal. If you have any questions, please contact John Bode, Chair of the Biogenic CO_2 Coalition, at (202) 534-3498 or JBode@corn.org.

Respectfully submitted,



John Bode, Chair

Biogenic CO_2 Coalition

American Bakers Association

American Farm Bureau Federation

Corn Refiners Association

Enginuity Worldwide

National Corn Growers Association

National Cotton Council of America

National Cottonseed Products Association

National Oilseed Processors Association

North American Millers' Association

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Biogenic CO_2 Coalition Members

American Bakers Association (ABA) is a national association that represents the interests of bakers before the U.S. Congress, federal agencies, and international regulatory authorities. ABA advocates on behalf of more than 700 baking facilities and baking company suppliers.

American Farm Bureau Federation (AFBF) is an independent, non-governmental, voluntary organization governed by and representing farm and ranch families united for the purpose of analyzing their problems and formulating action to achieve educational improvement, economic opportunity and social advancement and, thereby, to promote the national well-being.

Corn Refiners Association (CRA) is the national trade association representing the corn refining (wet milling) industry of the United States. CRA and its predecessors have served this important segment of American agribusiness since 1913. Corn refiners manufacture starches, sweeteners, corn oil, bioproducts (including ethanol), and animal feed ingredients.

Enginuity Worldwide makes an engineered solid biomass fuel, using agricultural residues and woody wastes as the feedstocks, that can be used to co-fire with coal in power plants to produce base load energy. Using carbon neutral farm-based biomass provides an immediate carbon benefit that can help power companies comply with their GHG reduction targets.

National Cotton Council of America (NCC) aims to ensure the ability of all U.S. cotton industry segments to compete effectively and profitably in the raw cotton, oilseed and U.S.- manufactured product markets at home and abroad. NCC serves as the central forum for consensus-building among producers, ginners, warehousers, merchants, cottonseed processors/dealers, cooperatives and textile manufacturers. The organization is the unifying force in working with the government to ensure that cotton's interests are considered.

National Corn Growers Association (NCGA) represents more than 40,000 dues-paying corn farmers nationwide and the interests of more than 300,000 growers who contribute through corn checkoff programs in their states. NCGA and its 48 affiliated state organizations work together to create and increase opportunities for corn growers.

National Cottonseed Products Association (NCPA) is an organization of firms and individuals engaged in the processing of cottonseed and the marketing of cottonseed products, as well as cottonseed. These include oil mills, refiners, product dealers and product brokers.

National Oilseed Processors Association (NOPA) is a national trade association that represents 13 companies engaged in the production of food, feed, and renewable fuels from oilseeds, including soybeans, sunflower seed, canola, flaxseed and safflower seed. NOPA's member companies process more than 1.6 billion bushels of oilseeds annually at 63 plants located in 19 states throughout the country, including 57 plants that process soybeans.

North American Millers ' Association (NAMA) represents millers of wheat, corn, oats and rye in the US and Canada. NAMA members take the raw grain and, through grinding and crushing, create flour and other products that are used to make such favorite foods as bread, pasta, cookies, cakes, and snack foods.

Attachment A

Michigan State University Technical Report

David M. (Max) Williamson

From: Kyle Harris <kharris@corn.org>
Sent: Friday, December 16, 2016 6:16 PM
To: David M. (Max) Williamson
Subject: FW: Your Comment Submitted on Regulations.gov (ID: EPA-HQ-OAR-2015-0355-0001)

From: Regulations.gov [mailto:no-reply@regulations.gov]
Sent: Friday, December 16, 2016 6:05 PM
To: Kyle Harris <kharris@corn.org>
Subject: Your Comment Submitted on Regulations.gov (ID: EPA-HQ-OAR-2015-0355-0001)

regulations.gov
Your Voice in Federal Decision-Making

Please do not reply to this message. This email is from a notification only address that cannot accept incoming email.

Your comment was submitted successfully!

Comment Tracking Number: 1k0-8tmn-jax9

Your comment may be viewable on Regulations.gov once the agency has reviewed it. This process is dependent on agency public submission policies/procedures and processing times. Use your tracking number to find out the status of your comment.

Agency: Environmental Protection Agency (EPA)
Document Type: Rulemaking
Title: Prevention of Significant Deterioration and Title V Greenhouse Gas Permitting Regulations: Establishment of a Significant Emissions Rate for Greenhouse Gas Emissions under the Prevention of Significant Deterioration Program; Revisions
Document ID: EPA-HQ-OAR-2015-0355-0001

Comment:
Comment submitted by John Bode, Chair, Biogenic CO2 Coalition

Uploaded File(s):

- Biogenic CO2 Coalition - EPA Significance Rule Comments (12-16-16).pdf
- MSU Biogenic Carbon Study (final) (11-23-13).pdf

For further information about the Regulations.gov commenting process, please visit https://www.regulations.gov/faqs.

OAR Meeting Request Form
For William Wehrum

Date of this Request: 1/24/2018

Scheduling Point of Contact: Bill Irving

Technical Point of Contact: Bill Irving

Subject: Update on the UNFCC and IPCC

Purpose: To meet with OAR AA William Wehrum and update him on upcoming activities related to the United Nations Framework Convention on Climate Change (UNFCCC) and the Intergovernmental Panel on Climate Change (IPCC).

Next ADP Milestone:

- Other firm deadline: n/a

First possible date for meeting: February 7, 2018
Last possible date for meeting: February 13, 2018
Duration: 1 hour

Requested Audio / Video (*Mark with "X" if requested*)

____ Video Location(s):
List video locations needed (e.g., RTP, DC, Regions) – HQ will set up a bridge if needed
- **RTP**

__X__ HQ Conference Line:
If requested, HQ staff will provide in meeting invite

Invitees (please list by Office and in Outlook format, e.g. *Last, First*):
Please include the key OGC and/or Regional representatives as appropriate. Only key invitees are listed by office; others are Cc:

Office/Org	Name (*Last, First*)
OAR	Harlow, David
OAR	Gunasekara, Mandy
OAR	Woods, Clint
OAR-OAP	Dunham, Sarah
OAR-OAP-CCD	Gunning, Paul
OAR-OAP-CCD	Kocchi, Suzanne
OAR-OAP-CCD-CPB	Irving, Bill
OAR-OAP-CCD-CPB	Desai, Mausami
OAR-OAP-CCD-CEB	Fawcett, Allen
OAR-OAP-CCD-CEB	Alsalam, Jameel
OAR-OAP-CCD-CSIB	Birnbaum, Rona

HQ Meeting Briefing Materials: Must provide to OAR IO by 4:00pm, 1 day before meeting

BIOGRAPHY

Akio Takemoto
Director for International Strategy on Climate Change, Global Environment Bureau, Ministry of the Environment, Japan

Dr. Akio Takemoto is Director for International Strategy on Climate Change, Ministry of the Environment, Japan. Currently, he serves for negotiation on climate change agenda including United Nations Framework Convention on Climate Change (UNFCCC) as well as formulation of strategy for international cooperation on climate change.

From July 2014 to July 2017, He served as Director for Research and Information Office, Director of Climate Change Adaptation Office of the Ministry and Director for the Office of National Space Policy, Cabinet Office, and he was actively engaged in various tasks such as formulation and implementation of the national adaptation plan, a head of Japanese delegation to the Intergovernmental Panel on Climate Change (IPCC), development and operation of Greenhouse Gas Observation Satellite (GOSAT) and negotiation on the land sector agenda under UNFCCC.

He started his career on Environment Administration in April 1992. He served as Secretary of the Permanent Delegation of Japan to the OECD (2000-2003), Deputy Division Directors (2003-2010) and Director of International Cooperation Office and Groundwater Office (2010) at MOEJ. He served as Secretariat Director of Asia-Pacific Network for Global Change Research (APN) from July 2011 to July 2014. He obtained Ph.D. in engineering from Ibaraki University in 2010 and Master's Degree of Science from Hokkaido University in 1992.

From: Adm14Pruitt, Scott
Location: Administrator's Office
Importance: Normal
Subject: Paris Meeting Prep/Bring in Lunch
Start Date/Time: Thur 4/27/2017 4:15:00 PM
End Date/Time: Thur 4/27/2017 5:15:00 PM

From: Dunham, Sarah
Location: WJC-N 5400
Importance: Normal
Subject: April 15th Release of Final Inventory of GHGs and Sinks: 1990-2015
Start Date/Time: Thur 4/6/2017 4:30:00 PM
End Date/Time: Thur 4/6/2017 5:00:00 PM
Meeting Request Acting AA Sarah Dunham (v2).docx
Background Info_1990-2015 Inventory 1-pager_4.5.17.docx
Final GHG Inventory Briefing_OAR_040517v3.pptx

Updated PP
To: Dunham, Sarah; Lewis, Josh; Gunasekara, Mandy; Millet, John; Drinkard, Andrea; Harvey, Reid; Gunning, Paul; Irving, Bill; DeLuca, Isabel; Desai, Mausami; Weitz, Melissa; Kocchi, Suzanne; Froman, Sarah; Burke, Susan
Cc: Clarke, Deirdre; Krieger, Jackie; Vondemhagen, Rebecca; Murphy, Tina; Garner, Dorothy

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Dominguez, Alexander[dominguez.alexander@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]; Lubetsky, Jonathan[Lubetsky.Jonathan@epa.gov]
From: Shoaff, John
Sent: Wed 2/21/2018 2:31:29 PM
Subject: EPW QFRs
2018.02.15 - EPW -- All Pruitt QFRs 01.30.2018 - PROGRAM OFFICES NOTED.DOCX
Initial OAR table- Jan 18-EPA-QFR.XLSX

Per mention at Roundtable yesterday, there are the four QFRs (Carper 23, Carper 25, Carper 26 & Merkley 104) that may be most appropriate for the IO to draft a response. OAR was assigned 31 of the total QFRs (see the spreadsheet/table for our slice of this with office assignments) and we should be getting you and the IO draft responses to review on Fri. via overnight folders. OCIR has requested our responses by the following Wed. Compliments to Jonathan, we've also shared prior HEC QFR responses with offices to inform drafting and for consistency where approp.

Please let us know if you might have any questions or need anything more. Thx.

John

John Shoaff | Leader, Policy Support Group

Office of Air Policy & Program Support (OAPPS)

Office of Air & Radiation | U.S. EPA | WJC North 5442-B

1200 Pennsylvania Ave. NW | MC 6103A | Washington, D.C. | 20460 | USA

Shoaff.john@epa.gov | **1-202-564-0531 Direct | 1-202-257-1755 Mobile**

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Schwab, Justin
Sent: Sun 4/22/2018 8:41:12 PM
Subject: policy memo_DRAFT to SP 2018 04 19+ng.docx
policy memo_DRAFT to SP 2018 04 19+ng.docx
ATT00001.htm

More suggestions from OGC, if it's not too late....

To: andres@gfagrow.org[andres@gfagrow.org]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Gordon, Stephen[gordon.stephen@epa.gov]
From: Daniell, Kelsi
Sent: Sun 4/22/2018 7:43:20 PM
Subject: quote for monday
GFA_Pruitt Announcement_FInal.pdf

Andres – Thanks for sending over! I've cc's some of my colleagues who know more about the specifics of the announcement and will review. I would make one note, the official title for Mr. Pruitt is EPA Administrator.

Thanks again!

Kelsi

From: Andres Villegas [mailto:andres@gfagrow.org]
Sent: Sunday, April 22, 2018 3:24 PM
To: Daniell, Kelsi <daniell.kelsi@epa.gov>
Subject: RE: quote for monday

Hello Kelsi,

Attached is the draft announcement we have created for tomorrows event. Please feel free to call or email me if you have any questions.

Best regards,

Andres Villegas

President & CEO

Georgia Forestry Associatoin

andres@gfagrow.org

Cell: 252-361-8826

From: Daniell, Kelsi [mailto:daniell.kelsi@epa.gov]
Sent: Friday, April 20, 2018 4:32 PM
To: Andres Villegas <andres@gfagrow.org>
Subject: quote for monday

Andres – I'd love to get a quote from your group about your visit with the Administrator on Monday. This will be part of a release after the events at the school.

Thanks!

Kelsi

Kelsi Daniell

Press Secretary

Administrator Scott Pruitt

202-564-2413

daniell.kelsi@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Rupert Darwall
Sent: Wed 11/15/2017 8:20:50 AM
Subject: NRO post on COP event

Mandy,
Sorry I didn't get to ask my question at Monday's event so I've done the next best thing and written it up on NRO (see below).

Could you forward it to the panellists with my congratulations for doing a terrific job under the most trying circumstances? They did a terrific job and hope they'll post their presentations so those outside the COP can have the opportunity to see what they had to say.

I'm in DC w/c 27th Nov. Hope we catch up then.

All best,

Rupert

http://www.nationalreview.com/article/453727/un-climate-change-conference-usa-should-skip

At the U.N. Climate-Change Conference, the Two Minutes Hate

The United States should skip the annual proceedings if it's serious about shaping the world's energy future.
By Rupert Darwall — November 14, 2017

No one quite knows what the latest United Nations climate-change conference is meant to be doing. About the current one, the 23rd in the annual series under the U.N. Framework Convention on Climate Change, there is something a little surreal, as reality catches up with decades of overheated rhetoric. The conference is being hosted by

Fiji but is taking place in Bonn, the former West German capital. The first was held in 1995 in Berlin, the newly restored capital of a reunified Germany, and chaired by Angela Merkel, when she was Germany's environment minister. Despite 22 years of climate negotiations, the amount of carbon dioxide in the atmosphere has continued to rise. Industrial emissions are on the rise again after three years of flat-lining. Human emissions of greenhouse gases rose in 2017 and are expected to rise again next year. The only thing that has been falling is U.S. greenhouse-gas emissions, but you don't here much talk of that in Bonn.

What the Bonn conference lacks is drama. There is no last-minute brinkmanship over whether there will be a climate treaty, as at Paris two years ago and at Copenhagen in 2009, or even over agreeing a path to one — the Bali road map (2007) and the Durban platform (2011) spring to mind. There's no

haggling between parties over how much they will cut their emissions. With the architecture of the Paris agreement based on nationally determined commitments, there doesn't appear to be a need for another climate treaty.

The story of this climate conference should be Germany's epic climate fail. Already the German government has admitted that it will overshoot its 2020 emissions-reduction target by 12.5 percent (an estimate since raised to 25 percent) and that it is likely to miss its 2040 target by an even larger amount. Apart from a few isolated protesters outside the conference hall, you wouldn't know that a few miles from Bonn, a forest is being dug up to make way for a lignite-coal mine. Thanks to Germany's reliance on lignite and its low heat-energy content, German power-station emissions increased by 17.2 million metric tons between 1999 and 2012. Over the

same period, American power-station emissions cut theirs by nearly ten times that amount — 170.1 million tons.

Would Germany be put in the climate stocks and pelted with rotting fruit? Not a bit of it. Greenpeace activists awarded Germany its "Fossil of the Day" award and promise a "thunderclap" when Angela Merkel speaks tomorrow. Climate conferences are exercises in organized hypocrisy, and this one was hardly going to turn on the biggest climate hypocrite of all. Instead it would be the United States. While delegates spent their time drafting mind-numbing rules to monitor the Paris agreement, the U.S. delegation provided the focus of the drama at a side meeting yesterday evening, in a climate version of George Orwell's Two Minutes Hate. It had been preceded by Democratic governors Jay Inslee (Wash.) and Kate Brown (Ore.) denouncing President Trump for the crime

of climate denialism, pledging to phase out coal — it helps being in the Pacific Northwest, where rainfall is plentiful, which makes hydropower a natural — and boost renewables.

The U.S. team was led by Dave Banks, a special assistant to the president, and Francis Brooke, from the office of Vice President Mike Pence, and included a former Obama-administration official, Amos Hochstein, who now works for Tellurian, a natural-gas company. They came wanting to engage and seeking dialogue on the Trump administration's view of how to meet the energy needs of developing countries. But all of the panelists implicitly accepted the premise of climate-mitigation policies: Carbon dioxide emissions are a problem and should be reduced. The meeting was an attempt to see if there might be some middle ground.

Banks began by acknowledging that what he had to say would be controversial, but only if the reality of continued growth of coal use was acknowledged. Some 1,600 coal plants are being planned, he said. Fossil fuels will continue to be used. Therefore the aim should be to make fossil-fuel power generation as clean and as efficient as possible. He referenced a September declaration by ASEAN(Association of Southeast Asian Nations) ministers on oil, coal, natural gas, and civilian nuclear energy to provide energy security for the region.

Criticizing multilateral development banks, such as the World Bank, that ban financing of coal capacity, he argued that it prevents many developing nations from meeting their Paris commitments. Many of them are supporting the U.S. in its effort to get the ban on coal lifted, he said. Universal access to energy in developing nations doesn't

mean providing dribbles of high-cost electricity; it means having cheap, reliable power to build a middle class and enable their economies to industrialize. At a global scale, the math wouldn't work without the next generation of clean coal technologies, Banks argued. The president wanted to use America's energy advantage to promote competitive energy markets around the world. A revitalized civil nuclear program with "walk away" safety — plants engineered to slow down or shut down automatically in an emergency — was also part of the Trump administration's "all of the above" approach.

By now, the sound of a demonstration outside the room was more than palpable. Something was up. As the next speaker was hitting his stride, a group at the back of the hall stood up and were joined by 90 percent of the room. "So you claim to be an American," they sang to the music of "God

Bless America." "But we see right through your greed. It's killing all across the world / For that coal money." It went on for ten minutes. "They'd be good at karaoke,' Banks quipped. Hochstein nailed what was wrongheaded about the protest. "If we really care about climate change, then we have to stop siloing ourselves into communities where we only talk to ourselves."

It was a conversation the chino-clad protesters didn't want. This wasn't about American fossil-fuel billionaires but about how to realize the economic ambitions of developing countries. For their part, the protesters came across as entitled brats. Shutting down debate on energy and development at a U.N. climate conference will result in those conversations' happening elsewhere. As Peabody Energy's Holly Kulka said during her remarks, "It's not if we use coal, but how."

Even nuclear wasn't cut slack by the protesters. Lenka Kollar of NuScale Power, which is developing small modular reactors, pointed out that nuclear produces lower lifetime carbon dioxide emissions than solar does.

The questioning was aggressive and disrespectful. The panelists were called liars. Their data couldn't be trusted. The final intervention came from a middle-aged woman who insisted that each of the panelists say whether he or she supported President Trump's decision to withdraw from the Paris agreement. It was awkward. It was rude. It was also stupid. At the outset, Banks had spoken of the president's *intention* to withdraw unless the U.S. obtained better terms. A smart questioner would have asked what those might be.

The U.S. is the only country in the world

that can go it alone. The argument for the U.S. to stay in the Paris agreement was that the America needed to be a voice at the table. What yesterday's meeting showed is that being at the U.N. climate table doesn't mean your voice is heard. The lesson from last night's process is that if the U.S. wishes to shape the world's energy future, it is well advised to give the U.N. climate process a miss.

READ MORE:
NR Editorial: Goodbye, Clean Power Plan
Climate McCarthyism Is on the Rise
When the Power of the State Was Used to Bully Climate-Change Dissenters

— *Rupert Darwall is the author of* Green Tyranny: Exposing the Totalitarian Roots of the Climate Industrial Complex*.*

To: Harlow, David[harlow.david@epa.gov]; Wehrum, William[wehrum.william@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Palich, Christian
Sent: Tue 11/14/2017 3:14:39 PM
Subject: Wheeler QFR's
ALL QFR's Wheeler 11.08.2017-Answers.docx

Hi All,

Attached are Andrew Wheeler's draft QFR's. There are several OAR related questions so I was hoping someone in you all shop could take a look and provide feedback and edits on these answers.

Sorry for the quick turnaround but these are due to OMB/WH for review first thing tomorrow morning.

Feel free to call with any questions and really appreciate the help.

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Affairs

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Laura Tierney[ltierney@bcse.org]
From: Lisa Jacobson
Sent: Mon 11/13/2017 11:46:29 AM
Subject: COP23 Meeting Request and BCSE COP23 Positions, Schedule of Events, Delegation...
BCSE COP 23 Schedule of Events.pdf
BCSE COP 23 Delegation.pdf
BCSE Position Paper_Powering Ambition at COP 23.pdf

Good afternoon Mandy. I hope you had a good trip to Bonn. I will be at the US side event tonight and hope to find a time to meet with you and a few of the BCSE's members here at the COP. Please let me know when you might be free. Please see our delegation list attached.

Thanks,

Lisa

2024945133

Lisa Jacobson | President

Business Council for Sustainable Energy

805 15th Street, NW | Suite 708 | Washington, DC 20005

202.785.0507 | 202.785.0514 (fax) | www.bcse.org

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Brooke, Francis J. EOP/OVP
Sent: Fri 11/10/2017 4:00:20 PM
Subject: Re: Fwd: Re:

Sounds good, thanks and see you in Germany!

Sent from my iPhone

On Nov 10, 2017, at 07:15, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

He forwarded me one other from Kalee suggesting we need to be extra careful - don't go anywhere alone; don't keep your badge prominently displayed. But that's it.

Sent from my iPhone

On Nov 9, 2017, at 6:08 PM, Brooke, Francis J. EOP/OVP
Ex. 6 - Personal Privacy wrote:

Do you have any other emails from Mike McKenna about the COP?

Sent from my iPhone

On Nov 7, 2017, at 14:34, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: Kalee Kreider **Ex. 6 - Personal Privacy**
Date: November 7, 2017 at 8:55:59 AM EST
To: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Cc: Michael McKenna <mike@mwrstrat.com>, "Bolen, Brittany" <bolen.brittany@epa.gov>
Subject: Re:

Dear all,
I'm in Bonn and a couple of bits:
First, security is middling. Mags and scanners. There were two civil society marches but they were small (under 10,000 people) and one was targeted at the German government and coal and they were both outside the security

zone.

I will flag, however, that the NGOs are looking out for the arrival of the US political appointees. See below from Climate Nexus "Denier Roundup" which goes out to a large listserve.

Kalee

World Rolls Eyes as Team Trump Pushes Fossil Fuels at Bonn Climate Talks

Yesterday the 23rd round of UN COP negotiations on climate change began in Bonn, Germany. Given Trump's intention to abandon the Paris Agreement, speculation has been running high about just what exactly the US position will be. Would Pruitt show up and throw a monkeywrench into the works? Would the US negotiators stonewall proceedings? Would Trump forget that COP is even happening?

Since the administration sent the existing State Department negotiation team, not a cadre of new deniers, we're guessing the latter theory is the case. For the most part, actual experts will be participating for the US in the talks (here's the full list if you're interested).

That said, there are a few folks flying to Bonn who give some cause for concern. Brittany Bolen is an EPA advisor now, appointed there after working for the GOP on the Senate Environment and Public Works committee. Former Mitch McConnell aide turned aide-to-VP-Pence Francis Brooke is attending, as is Brian Clifford, staffer for climate change denying, coal-state representing Senator John Barrasso.

By far the most concerning Bonn attendee from the US, however, is Senate EPW staffer Mandy Gunasekara, who more or less pledged allegiance to coal country back in May. Gunasekara's presence plus Tillerson's "seat at the table" answer to Paris questions means it's no surprise the administration is using its influence to push for more fossil fuels at a presentation moderated by Francis Brooke and featuring pro-coal, oil and nuclear speakers.

Officially though, US negotiators are expected to play relatively nicely with the rest of the world, and the fossil fuel industry's blatant attempt at advertising its products at COP probably won't have much of an impact on the actual negotiations. While the industry might not get a windfall from this COP, Trump's position has been useful enough as a rallying cry for the rest of the world. A year ago, Trump's ascension triggered fears of mass

defections from Paris. In fact, the opposite has happened, and no other international leader has followed in Trump's footsteps. In fact the number of signatories has increased thanks to Nicaragua joining in.

Sent from my iPhone

On Nov 4, 2017, at 3:48 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> Mike, thanks for the connection. Kalee, when do you head out? It would be good to connect once out there. Brittany and I land on the 12th.
> Best,
> Mandy
>
> Sent from my iPhone
>
>> On Nov 4, 2017, at 4:09 PM, Michael McKenna <mike@mwrstrat.com> wrote:
>>
>> Kalee —
>>
>> Mandy and Brittany are headed to Bonn. I think it would be very helpful for them if you could take a moment and share with them your experiences. and perhaps include them in appropriate functions there, as well.
>>
>> Thanks!
>>
>> MMcKenna

To: Wehrum, Bill[Wehrum.Bill@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Woods, Clint[woods.clint@epa.gov]; Harlow, David[harlow.david@epa.gov]
Cc: Dominguez, Alexander[dominguez.alexander@epa.gov]; Wright, Rhonda[Wright.Rhonda@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]
From: Lewis, Josh
Sent: Thur 2/1/2018 6:47:35 PM
Subject: For review by Monday Feb 5: Fact Sheets to Support FY19 Budget Roll Out
PROGRAM ELIMINATION REDUCE RISKS FROM INDOOR AIR.docx
Radiation Protection.docx
STATE, TRIBAL, AND LOCAL AIR GRANT PROGRAMS.docx
STATIONARY SOURCE REGULATIONS AND AIR QUALITY MANAGEMENT.docx
DIESEL EMISSIONS REDUCTION ACT GRANTS (DERA).docx
Federal Vehicles and Fuels.docx
PARTNERSHIP AND GREENHOUSE GAS REPORTING PROGRAMS.docx

Here are the budget fact sheets that I flagged at roundtable yesterday. They utilize the Q&A format, template, and style that OCFO requires. The fact sheets cover the salient FY 2019 budget issues and are similar to last year's set of fact sheets (given how the FY 19 PB compares to the FY 18 PB).

You can either review electronically…or we can print for your weekend take home folders. Either way, we're looking to get one of you to review/approve by Monday.

Bill: as of now OCFO has not asked that you be available for press or Hill briefings when the budget is rolled out on the 12th.

To: Lewis, Josh[Lewis.Josh@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Wehrum, Bill
Sent: Thur 2/1/2018 12:20:57 AM
Subject: Fwd: Draft OIG Report for Agency Review: "EPA Did Not Use Allegedly Flawed Studies to Estimate Methane Emissions or Set New Source Performance Standards for Oil and Natural Gas Production" (Project No. OPE-FY17-0017)
Methane Draft Report -- for for agency review -- 1-31-18.pdf
ATT00001.htm

FYI

_____
Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

Begin forwarded message:

From: "Hauck, Erica" <Hauck.Erica@epa.gov>
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Cc: "Shaw, Betsy" <Shaw.Betsy@epa.gov>, "Vincent, Marc" <Vincent.Marc@epa.gov>, "Marusiak, Eleanor" <Marusiak.Eleanor@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Banks, Julius" <Banks.Julius@epa.gov>, "Elkins, Arthur" <Elkins.Arthur@epa.gov>, "Larsen, Alan" <Larsen.Alan@epa.gov>, "Kaplan, Jennifer" <Kaplan.Jennifer@epa.gov>, "Sternberg, Gary" <Sternberg.Gary@epa.gov>, "Sullivan, Patrick F." <Sullivan.Patrick@epa.gov>, "Christensen, Kevin" <Christensen.Kevin@epa.gov>, "El-Zoghbi, Christine" <El-Zoghbi.Christine@epa.gov>, "Eyermann, Richard" <Eyermann.Richard@epa.gov>, "Hatfield, James" <Hatfield.Jim@epa.gov>, "Jones, Richard" <Jones.Richard@epa.gov>, "Mariscal, Alicia" <Mariscal.Alicia@epa.gov>, "Hauck, Erica" <Hauck.Erica@epa.gov>, "OIG DIGreview" <OIG_DIGreview@epa.gov>, "OIG Editors" <OIG_Editors@epa.gov>
Subject: Draft OIG Report for Agency Review: "EPA Did Not Use Allegedly Flawed Studies to Estimate Methane Emissions or Set New Source Performance Standards for Oil and Natural Gas Production" (Project No. OPE-FY17-0017)

Attached is the draft OIG report, *EPA Did Not Use Allegedly Flawed Studies to Estimate Methane Emissions or Set New Source Performance Standards for Oil and Natural Gas Production* (Project No. OPE-FY17-0017), for agency comment. This draft report is subject to revision by the OIG and, therefore, does not represent the final position of the OIG. This draft report should not be distributed or disclosed to others except that you may distribute it to other persons in your organization to obtain their review and comments on the subjects reported.

We greatly appreciate the cooperation and assistance we received from OAP staff and managers during this review.

This report contains no recommendations, and you are not required to respond. Nonetheless, you are welcome to provide a response, and the response should address the factual accuracy of the draft report. As stated in the transmittal memo, we request that you provide a written response, if you choose to do so, within 15 days of the draft report date.

If you or your staff have any questions, please contact Erica Hauck, Project Manager, at (303) 312- 6629, or Jim Hatfield, Director for Air Evaluations, at (919) 541-1030. Best regards,

Erica Hauck

for

Kevin Christensen

Assistant Inspector General for Audit and Evaluation

EPA Office of Inspector General

Erica L. Hauck

Project Manager

EPA Office of Inspector General

1595 Wynkoop St.

Denver CO 80202

(303) 312-6629

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Atkinson, Emily
Sent: Fri 11/3/2017 8:43:22 PM
Subject: COP23 - Official Delegation List
COP-23 Credentials - Signed by Secretary Tillerson
FW: Accreditation: 23rd Conference of the Parties to the UNFCCC, November 6 - 17, 2017 in Bonn, Germany

It came through today! So now you are officially all set for Bonn ☺

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Dominguez, Alexander
Sent: Fri 11/3/2017 5:36:05 PM
Subject: RE: Aviation carbon emissions

Ex. 6 - Personal Privacy

From: Gunasekara, Mandy
Sent: Friday, November 3, 2017 1:28 PM
To: Thompson, Ryan <thompsonr@akingump.com>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Loving, Shanita <Loving.Shanita@epa.gov>; Cyran, Carissa <Cyran.Carissa@epa.gov>
Subject: RE: Aviation carbon emissions

Hey Ryan – I'd be happy to meet. I'm looping in our scheduling team to help firm up the logistics. Heads up that due to significant travel in November, I won't be available for an in person meeting until early December.

Best,

Mandy

From: Thompson, Ryan [mailto:thompsonr@akingump.com]
Sent: Friday, November 3, 2017 10:27 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Aviation carbon emissions

Mandy,

I hope you are well! I wanted to reach out to request a meeting to discuss carbon emissions from aircraft engines per the article below with my client American Airlines. Would you have any time next week of the week after? Thanks! – Ryan

Ryan Day Thompson

AKIN GUMP STRAUSS HAUER & FELD LLP

Politico:

Trump administration restarts work on airplane carbon rule

By ERIC WOLFF

10/13/2017 02:48 PM EDT

The EPA confirmed it is developing a rule to regulate carbon emissions from aircraft, a rare step by the Trump administration to address climate change, and one that's seen as critical for the U.S. aerospace industry.

The rule, still under development, is part of the effort agreed to by a United Nations body last year to set a global carbon standard for international flights. Aircraft manufacturer Boeing, and its engine-makers Pratt & Whitney and GE, supported the agreement, and the companies need EPA to create the emissions regulation that would allow DOT to certify its equipment for international sale.

The rulemaking runs counter to President Donald Trump and EPA Administrator Scott Pruitt's steadfast opposition to efforts to combat climate change, and their rollback of Obama's climate policies. EPA had paused development of the aircraft rule over the summer as part of Trump's broader deregulatory push. But official schedules show Pruitt met with Boeing and GE in July, and the agency restarted the work this fall.

In crafting the rule, the administration appears to be willing to support a climate change effort that is strongly backed by industry, and could be an indicator of how it will consider a treaty to limit global warming-causing coolants. The carbon rule for aircraft is essential for Boeing, one of the top U.S. exporters.

"If the U.S. does not write a rule, U.S. manufacturers, particularly this would be Boeing, and manufacturers of engines on planes, they would not be able to sell those on international service and U.S. airlines would not be able to buy them for international operations," said Nancy Young, vice president for environmental affairs for the lobby group Airlines for America.

A committee of the International Civil Aviation Organization, an international standards-setting body, first agreed to the carbon standard for aircraft engines early in 2016. New engine designs in 2020 would be required to be an average of 4 percent more efficient than 2015 engines, and all new aircraft will have to

meet the standard by 2024. ICAO issued a final approval in the spring, and EPA had already begun work on the rule, publishing an endangerment finding in July last year.

But Trump's election put the effort in doubt, and work on the rule paused over the summer as part of the new administration's regulatory reviews. Pruitt's schedule showed he had at least one meeting with Boeing over the summer, and work has begun now in earnest to produce a rule implementing the agreement.

"EPA is working on CO2 standards for aircraft to align them with the ICAO agreement," an EPA spokesman told POLITICO, confirming news first reported by Bloomberg BNA. The agency had said in its deregulatory agenda on July 20 that work on the rule had been suspended.

ICAO sets a wide variety of technical and safety standards, and federal agencies like the FAA and DOT typically implement them with little fanfare. Agreements by the body do not typically require Senate ratification. The ICAO agreement requires action by EPA to set the emission standards, and DOT would use those standards to certify engines promoted by Boeing, but it would not require Senate ratification.

But any carbon rule seemed unlikely under the Trump administration, which has spent its first months in office erasing regulatory efforts to fight climate change, including the Clean Power Plan and the U.S. participation in the Paris climate agreement.

Without an EPA rule implementing the deal, Boeing would have been unable to export its aircraft, or would have been forced to get them certified by another country that had implemented the deal, like Canada or Mexico. Boeing is a major exporter: The U.S. exported $136 billion in aerospace equipment in 2016, and Boeing exported $25 billion in aircraft to China alone. The International Council on Clean Transportation, a transportation think tank, characterized the stakes by noting Boeing's $250 billion order backlog that could be at risk without a rule.

Boeing declined to comment for this story.

Boeing and GE met with Pruitt on July 13, a week before the public learned the rule had been paused, according to a schedule of Pruitt's meetings released by EPA last month.

"For Boeing, GE and Pratt and Whitney, it’s critical," said Daniel Rutherford, marine and aviation program director for ICCT. "If they want to sell aircraft after 2020, they need this rule."

Greens are split on the ICAO standard. Bill Hemmings, who leads aviation work at Transport and Environment, an international green group, lambasted it at the time as " a nice try" that fell short of making major strides to reduce emissions. According to ICCT's analysis, Boeing will exceed the standard with the products in their pipeline by 10 percent.

But defenders of the agreement say it has value for preventing backsliding in engine efficiency, and for stopping other countries from producing less efficient products that undercut higher-quality U.S. goods.

"With this agreement, ICAO created the first-ever standards for carbon dioxide performance for a major sector of the economy, the aviation industry," said Rick Duke, a former aide to Obama who worked on the agreement. "It's good for American industry because we produce efficient aircraft and so we want to make sure that laggards are not grabbing market share with poor-performing aircraft."

The administration's action could also be good news for the U.S. coolant-making industry, which is strongly backing a separate agreement struck at the end of last year to limit global-warming hydrofluorocarbons. The industry supports the agreement reached in Kigali, Rwanda, because U.S. companies are the leaders in next-generation coolants. But unlike the ICAO agreement, the amendment to the Montreal Protocol requires Senate ratification.

Now, the willingness of Trump's EPA to write a carbon rule on behalf of industry could signal at least tacit approval to remain part of the international business arrangement, if not administration support for the Kigali agreement itself.

"I think that's what we saw happen last year with the Kigali agreement with HFCs where U.S. industry strongly pushed for successful outcome there," Duke said. "And like the aircraft sector, the industry produces high-performing products, and they very much appreciate having a level playing field and allows them to have a clear path."

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To: Rupert Darwall[rupert@darwall.com]
From: Rupert Darwall
Sent: Fri 11/3/2017 5:13:02 PM
Subject: First review.... "How Trump saved freedom and democracy from the Climate Industrial Complex"

http://business.financialpost.com/opinion/peter-foster-how-trump-saved-freedom-and-democracy-from-the-climate-industrial-complex

Peter Foster: How Trump saved freedom and democracy from the Climate Industrial Complex

The U.S. was a problem for the green global governors because of that picky Constitution

Donald Trump as saviour not just of American democracy but global freedom? One can imagine tall foreheads exploding everywhere at such a thought. Although he doesn't express it quite that strongly, this is one inevitable conclusion from Rupert Darwall's tremendous new book, Green Tyranny: Exposing the Totalitarian Roots of the Climate Industrial Complex. That's because Trump, by abandoning the Paris climate agreement, and reversing his predecessor's attempts to bypass Congress on environmental matters, has heaved a mighty wrench into the European-based thrust to impose global bureaucratic "governance" under the pretext of saving the world from climate catastrophe.

Beyond all the blather about Trump's presidency representing the triumph of redneck ignorance and deplorable racism — and whatever Trump's personal shortcomings — Darwall notes that one of the main reasons for his victory was that the American left had abandoned working people in pursuit of identity politics and radical environmentalism. "From being the voice of working people," writes Darwall, "the Democratic Party has become the political arm of the Climate Industrial Complex," an unholy alliance of bureaucrats, NGOs, green corporate rent-seekers and Silicon Valley "oligarchs." With additional funding (as they like to say on PBS) from a raft of mega-billion-dollar foundations built on capitalist success but seemingly dedicated to destroying capitalism.

Darwall wrote Green Tyranny as a sequel to his similarly incisive 2013 book, The Age of Global Warming, specifically to expand on the critical roots of environmental

ideology and power-seeking in Europe — in particular Sweden and Germany. He also records how the issues of acid rain and "nuclear winter" were in many ways political trial runs for the great assault on freedom in the name of saving the world from climate change. In each case, a critical factor was the corruption of science by politicized scientists.

The contributions of Sweden and Germany are complex but fascinating

The contributions of Sweden and Germany are complex but fascinating, since they originated in seemingly incompatible thrusts. "The politics of global warming originated in Sweden as a tool to promote nuclear power. Using wind and solar power to combat global warming originated in Germany, where the Greens had become a political force, thanks to popular opposition to nuclear power."

Soon, however, all the Eurolefties wound up on the same page. Their key strategy was, to paraphrase Leonard Cohen, first we take Berlin — and Bonn, and Stockholm, and Paris and London — then we'll take Manhattan, and Sacramento, and Washington.

The U.S. was the overwhelming problem for the global governors because of its picky constitutional concerns about the separation of powers (significantly to counter potential tyranny) and the First Amendment (which is under attack in more areas than climate).

Canada does not play a major role in the book

Canada doesn't play a major role in the book, but one can certainly see all the elements of the Climate Industrial Complex at work here, from U.S. foundation-funded NGO campaigns against the oil sands, pipelines and the NEB to the fact that three senior members of the federal cabinet, including Prime Minister Justin Trudeau, have executive assistants who formerly headed environmental NGOs. All part of what Darwall calls "a dense network of people defined by the same outlook, committed to the same goal, and, crucially, agreeing on the means of achieving it that operates as a monopoly provider of advice and expertise to governments."

Non-believers simply don't get invited to "join the conversation."

One can also see that Ontario's ever-mounting wind and solar disaster is merely a

mirror of the very mother — or should we say "mutti" — of policy perversity: Germany's Energiewende. "Germany was going to export wind turbines and solar PV panels around the globe," notes Darwall. "Instead the 2000… renewable energy law spawned 100,000 profiteers and a gigantic solar industry in China." Similarly, Ontario policy was great for South Korea.

Darwall details how California leads the U.S. in terms of destructive Europeanization with its "German energy policies, French labor regulation, Italian public debts, and a Scandinavian cost of living premium." Makes one wonder why Ontario and Quebec have yoked themselves to the fast-deindustrializing state's cap-and-trade system.

The conundrum is how the climate crusade continues despite the failure of climate models

The ever-growing conundrum is how the climate crusade continues despite the failure of climate models and the cratering of climate policies. Surely the most telling and ironic statistic is that over the period 1999–2012, German power-station emissions increased by 17.2-million metric tons, while their American counterparts cut their emissions by 10 times that amount. The main factor was fracking technology, which has absolutely nothing to do with green energy policy.

Darwall castigates German Chancellor Angela Merkel, who, as a scientist, must be well aware of the inevitable unreliability of wind and solar. Yet she has increasingly made policy via opinion poll, thus denting German competitiveness.

Sweden is important for more than punching far above its weight in promoting lousy policies based on dodgy science. It is, suggests Darwall, an extreme example of social democracy. The "social" swamps the "democracy" and dissent is asphyxiated, a phenomenon known as the "spiral of silence."

But then, in 2015, the U.S. electorate spoke up, refusing to kowtow to the social democratic Bourbons and their plans to deindustrialize America. That is one big reason why Donald Trump — the anti-tyrant! the voice of economic sanity! (at least in this case) — sits in the White House, and why Canadian climate policy looks even more ridiculous.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Schwab, Justin
Sent: Sun 4/22/2018 1:25:25 AM
Subject: RE: Biomass Policy Announcement
EDIT policy memo_DRAFT to SP 2018 04 19 (002).docx

Comments/redline at 4-5 if it's not too late.

From: Gunasekara, Mandy
Sent: Friday, April 20, 2018 6:58 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: Fwd: Biomass Policy Announcement

Sent from my iPhone

Begin forwarded message:

From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: April 20, 2018 at 6:27:57 PM EDT
To: "Szabo, Aaron L. EOP/CEQ" Ex. 6 - Personal Privacy Catanzaro, Michael J. EOP/WHO" Ex. 6 - Personal Privacy Brooke, Francis J. EOP/OVP" Ex. 6 - Personal Privacy
Cc: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Subject: Biomass Policy Announcement

Aaron, Mike and Francis,

Attached is a policy announcement regarding EPA's treatment of biomass from managed forest as carbon neutral. I just spoke more with Aaron about it so he has some additional details. The Administrator is visiting a tree farm in Georgia on Monday and plans to announce this formally then. Because carbon neutrality is a longstanding and important issue, I am circulating for awareness. Please let me know if you have any questions, concerns or would like to discuss.

Hope you all have a great weekend!

Mandy

Mandy M. Gunasekara

Principal Deputy Assistant Administrator

Office of Air and Radiation

US Environmental Protection Agency

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Harlow, David
Sent: Fri 4/20/2018 9:59:17 PM
Subject: Revised biomass policy paper
dshREVpolicy memo draft 4 6 2018(clean).docx

Mandy,

This is what I left on your chair. The edits are all interlineal. Some are take or leave nits. Some or "corrective" nits that probably should be made for the sake of showing QA/QC on our part (*e.g.*, a couple of grammar glitches, inconsistency throughout with both "EPA" and "the EPA", etc.) Others are more "editorial" additions that struck me as a pretty good idea, late on a Friday afternoon, but as to these, your mileage, of course, may vary.

David S. Harlow
Senior Counsel

Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K

1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233

Harlow.David@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Anne Steckel[asteckel@ardentstrategicconsulting.com]
From: Michael Whitney
Sent: Thur 11/9/2017 5:11:21 PM
Subject: Palm D6 Pathway
Wilmar Don O'Connor Draft PME NODA Report[1].pdf

Mandy,

Thank you for taking the time to speak with us yesterday.

As we discussed, we are trying to be constructive regarding the RFS and RIN prices.

Allowing palm oil to be used for the RFS as a D6 RIN does a few things:

- Allows more biodiesel and/or feedstock to be available to US consumers and producers of biodiesel
- Increases the amount of D6 RINS therefore reducing RIN prices and compliance costs for merchant refiners.
- Preserves a premium for soybean based D4 biodiesel (differential between D4 and D6 RIN prices)
- Does not compete capacity in the gasoline pool therefore avoiding E10 blendwall concerns
- Creates more biodiesel supply for blenders in coastal areas constrained by the loss the biodiesel from Argentina due to CVD/AD
- Should serve to lower diesel prices as there is more supply of biodiesel to blend into the diesel supply

The link below is the NODA on Palm

https://www.gpo.gov/fdsys/pkg/FR-2012-01-27/pdf/2012-1784.pdf

It is our belief that palm oil does meet the 20% GHG reduction threshold – the attached study from Don O'Connor which was filed by Wilmar as comments to the 2012 NODA, details the GHG analysis.

Please feel free to follow up with us if you have any questions.

Thank you,

Michael Whitney
SD Sr Director, Renewables
Michael.Whitney@pilottravelcenters.com
office: (865) 474-4026
5508 Lonas Drive / Knoxville, TN 37909

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bowman, Liz
Sent: Tue 10/3/2017 10:15:32 PM
Subject: FW: NEC meeting re: Paris

Did this actually happen?

From: Robin Bravender [mailto:rbravender@eenews.net]
Sent: Tuesday, October 3, 2017 5:54 PM
To: Love, Kelly A. EOP/WHO <Kelly.A.Love@who.eop.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Subject: NEC meeting re: Paris

Hello,

I'm writing a story about an NEC meeting about the Paris Agreement that took place on April 27, citing Administrator Pruitt's calendar that was released today. I'm just noting that it happened and mentioning who was there. I just wanted to make sure that the meeting actually took place. I'll note the invite list, as per Administrator Pruitt's calendar. Thank you!

Robin Bravender

Climatewire deputy editor, E&E News

rbravender@eenews.net

202-446-0410 (desk)

202-660-2146 (mobile)

@rbravender

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From: Frye, Tony (Robert)
Sent: Tue 10/3/2017 9:55:59 PM
Subject: Administrator Pruitt Confirmation Hearing Questions
scott-pruitt-qfr-responses-01.18.2017.pdf
Sen Markey Questions - scott-pruitt-qfr-responses-01.18.2017.pdf
Adm. Pruitt Nom Hearing Transcript.pdf

Hello All,

Attached please find the full hearing transcript for Administrator Pruitt's nomination hearing. The dialogue with Senator Markey can be found on pgs. 63-67; 144-149; and 199-203 and the questions from Senator Harris can be found on pgs. 79-86.

I have also attached the questions for the record Administrator Pruitt received following his hearing. Additionally, I specifically pulled questions from Senator Markey; however, Senator Harris did not submit any questions for the record.

Let me know if you have any additional thoughts or questions.

Best,

Tony

Tony Frye

Special Assistant to the Deputy Associate Administrator

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January 29, 2018

By Electronic Mail

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RE: EPA Review of SmartTruck's TopKit Aerodynamic Device Data Submission

Dear Allen:

We are writing to follow up on previous conversations regarding the status of SmartTruck's TopKit aerodynamic device data submission and to request that the U.S. Environmental Protection Agency ("EPA") continue the preliminary approval process for aerodynamic devices implemented by the "Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2" Final Rule, 81 Fed. Reg. 73,478 (Oct. 25, 2016) ("Phase 2 Rule").

As you are aware, SmartTruck previously obtained voluntary SmartWay verification of its TopKit product from EPA SmartWay program staff. With the issuance of the Phase 2 Rule, SmartTruck devoted substantial resources to testing and analyzing TopKit performance using Computational Fluid Dynamics ("CFD") in accordance with the new testing protocol implemented under the Phase 2 Rule. As SmartTruck is pioneering the use of CFD in this area, it has suffered multiple unanticipated delays with the CFD protocol. SmartTruck was able to establish a test plan, meet gridding and other conditions which increased computer time requirements by an order of magnitude, and stepped in for third parties who could not meet the standards it required. SmartTruck worked hard to submit a fully compliant report as quickly as conditions allowed.

On December 18, 2017, SmartTruck submitted the data required under 40 C.F.R. § 1037.211 for EPA's preliminary approval of the measured performance of the TopKit system. SmartTruck learned a few days later, on December 21, 2017, that EPA staff had halted work on portions of the Phase 2 Rule, including aerodynamic device preliminary approval, in response to the D.C. Circuit's October 27, 2017 stay of the trailer provisions. This has left an uneven playing field as some aerodynamic devices have received EPA's "stamp of approval" under the Phase 2 Rule, while others—namely SmartTruck—have not. Fleets and OEMs are demanding Phase 2-approved products to reduce their perceived risk of a sudden reversion to full implementation of the Phase 2 Rule and being left with noncompliant products. As a result,

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SmartTruck is suffering severe competitive harm which will continue until EPA resumes its preliminary approval of aerodynamic devices.

EPA Can Continue the Preliminary Approval for Manufacturers of Aerodynamic Devices

As it currently appears in the Code of Federal Regulations, 40 C.F.R. § 1037.211 ("Preliminary approval for manufacturers of aerodynamic devices") provides that: "If you design or manufacture aerodynamic devices for trailers, you may ask us to provide preliminary approval for the measured performance of your devices. . . . To request this, you must provide test data for ΔC_{dA} values as specified in [the regulations]." In the preamble to the Phase 2 Rule, EPA explained: "The agencies also proposed an aerodynamic device testing compliance path that would allow device manufacturers to submit performance test data directly to EPA for preapproval." 81 Fed. Reg. at 73,644. Both statements are directed toward aerodynamic devices and aerodynamic device manufacturers, not trailers and trailer manufacturers. The data submission and preliminary approval process for aerodynamic devices precedes, and is separate from, any compliance demonstration by trailer manufacturers with other aspects of the Phase 2 Rule.

In its October 27, 2017 order, the D.C. Circuit ordered the Phase 2 Rule "stayed insofar as it purports to regulate trailers." Dkt. 1701733, No. 16-1430. This can reasonably be interpreted to stay the provisions requiring trailer compliance with new emissions standards, while not affecting EPA's review and preliminary approval of data submitted to it by aerodynamic device manufacturers. Only the review of trailer compliance with the standards would arguably be affected by the court's stay, if the trailer manufacturer were to subsequently submit aerodynamic device data as part of its compliance strategy.

Indeed, the Truck Trailer Manufacturers Association specifically requested that the court issue "a stay pending judicial review of the Final Rule's emissions provisions for trailers, including a stay of 40 C.F.R. § 1037.107 (Emission standards for trailers) and all other provisions in 40 C.F.R. Part 1037 <u>that now apply to trailers or trailer manufacturers</u>." Mot. 5, Dkt. 1694522, No. 16-1430 (D.C. Cir. Sept. 25, 2017) (emphasis added); *see also* Mot. 22 ("The Court should stay the Final Rule's <u>greenhouse gas emissions standards as applied to trailers</u> for the pendency of this litigation.") (emphasis added). This request did not include 40 C.F.R. § 1037.211, which is applicable to aerodynamic devices and device manufacturers, not trailers or trailer manufacturers. As a result, EPA can continue reviewing data submitted by aerodynamic device manufacturers and providing preliminary approval of the measured performance of aerodynamic devices consistent with 40 C.F.R. § 1037.211.

EPA Should Continue the Preliminary Approval of Aerodynamic Devices

By issuing the Phase 2 Rule and approving certain aerodynamic devices with the new metrics, and then halting work, EPA has created an uneven playing field for aerodynamic device manufacturers. SmartTruck and others are now faced with a marketplace where the end users, now well-versed in the Phase 2 Rule, will only purchase systems that are approved by EPA to the new protocol. Right or wrong, EPA's review and preapproval of an aerodynamic device has come to be viewed as necessary, especially for an innovative product like the TopKit system where customers are looking for EPA's neutral assessment of its performance. Fleets and

OEMs are choosing to reduce their perceived risk of a sudden reversion to the implementation of the Phase 2 rule by purchasing Phase 2-approved products. This description is not based on theory or conjecture. SmartTruck has suffered months of severely curtailed revenues since its competitors began to receive approvals, and customers have confirmed this reasoning behind their purchase decisions.

EPA now has before it a complete data submission for review, using the new CFD protocol. These data were submitted directly by SmartTruck, an aerodynamic device manufacturer, for preliminary approval by EPA under 40 C.F.R. § 1037.211. EPA is not being asked to determine trailer compliance or implement any of the trailer provisions that were arguably stayed by the court's order. EPA can and should review the SmartTruck data and confirm that the TopKit's measured performance yields a Bin 3 result in accordance with the new Phase 2 protocol. The demonstrated performance of the TopKit system in reducing aerodynamic drag improves fuel economy and decreases greenhouse gas emissions, resulting in a win-win for the customer and the environment.

Thank you for your prompt consideration of this important issue. We look forward to receiving your response. Please let us know if we can provide any additional information.

Sincerely,

R. Latane Montague

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cc: Mark Kataoka, Office of General Counsel

GEORGIA FORESTRY ASSOCIATION

LET'S GROW

FOR IMMEDIATE RELEASE

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Georgia Forestry Association Applauds EPA Director for Recognizing Carbon Benefits of Woody Biomass

COCHRAN, GA, April 23, 2018 – In celebration of Earth Day at Bleckley Elementary School, Scott Pruitt, director of the U.S. Environmental Protection Agency (EPA), made a landmark announcement for the agency recognizing that forest bioenergy is a carbon neutral renewable energy source. The Georgia Forestry Association applauds Director Pruitt for taking this decisive action. Biomass energy markets strengthen the economic viability, health and sustainability of Georgia's 22 million acres of privately-owned working forests and the communities that depend on them.

"Director Pruitt's announcement today reflects the clear scientific consensus on forest biomass," said Andres Villegas, president and CEO of the Georgia Forestry Association. "The Agency's recognition of biomass as a renewable, carbon neutral source of energy will maintain and enhance markets for small-diameter trees, which encourages landowners to invest in forest health, and ultimately, to keep their land in trees."

Director Pruitt's announcement affirms years of climate research that clearly and consistently documents the carbon benefits of forest biomass energy and recognizes the long-term natural carbon cycle of forests. The Intergovernmental Panel on Climate Change (IPCC), for example, points to sustainable forest management as playing a critical role in mitigating the impact of greenhouse gas emissions, a position that is supported by more than 100 forest scientist.

"Georgia's economic vitality is heavily dependent on working forests," said Hugh Thompson, GFA chairman and President of Piearce Timber in Blackshear, GA. "This announcement will have a direct impact on rural Georgia, supporting jobs and continued economic growth for Georgia's most sustainable industry."

Healthy markets for forests have been shown to significantly impact the overall volume, health and vitality of Georgia's forests. Georgia is recognized as a global leader in biomass production, leading the nation in the overall harvest volume and the export of wood pellets and wood chips. Georgia has been able to achieve this status while increasing overall tree volume since 1953. According to a recent report from the US Forest Service, Forest Inventory Analysis (FIA) data for 2016 showed overall net growth of Georgia forestland exceeding removals by 44 percent.

Located in the heart of one of the world's most productive wood baskets, Georgia's working forests have been sustainably managed – with landowners continually planting more trees than are harvested – for more than a century. They provide more than 144,000 jobs and $35.2 billion in economic impact to the state while providing clean air, clean water, diverse habitats, and recreational opportunities. Thanks to healthy markets for forestry – including 5,000 life sustaining products – and a commitment to public policy that supports forest landowners, Georgia is consistently ranked as the top forestry state in the nation.

COMMENTS ON EPA PALM BIODIESEL LCA DETERMINATION

Prepared For:

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Prepared By

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Date: February 15, 2012

Draft

EXECUTIVE SUMMARY

On March 26, 2010, the Environmental Protection Agency (EPA) published changes to the Renewable Fuel Standard program as required by the Energy Independence and Security Act (EISA) of 2007. This rulemaking is commonly referred to as the "RFS2" final rule. As part of the RFS2 final rule the EPA analyzed various categories of biofuels to determine if the complete lifecycle emissions associated with the production, distribution, and use of those fuels met minimum lifecycle greenhouse gas reduction thresholds as specified by EISA (i.e., 60% for cellulosic biofuel, 50% for biomass-based diesel and advanced biofuel, and 20% for other renewable fuels). The RFS2 final rule purported to focus the EPA lifecycle analyses on fuels that were anticipated to contribute relatively large volumes of renewable fuel by 2022, and thus did not cover all fuels that either are contributing smaller volumes, or could potentially contribute to the program. In the final RFS2 rule (FRM), the EPA indicated that they did not have enough time to complete a lifecycle analysis for several specific pathways but would do so later as a supplement to the final rule.

Palm oil biodiesel is one of the pathways that the EPA has continued to evaluate and they recently released their preliminary results for the palm oil biodiesel pathway. The modeling approach EPA used in this effort is the same general approach used in the final RFS2 rule for lifecycle analyses of other biofuels. The exception is that since palm oil is not a significant crop in the US it is expected that all of the increased production required to meet the RFS2 demand will be outside of the United States and therefore no FASOM modelling was undertaken as part of this analysis.

The palm scenario modelled by the EPA included a 200 million gallon increase in palm oil biodiesel and a 200 million gallon increase in palm oil renewable diesel. The preliminary values for palm biodiesel do not meet the 50% reduction threshold established by the EPA for the biomass based diesel category of EISA. The total emissions would need to be less than 48,503 g/mm BTU to pass the 50% threshold.

This report provides comments on the modelling undertaken by the EPA including the inputs used and the results obtained.

The base case modelled by the EPA assumes that 1.46 million tonnes of crude palm oil will be required to produce the additional 400 million gallons of biofuel. However, due to the higher prices, 615,000 tonnes of the requirement (42.1%) is met be existing production that is freed from existing markets. This is a higher number than was derived from the canola modelling (31%).

The EPA also reports that of the 845,000 tonnes of new production, 66.5% is met by palm oil, 7.9% by soybean oil, 14.0% by rapeseed/canola oil, and the remaining 11.5% by other vegetable oils. However there appears to be a reporting error in the numbers for the other crops, as these are the values for the crop production and not the oil production on the FAPRI spreadsheet. Again, compared to the canola modelling a lower percentage of the new demand is met by the primary crop. In this case that would reduce the land use emissions.

The international land use change emissions are the single largest category of emissions in the EPA analysis of palm biodiesel. The magnitude of the emissions is driven by a number of factors including:

1. The degree of market mediation of the increased demand for palm oil forecast by the FAPRI model.

2. The substitution of other oil products for palm oil, also forecast by the FAPRI model.
3. The location and type of land that is converted to palm oil plantations. The EPA have relied on the GEOMOD model for these estimates. The issue here is that the forecasts do not align with the types of land that have recently been used for new palm plantations. The EPA ignores "waste" lands and significantly downplays the role of disturbed forests in their analyses. An alternative analysis based on the recent conversion trends would reduce these emissions by almost 16,000 g CO2/MM BTU.
4. The final factor is the quantity of peat lands that would be converted in the future and the emission rate of GHG emissions from drained peatlands. The quantity of peat land is also based on the GEOMOD model and it does not consider the mounting political pressure to preserve these lands in the potential for the extension of the current Indonesian moratorium on the use of the peatlands. There is a great deal of uncertainty with respect to the emission rate from drained peatlands.

This work has involved a comprehensive review of the EPA proposed life cycle analysis of palm oil biodiesel. It has involved a review of the methodology, the data used, and a comparison to the other biodiesel pathways that the EPA has analyzed. The review has identified issues with all three aspects, comparability, methodology, and data quality. These are summarized below.

Methodology

With two exceptions, the EPA has applied the same general methodology to the analysis of the palm oil pathway as they did to the canola and soybean biodiesel pathways. The two exceptions are that the FASOM model was not used in this analysis, and the method used to project what kind of land would be converted to palm oil plantations was revised.

The justification for not running FASOM was that no palm oil is produced in the United States and so the model used to determine domestic emissions is not needed. This would be an acceptable approach if the FAPRI and FASOM models produced identical results for the United States.

The second change in methodology was a more detailed and site specific look at what kind of new land would be brought into production. This, in concept, is an improvement over the previous methodology of just using satellite images to determine land use change patterns, as that approach is unable to differentiate the drivers of land use change. The problem is that the model results are not at all aligned with the patterns of land use change that have occurred in Malaysia and Indonesia over the period of 2005 to 2010. The model does not include land that has previously been logged and left abandoned and thus over estimates the GHG emissions from land use change in those two countries by approximately 16,000 g CO_2/MM BTU.

The EPA co-product treatment of the palm kernel oil and palm kernel meal is not correct. The EPA includes the emissions from the transport and milling of palm kernels and attributes those emissions to the crude palm oil. Their justification for doing this is that two products are accounted for in the FAPRI model and that is where the co-product credit is accounted for. It is true that FAPRI includes PKO and PKM in their model but FAPRI does not model emissions. In reality PKO and PKM will substitute for vegetable oils and meals within FAPRI but since FAPRI doesn't model the emissions to crush soybeans or rapeseed or any of the oilseeds one can't include those emissions in the palm oil analysis. To do so is comparing

two systems with different system boundaries. Correcting this issue has a small impact o the results of 824 g CO_2/MM BTU.

The EPA has improved their estimates of carbon stocks of natural ecosystems and palm plantations and made a small step forward in their treatment of harvested wood products, but the HWP benefit is still understated, as it is not a lifecycle comparison.

Comparability

There is evidence that The FASOM and FAPRI models may not produce the same results when dealing with the same issue. This is the case for at least rice, livestock, and perhaps agricultural energy. The magnitude of the differences is not possible to determine precisely without running the FASOM model with a production shock occurring outside of the US (which would be different than what has been done with the model previously) but the difference could amount to a few percentage points in the GHG reductions offered by palm oil biodiesel.

Data

Much of the data that is used by the EPA is sound and is drawn from some of the best papers in the literature. It doesn't differ significantly from the data used by the Malaysian Palm Oil Board in their commissioned work on Lifecycle Analysis. However, there are a number of areas where the EPA has made assumptions that do not appear to be well supported by facts. This is particularly the case with the assumed transportation distances of fresh fruit bunches, crude palm oil, and palm oil biodiesel. Correcting these factors reduces the emissions by 1,885 g CO_2/MM BTU.

The energy requirements for producing biodiesel used by the EPA are the same as those that have been used in other analyses but they are too high. Reducing the energy use to that of the average value from the 2008 NBB production survey reduces the emissions by 896 g CO_2/MM BTU.

The issue of the methane emissions from the oil mills make the assumption that nothing will change in the future. For a technology that has just been introduced into the industry, this is an unreasonable assumption to make about the future 10 years from now. Either the EPA needs to undertake more work to determine the implementation rates in the past, or consider looking at multiple technology pathways as it has done with corn ethanol in the RFS2 final rule.

Finally the EPA has assumed that 7.6 pounds of palm oil are required to produce a gallon of biodiesel when they use 7.4 pounds for soybean biodiesel (1 kg oil/kg biodiesel). This has an impact on all of the upstream emissions.

In the following table the adjusted emissions for two scenarios are shown, one with no methane capture and one with the methane capture using the best scenario modelled by the EPA. Some of the values are the result of two changes, the change identified in the report and the change in conversion rate (from 7.6 to 7.4 lbs. oil/gal biodiesel). The palm oil mills with methane capture would easily surpass the 50% GHG emission threshold, whereas the mills that don't employ this technology would not meet the minimum GHG emission reduction.

Table ES- 1 Adjusted Palm Biodiesel Emissions

	Diesel Fuel	Palm Biodiesel		
		EPA NODA	Adjusted	
		Base	W/o methane capture	With methane capture
	g CO_2eq/MM BTU			
Land Use Change		46,110	29,395	29,395
Farm Inputs & Rice Methane		5,121	4,986	4,986
Livestock Changes		(359)	(350)	(350)
Palm Fruit Transport		866	334	334
Palm Oil Mill		25,246	27,072	1,094
Crude Palm Oil Transport		320	140	140
Palm Kernel Transport		122	0	0
Palm Kernel Mill		824	0	0
Fuel Production	17,998	(969)	(1,865)	(1,865)
Yield Adjustment			0	0
Fuel Transport		2,696	1,509	1,509
Fuel Combustion	79,008	700	700	700
Total	97,006	80,677	61,921	35,943
% reduction		17%	36.2%	62.9%

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TABLE OF CONTENTS

EXECUTIVE SUMMARY I

TABLE OF CONTENTS V

LIST OF TABLES VI

LIST OF FIGURES VII

1. INTRODUCTION 1

2. FAPRI MODELLING 3

3. LAND USE CHANGE 5

3.1 LAND CHANGES 5
3.2 CARBON CHANGE EMISSIONS 7
3.3 ALTERNATIVE APPROACHES TO LAND USE CHANGE ESTIMATES 8
3.3.1 Malaysia 8
3.3.2 Indonesia 12
3.4 PEAT EMISSIONS 16
3.5 HARVESTED WOOD PRODUCTS 17
3.6 SUMMARY 19

4. FARM INPUTS & RICE METHANE 20

4.1 AG INPUTS 20
4.2 N_2O EMISSIONS 21
4.3 AG ENERGY 21
4.4 RICE METHANE 22
4.5 SUMMARY 23

5. LIVESTOCK CHANGES 24

6. PALM OIL 26

6.1 PALM FRUIT TRANSPORT 26
6.2 PALM OIL MILL 27
6.2.1 Energy Use 27
6.2.2 Methane Emissions 27
6.3 PALM KERNEL TRANSPORT 28
6.4 PALM KERNEL MILL 29
6.5 CRUDE PALM OIL TRANSPORT 30
6.6 SUMMARY 30

7. BIODIESEL 32

7.1 BIODIESEL PRODUCTION 32
7.2 GLYCERINE CO-PRODUCT 32
7.2.1 Petroleum Based Glycerine 33
7.2.2 Feed Usage 33
7.2.3 Fuel 34
7.2.4 PG Production 34

Draft

7.2.5 Glycerine Summary 35
7.3 BIODIESEL TRANSPORT 35
7.4 BIODIESEL COMBUSTION 36
7.5 SUMMARY 37

8. CONCLUSIONS.....38

8.1 METHODOLOGY 38
8.2 COMPARABILITY.....38
8.3 DATA 39

9. REFERENCES.....41

LIST OF TABLES

TABLE 1-1 PALM BIODIESEL EMISSIONS 1
TABLE 3-1 GEOMOD FACTORS CONSIDERED.....6
TABLE 3-2 LAND USE CHANGES MALAYSIA AND INDONESIA.....7
TABLE 3-3 LAND USE EMISSIONS MALAYSIA AND INDONESIA.....7
TABLE 3-4 EPA MALAYSIAN LAND USE ASSUMPTIONS 11
TABLE 3-5 GUNARSO SUMMARY 2005-2010 . . . . . .
TABLE 3-6 EQUIVALENT LAND CLASSIFICATIONS.....11
TABLE 3-7 REVISED MALAYSIAN LAND CONVERSION.....12
TABLE 3-8 GUNARSO SUMMARY 2005-2010 . . . . . .
TABLE 3-9 REVISED INDONESIAN LAND USE CHANGE.....16
TABLE 4-1 FARM INPUTS AND RICE METHANE.....20
TABLE 4-2 AG INPUT COMPOSITION.....20
TABLE 4-3 FERTILIZER APPLICATION RATES.....21
TABLE 4-4 FAPRI AND FASOM RICE GHG EMISSIONS.....22
TABLE 5-1 LIVESTOCK CHANGES.....24
TABLE 5-2 COMPARISON TO CANOLA BIODIESEL.....24
TABLE 6-1 PALM OIL MILL EMISSIONS.....27
TABLE 6-2 SUMMARY OF METHANE EMISSIONS 28
TABLE 6-3 ENERGY AND EMISSIONS FOR CRUSHING OILSEEDS.....30
TABLE 7-1 COMPARISON OF BIODIESEL PROCESSING ENERGY.....32
TABLE 7-2 BIODIESEL GLYCERINE MARKETS.....33
TABLE 7-3 ESTIMATES OF GHG EMISSIONS FROM GLYCERINE FROM THE FABER PROCESS.....3 3
TABLE 7-4 ENERGY VALUE OF FEEDS.....34
TABLE 7-5 EMISSIONS CREDIT FOR GLYCERINE AND FEED.....34

Draft

TABLE 7-6 GHG BENEFITS OF GLYCERINE.....35
TABLE 7-7 TRANSPORTATION ASSUMPTIONS AND EMISSIONS.....35
TABLE 7-8 RECOMMENDED TRANSPORTATION ASSUMPTIONS AND EMISSIONS....36
TABLE 8-1 ADJUSTED PALM BIODIESEL EMISSIONS.....40

LIST OF FIGURES

FIGURE 2-1 FAPRI MODEL INTERACTIONS.....4
FIGURE 3-1 LAND USE CHANGE MALAYSIAN PALM OIL.....8
FIGURE 3-2 LAND USE CHANGE MALAYSIAN PENINSULA.....9
FIGURE 3-3 LAND USE CHANGE SABAH.....9
FIGURE 3-4 LAND USE CHANGE SARAWAK 10
FIGURE 3-5 LAND USE CHANGE INDONESIAN PALM OIL.....13
FIGURE 3-6 LAND USE CHANGE SUMATERA 14
FIGURE 3-7 LAND USE CHANGE KALIMANTAN 14
FIGURE 3-8 LAND USE CHANGE PAPAU.....15
FIGURE 3-9 GHG EMISSIONS WOOD VS. CONCRETE 18
FIGURE 3-10 GHG EMISSIONS CONSTRUCTION FRAMING ALTERNATIVE.....18
FIGURE 6-1 PALM OIL SYSTEM BOUNDARIES.....26
FIGURE 6-2 MALAYSIAN PALM OIL INDUSTRY .....

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1. INTRODUCTION

On March 26, 2010, the Environmental Protection Agency (EPA) published changes to the Renewable Fuel Standard program as required by the Energy Independence and Security Act (EISA) of 2007. This rulemaking is commonly referred to as the "RFS2" final rule. As part of the RFS2 final rule the EPA analyzed various categories of biofuels to determine if the complete lifecycle emissions associated with the production, distribution, and use of those fuels met minimum lifecycle greenhouse gas reduction thresholds as specified by EISA (i.e., 60% for cellulosic biofuel, 50% for biomass-based diesel and advanced biofuel, and 20% for other renewable fuels). The RFS2 final rule purported to focus the EPA lifecycle analyses on fuels that were anticipated to contribute relatively large volumes of renewable fuel by 2022, and thus did not cover all fuels that either are contributing smaller volumes, or could potentially contribute to the program. In the final RFS2 rule (FRM), the EPA indicated that they did not have enough time to complete a lifecycle analysis for several specific pathways but would do so later as a supplement to the final rule.

Palm oil biodiesel is one of the pathways that the EPA has continued to evaluate and they recently released their preliminary results for the palm oil biodiesel pathway. The modeling approach EPA used in this effort is the same general approach used in the final RFS2 rule for lifecycle analyses of other biofuels. The exception is that since palm oil is not a significant crop in the US it is expected that all of the increased production required to meet the RFS2 demand will be outside of the United States and therefore no FASOM modelling was undertaken as part of this analysis.

The palm scenario modelled by the EPA included a 200 million gallon increase in palm oil biodiesel and a 200 million gallon increase in palm oil renewable diesel.

This report provides comments on the modelling undertaken by the EPA including the inputs used and the results obtained. It is organized according to the spreadsheets that the EPA released with the Notice of Data Availability.

The emission results are summarized in the following table.

Table 1-1 Palm Biodiesel Emissions

	Diesel Fuel	Palm Biodiesel
	g CO_2eq/MM BTU	
Land Use Change		46,110
Farm Inputs & Rice Methane		5,121
Livestock Changes		(359)
Palm Fruit Transport		866
Palm Oil Mill		25,246
Crude Palm Oil Transport		320
Palm Kernel Transport		122
Palm Kernel Mill		824
Biodiesel Production	17,998	(969)
Fuel Transport		2,696
Fuel Combustion	79,008	700
Total	97,006	80,677
"High" Land use		110,765
"Low" Land use		62,388

The preliminary values for palm biodiesel do not meet the 50% reduction threshold established by the EPA for the bi omass based diesel category of EISA. The total emissions would need to be less than 48,503 g/mm BTU to pass the 50% threshold.

The largest sources of emissions are the i ndirect land use change and the emissions from the palm oil mills.

There is a significant amount of uncertainty in the estimation of indirect land use emissions and the EPA has presented a low and high case as well as the expected case. Even the low land use case does not meet t he 50% threshold, although it would meet the 20% threshold for renewable fuel.

2. FAPRI MODELLING

Increased demand for palm oil to meet the new biofuel demand comes from not only additional palm oil production but also from other vegetable oils that substitute for existing palm oil uses, freeing existing palm oil production for biofuels. In addition, reduced demand for all vegetable oils in the non-fuel market s results from the assumed higher price of vegetable oils. In the EPA modelling framework, these complex market interactions are determined through the running of the FAPRI model.

The Food and Agricultural Policy Research Institute (FAPRI) is a unique, dual-university research program established in 1984 by a grant from the U.S. Congress to prepare baseline projections for the U.S. agricultural sector and international commodity markets and to develop capability for policy analysis using comprehensive data and computer modeling systems of the world agricultural market.

The Center for Agricultural and Rural Development (CARD) at Iowa State University develops the international side of the models, and the Center for National Food and Agricultural Policy (CNFAP) at the University of Missouri-Columbia develops the U.S. domestic component. Both centres conduct independent as well as joint policy analyses. It was the CARD group that did the modelling for the EPA.

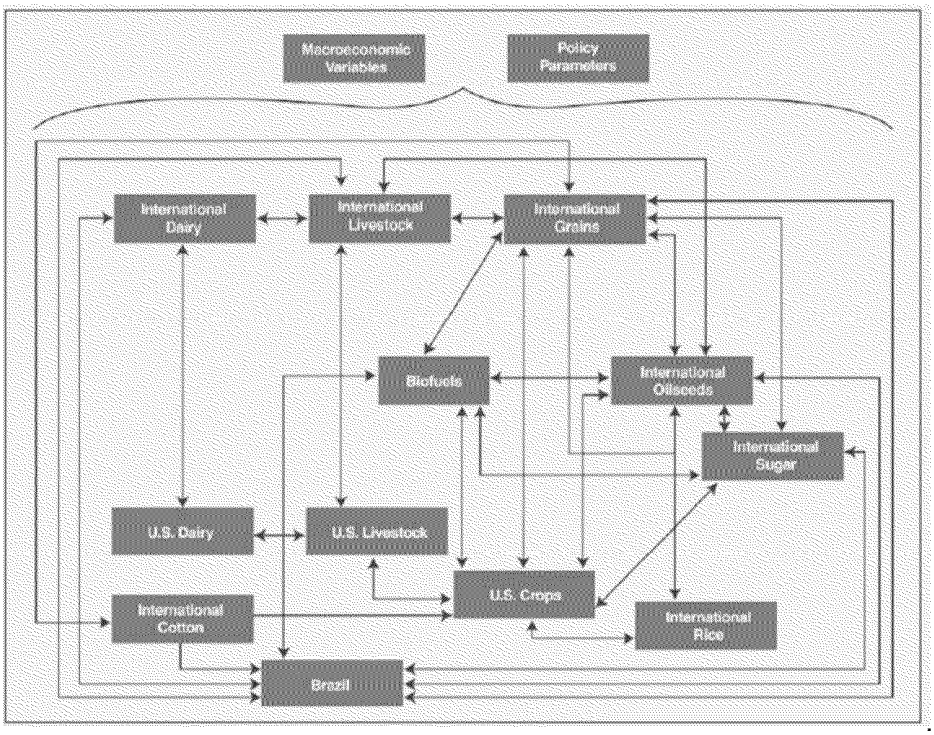
The FAPRI-CARD agricultural modeling system is a set of multi-market, partial-equilibrium, and non-spatial econometric models. The models cover all major temperate crops, sugar, biofuels, dairy, and livestock and meat products for all major producing and consuming countries and are calibrated on the most recently available data. They have been used extensively for generating 10- to 15-year baseline projections for agricultural markets and for policy analysis based on the baseline projections. Data on supply and utilization for the commodities are obtained primarily from the United States Department of Agriculture (USDA) PSD Online and the Food and Agriculture Organization of the United Nations (FAO) FAOSTAT, and macroeconomic historical data and projections are obtained from the International Financial Statistics (IFS) of the International Monetary Fund and IHS Global Insight, respectively.

The commodity models capture the biological, technical, and economic relationships among key variables within a particular commodity and across commodities. They are based on historical data analysis, current academic research, and a reliance on accepted economic, agronomic, and biological relationships in agricultural production and markets. Agricultural and trade policies in each country are included in the model to the extent that they affect the supply and demand decisions of the economic agents. Examples of these include taxes on exports and imports, tariffs, tariff rate quotas, export subsidies, intervention prices, set-aside rates, and biofuel mandates. Macroeconomic variables, such as GDP, population, and exchange rates, are exogenous variables that drive the projections of the model.

The models specify behavioural equations for production, stocks, and trade between countries/regions. The crop supply side is the product of area harvested and yields, wherein the former is determined by a system of land allocation based on the relative expected profitability of competing enterprises (e.g., corn and soybeans) and the latter is driven by an exogenous trend yield as well as intensification and extensification effects. In general, the demand side of the model is categorized into food, feed, and industrial demand, whereby one aspect of industrial demand is the demand from the biofuel sector for feedstocks. Food demand is primarily driven by macroeconomic assumptions such as income and population, while feed demand is driven by the livestock, poultry, and dairy sectors. Industrial demand is determined by the crude oil price assumption as well as by existing government policies such as the U.S. Energy Independence and Security Act (EISA) of 2007 and the Renewable

Energy Directive of the European Union. The meat supply side is a combination of investment decisions on t he breeding herd and output decisi ons on slaughter. The animal inventory is the main driver of the feed grain and oilseed meals demand.

Figure 2-1 FAPRI Model Interactions



* The arrows represent trade, prices and physical flows.

The base case modelled by the EPA assumes t hat 1.46 million tonnes of crude palm oil will be required to produce the additional 400 million gallons of biofuel. However, due to the higher prices, 615,000 tonnes of t he requirement (42.1%) is me t by existing production that is freed from existing markets. This is a higher number than was derived from the canola modelling (31%).

The EPA also reports that of the 845,000 tonnes of new production, 66.5% is met by palm oil, 7.9% by soybean oil, 14. 0% by rapeseed/canola oil, and t he remaining 11.5% by other vegetable oils. However, there appears to be a reporting error in the numbers for the other crops, as these are the val ues for the crop production and not the oil production on the FAPRI spreadsheet. Again, compared to the canola modelling a lower percentage of the new demand is met by the primary crop. In this case, that would reduce the land use emissions.

3. LAND USE CHANGE

The largest sources of emissions are those in the land use change category. These emissions total almost 50% of the emissions of diesel fuel and t hus almost single-handedly mean that palm oil biodiesel will not be able to meet the requirements of the biomass based diesel category.

The FAPRI model does not determi ne what kind of land is conver ted. FAPRI's strength is in the level of disaggregation of the agricultural sector and the changes in the sector due to policy changes. To determine the future in cremental land use c hange, the EPA relied on data on the location of existing palm oil plantations, assumpti ons about the geographic factors that influenced the decis ions to build the existing pl antations where they are, a GEOMOD model developed from this information was used to project where new plantations would be built, and finally a revised set of em ission factors to estimate the future GHG emissions from the land that GEOMOD predicts will be converted into palm oil plantations.

Compared to the analysis that the EPA did for other biofuels t he projected land use patterns in Malaysia and Indonesia are modelled in mu ch more detail and with revised land cover data, but there are still issues with the modelling.

The land use emission factors for Indonesia and Malaysia are taken from a Winrock (Harris, 2011) report published in December 2011. Th is report documents changes that have been made in four areas since the original Winrock work was done for the RFS2 Rule in 2009. The reported changes are:

1. **Harvested Wood Products**. We tested an alternate method for estimating carbon stored in harvested wood products after 30 years for the countries of Indonesia and Malaysia, and concluded t hat the impact on emission factors continues to be very small.
2. **Revised carbon stock estimates on oil pa lm plantations in Indonesia and Malaysia.** The approach for estimating carbon st ocks on oil palm plantations was changed from assuming one year of growth to using a time-averaged approach.
3. **Revised estimates of GHG emissions on peat soils**. We updated our estimates of emissions from peat drainage based on new literature.
4. **Revised carbon stock estimates for forests throughout the tropics.** Forest carbon stocks for Latin America and Africa we re estimated in the final RFS2 rule using draft values from Saatchi et al. (2011). This work has now been published and covers three continental regions: Latin America, Africa and South and Southeast Asia. Final published carbon stock values were included in our revisions. Forest carbon stocks for t he EU were also updated based on EU-wide maps of above-ground biomass in forests developed by Gallaun et al. (2010).

Points 1 and 2 above decrease t he land use emissions in I ndonesia and Malaysia, point 3 increases the emissions and point 4 increases or decr eases depending on t he specific region.

3.1 LAND CHANGES

The GEOMOD modelling that was done to predict where future palm oil plantations would be located was calibrated using the location of existing plantations and mills. It considered a number of slightly different factors for Mala ysia and Indonesia. These are summarized in the

following table. In addition to these factors the model was constrained to exclude the location of existing plantations.

Table 3-1 GEOMOD Factors Considered

Malaysia	Indonesia
Elevation	Elevation
Precipitation	Precipitation
Temperature	Temperature
Slope	Slope
Soil Type	Soil Type
Land Cover in 2001	Land Cover in 2001
Roads	Roads
Rivers	Rivers
Railroads	Railroads
Settlements	Settlements
	Palm Mills
	Peat Land
	Land Allocation
Existing Plantations in 2003	Existing Plantations in 2001
Protected Areas	Protected Areas
Water Boundaries	Water Boundaries
Country Boundary	Country Boundary

There were more factors considered for Indonesia than there were for Malaysia. In both cases it was reported that the best model was the one that weighted all factors equally. This is somewhat surprising since factors such as Precipitation, Temperature, and Slope would be prerequisites for economic plantations, whereas other factors might influence the degree of profitability.

The projected land use change from the palm oil biofuel shock in 2022 from the EPA modelling is summarized in the following table. The largest category of land use change is the forest land, followed by mixed land cover, and then peat lands. The surprising category is that of barren land, which contributes only 0.06% of the new land. Since it is known that deforestation from logging is a major concern in this region, either the carbon loss due to logging is being charged against the oil palm plantations that try and put this de-forested land into a useful service, or the EPA doesn't think that any deforested area will be available in 2022.

Table 3-2 Land Use Changes Malaysia and Indonesia

	Malaysia	Indonesia	Total	Percentage
	hectares			
Barren	0	64	64	0.06%
Crop	2,232	4,379	6,611	6.34%
Forest	22,196	27,068	49,264	47.27%
Grass	408	623	1,030	0.99%
Mixed	14,404	23,956	38,360	36.81%
Savanna	408	6,633	7,041	6.76%
Shrub	64	43	107	0.10%
Wetland	1,052	687	1,739	1.67%
Peat	3,477	8,479	11,956	11.47%
Total (excl peat)	40,764	63,453	104,217	100%

3.2 Carbon Change Emissions

The new changes to the EPA emission model result in lower emissions for all land conversion except from forest and mixed land cover, where the results are mixed (some regions up and some down). In Malaysia, the average is an increase in emissions when forest land is converted and a decrease when mixed cover is converted. In Indonesia, on average, all land cover types see a reduction in the emissions, but there are a few specific regions where the forest emissions increase.

The emissions calculated by the EPA are summarized in the following table. All of the land cover types with a negative sign are regions where the land use changes are beneficial, that is there is more carbon stored after conversion to oil palm than there was prior to conversion.

Table 3-3 Land Use Emissions Malaysia and Indonesia

	Malaysia	Indonesia	Total	Percentage
	MT CO_2eq			
Barren	-8,243	0	-8,243	-0.01%
Crop	-481,694	-245,570	-727,264	-1.25%
Forest	9,854,286	13,912,521	23,766,808	40.81%
Grass	-61,138	-40,056	-101,194	-0.17%
Mixed	522,795	1,350,840	1,873,635	3.22%
Savanna	-498,552	-30,655	-529,208	-0.91%
Shrub	-1,129	-1,693	-2,822	0.00%
Wetland	-42,896	-65,684	-108,580	-0.19%
Peat	24,165,200	9,910,791	34,075,991	58.51%
Total	33,448,630	24,790,494	58,239,124	100.00%

Fifty eight percent of the emissions are due to expansion of palm plantations onto peat soils, even though these lands only account for 9% of the new land in Malaysia and 13% in Indonesia. Forty-one percent of the emissions are from the conversion of forest land to palm oil. There are small emissions from mixed cover land converted to palm and the other land conversion types see an increase in carbon stocks.

3.3 Alternative Approaches to Land Use Change Estimates

An alternative approach would have been to study the historical land use change patterns for palm oil plantations. This would require the use of a series of satellite images to identify the land use before a new plantati on was established. It produces the same end product as the EPA model systems, but with less reliance on t he various location factors that may or may not be important to commercial operations. Fort unately, such an assessment of historical land use change patterns has been undertaken by the Roundtable on Sustainable Palm Oil (Gunarso et al, 2012). The results of this work are summarized below.

3.3.1 Malaysia

The Gunarso report provides results for the periods 1990- 2000, 2001-2005, 2005-2010, and for Peninsula Malaysia, Sabah, and Sarawak s eparately and combined. The results of this work are shown in the following figure.

Figure 3-1 Land Use Change Malaysian Palm Oil

There are several important facts that are apparent from this figure:

1. Land use change patterns have been changing over time.
2. No significant quantities of undistur bed forest land have been converted to palm oil plantations in the past 20 years.
3. Disturbed forests have been the dominant source of land for new plam plantations in Malaysia.

The regional land use change figures are shown below.

Figure 3-2 Land Use Change Malaysian Peninsula

Figure 3-3 Land Use Change Sabah

Draft

Figure 3-4 Land Use Change Sarawak

The EPA analysis provided a more detailed dist ribution of the new palm oil areas in the Malaysian Peninsula that is available from this latest work. It also had more land use categories as shown in the following table.

Table 3-4 EPA Malaysian Land Use Assumptions

From	Barren	Crop	Forest	Grass	Mixed	Savanna	Shrub	Wetland	Peat
To	Palm Oil	Palm Oil	Palm Oil	Palm Oil	Palm Oil	Palm Oil	Palm Oil	Palm Oil	Palm Oil
State	hectares								
Johor	-	880	5,238	150	2,748	129	21	150	1,631
Kedah	-	21	236	-	902	-	-	-	-
Kelantan	-	-	86	-	258			43	-
Melaka	-	-	451	-	236	-	-	-	-
Negeri Sembilan	-	343	1,030	43	1,567	64	21	-	-
Pahang	-	107	5,646	-	2,190	-	-	258	279
Perak	-	193	2,297	86	2,168	21	21	64	472
Perlis	-	-	-	-	43	-	-	-	-
Pulau Pinang	-	150	64	-	215	21	-	-	-
Selangor	-	236	730	43	193	64	-	86	343
Trengganu	-	-	1,288	-	601	-	-	64	-
Total Peninsula		2,168	17,065	322	11,119	301	64	665	2,726
Sabah	-	64	3,435	21	2,490	64	-	258	21
Sarawak	-	-	1,696	64	794	43	-	129	730
Total	-	2,232	22,196	408	14,404	408	64	1,052	3,477
%	0	5.5	54.4	1.0	35.3	1.0	0.2	2.6	8.5

The information from the anal yses by Gunarso for the per iod 2005-2010 is summarized in the following table.

Table 3-5 Gunarso Summary 2005-2010

	Undisturbed Forest	Disturbed Forest	Agriculture	Timber Plantation	Waste land	Peat	Total
	1000 ha						
Peninsula	0	12	22	60	88	32	182
Sabah	0	118	5	0	29	2	152
Sarawak	0	222	57	11	85	212	375
Total	0	352	84	71	202	246	709
%	0	49.6	11.8	10.0	28.5	34.7	

To match the two datasets assumptions need to be made about equivalent land categories. These are shown in the following table.

Table 3-6 Equivalent Land Classifications

EPA	Gunarso
Barren	Waste land
Mixed	Disturbed Forest
Crop	Agriculture
Forest	Timber Plantation

If we use the land use change in formation from Gunarso and appl y it to the total land use requirements for each State calculated by the EPA then we will get different land use change emissions. No changes are made to the total l and converted, the perc entage of land that is peat, nor to any of the emission factors. The land that is used for this modelling is summarized in the following table.

Table 3-7 Revised Malaysian Land Conversion

From	Barren	Crop	Forest	Grass	Mixed	Peat
To	Palm Oil	Palm Oil	Palm Oil	Palm Oil	Palm Oil	Palm Oil
	hectares					
Johor	2,655	1,099	932	0	4,621	1,631
Kedah	330	137	116	0	575	0
Kelantan	110	46	39	0	192	0
Melaka	263	109	92	0	458	0
Negeri Sembilan	875	362	307	0	1,523	0
Pahang	2,337	968	820	0	4,067	279
Perak	1,383	572	485	0	2,406	472
Perlis	12	5	4	0	21	0
Pulau Pinang	128	53	45	0	224	0
Sabah	1,805	747	633	0	3,141	21
Sarawak	777	322	273	0	1,352	730
Selangor	385	160	135	0	671	343
Trengganu	557	231	195	0	969	0
Total	11,618	4,810	4,076	0	20,219	3,477
%		11.8%	10.0%	0.0%	49.6%	8.5%

The land use emissions for Malaysia decrease by 8,372 g CO_2/MM BTU using the land cover changes in the above table.

3.3.2 Indonesia

The Gunarso report provides results for the periods 1990- 2000, 2001-2005, 2005-2010, and for Sumatera, Kalimantan, and Papau, and for the to tal of Indonesia. The results of this work are shown in the following figure.

Draft

Figure 3-5 Land Use Change Indonesian Palm Oil

There are also results for the changes in t he regions and on mineral and peat soils. Some of these are shown in the following figures.

Draft

Figure 3-6 Land Use Change Sumatera

Figure 3-7 Land Use Change Kalimantan

Figure 3-8 Land Use Change Papau

The following table summarizes the information from the Gunarso paper.

Table 3-8 Gunarso Summary 2005-2010

	Undisturbed Forest	Disturbed Forest	Agriculture	Timber Plantation	Waste land	Peat	Total
	1000 ha						
Sumatera	105	150	300	20	180	384	753
Kalimantan	2	880	50	30	840	269	1,801
Papua	10	2	2	0	1	0	15
Total	0	1,032	352	50	1,021	653	2,569
%	4.6	40.2	13.7	1.9	39.7	25.4	

Using this revised land use change pattern and applying it to the land in each State that the EPA has modelled then the following land use change data is developed.

Table 3-9 Revised Indonesian Land Use Change

From	Barren	Crop	Forest	Mixed	Peat
To	Palm Oil	Palm Oil	Palm Oil	Palm Oil	Palm Oil
	hectares				
Aceh	1,122	388	184	1,139	0
Bengkulu	689	238	113	699	43
Jambi	2,584	894	424	2,623	944
Kalimantan Barat	638	221	105	647	193
Kalimantan Selatan	544	188	89	552	515
Kalimantan Tengah	1,233	426	202	1,251	0
Kalimantan Timur	570	197	93	578	301
Lampung	978	338	160	992	0
Riau	7,395	2,559	1,214	7,507	5,195
Sumatera Barat	918	318	151	932	215
Sumatera Selatan	4,480	1,550	735	4,548	923
Sumatera Utara	3,978	1,376	653	4,039	150
Total	25,127	8,693	4,124	25,508	8,479
%	39.6%	13.7%	6.5%	40.2%	13.4%

Using this data in the EPA model reduces the land use change emissions by a further 7,585 g CO_2/MM BTU. The total land use change from these changes is 30,153 g CO_2/MM BTU, down from 46,110 g CO_2/MM BTU. The almost 16,000 g CO_2/MM BTU difference is almost 17 percentage points.

3.4 Peat Emissions

The GHG emissions from drained peatland are calculated from the GEOMOD results and estimates of the carbon released from drained peatlands. In the Malaysian GEOMOD model there were no attributes attributed to peat soils but there was in the Indonesian model. However, it appears that the attribute was basically whether the land was peat or not and thus it is perhaps not unexpected that the model projection for the future was that the portion of palm plantations on peatland was very close to the proportion of peatland in Indonesia.

Winrock International, the author of the reports of future land projections noted that there is a great deal of uncertainty with respect to the models that they developed. They noted that the land cover between 2003 and 2009 appeared to be very dynamic. Their interpretation of satellite images suggested that only 49% of the palm oil plantations in existence in Malaysia in 2003 were still plantations in 2009. This is an incredibly high turnover rate, especially for crops that have a 30-year cycle, and would suggest that the quality of the information obtained from the satellite images was not very good.

The real issue is what will happen in the future and it is not reasonable to assume that it will be business as usual. Growing palm trees on peatlands faces a number of issues:

- The EU Renewable Energy Directive and the RFS2 both have restrictions on newly planted areas. While this doesn't ban expansion onto peat land, it does restrict the market for products grown on peat lands.
- A number of food companies also place buying restrictions on palm oil produced from peatlands. For example the Unilever position is:

  - With regard to existing plantations, only those located on mineral soils should be considered for RSPO certification. This means RSPO certification should not cover palm oil plantations on peatland.
  - Only new plantations established on land with a carbon (C) stock smaller than 35 t C /ha should be considered for RSPO certification.

- The Government of Indonesia has banned the development of new palm plantations on peat lands. In May 2011, a two year moratorium agreement signed between Norway and Indonesia that freezes Indonesia's forest and peatland clearing was agreed upon. The moratorium blocks new concessions in Indonesia's peatlands and remaining forests.
- Palm oil production on peat soils usually results in lower yield and the management of the plantation is more difficult.

Given the mounting pressure to preserve peatland in south-east Asia it is likely that by 2022, peat land conversion to palm oil plantations will be very close to zero. The contribution of peatland emissions to the land use change emissions is 26,978 g CO_2/MM BTU. Eliminating peat conversion and using the alternative land use changes identified above would lower the GHG emissions to 3,174 g CO_2/MM BTU and the pathway would meet the 50% threshold.

3.5 Harvested Wood Products

The improvements that the EPA has made to the determination of the benefit of harvested wood products are an improvement over the original RFS2 rulemaking but it still is not the proper approach to take.

While this is a step in the proper direction, it would appear to be focussed on a very small portion of the issue, the carbon that is "locked up" in harvested wood products and not on the true lifecycle impacts of the wood harvested from the forests. There are at least two other important aspects that should be considered.

The first is that a portion of the wood that is harvested is used for energy and that displaces fossil fuels that would otherwise be used. Heath et al (2011) suggest that 35% of the carbon is combusted for energy that would otherwise be generated from fossil fuels. This should be accounted for in the modelling of harvested wood products.

The second aspect is what do the harvested wood products displace? What would be produced if there were no wood products. CORRIM, The Consortium for Research on Renewable Industrial Materials, have developed methodologies and reports on the lifecycle impacts of wood products. CORRIM were originally organized to update and expand a 1976 report by the National Academy of Science regarding the impacts of producing and using renewable materials. They have produced a number of reports on the lifecycle analysis of forests and of harvester wood products. They have found that wood replaces other emission intensive products such as concrete, steel, gypsum wall board and other products. Oneil et al (2009) produced the emission savings of using wood instead of concrete or steel and the results are shown in the following figures.

Figure 3-9 GHG Emissions Wood vs. Concrete

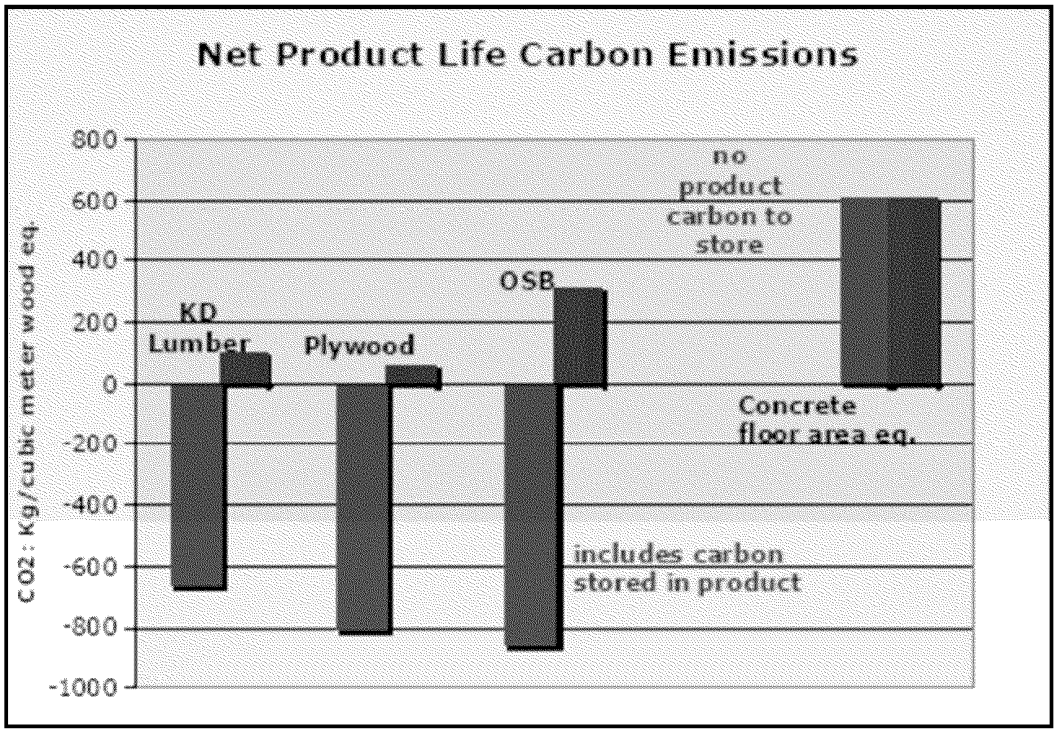
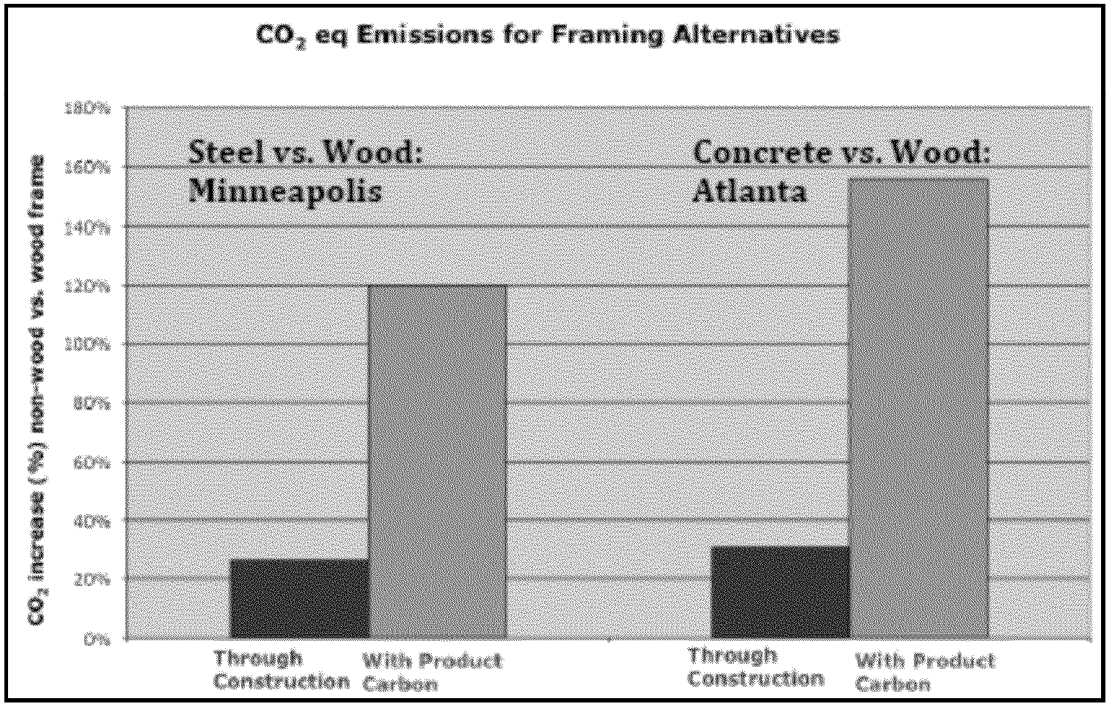


Figure 3-10 GHG Emissions Construction Framing Alternative



Harvested wood products deserves a much more thorough accounting of the GHG emissions avoided that is currently in the EPA model. At a minimum, the accounting needs to account for the emission offset from the use of wood residues for energy and the emissions avoided from alternative construction materials.

3.6 SUMMARY

The international land use change emissions are the single largest category of emissions in the EPA analysis of palm biodiesel. The magnitude of the emissions is driven by a number of factors including:

1. The degree of market mediation of the increased demand for palm oil forecast by the FAPRI model.
2. The substitution of other oil products for palm oil, also forecast by the FAPRI model.
3. The location and type of land that is converted to palm oil plantations. The EPA have relied on the GEOMOD model for these estimates. The issue here is that the forecasts do not align with the types of land that have recently been used for new palm plantations. The EPA ignores "waste" lands and significantly downplays the role of disturbed forests in their analyses. An alternative analysis based on the recent conversion trends would reduce these emissions by almost 16,000 g CO2/MM BTU.
4. The final factor is the quantity of peat lands that would be converted in the future and the emission rate of GHG emissions from drained peatlands. The quantity of peat land is also based on the GEOMOD model and it does not consider the mounting political pressure to preserve these lands nor the potential for the extension of the current Indonesian moratorium on the use of the peatlands. There is a great deal of uncertainty with respect to the emission rate from drained peatlands.

4. FARM INPUTS & RICE METHANE

A number of emission sources are derived from the FAPRI modelling runs. They include the emissions from increased fertiliz er production, from fertilizer use, increased farming energy, and from changes in rice production.

The FAPRI output is the result of a shock to the world agriculture sector to an increase in demand for palm oil. The agriculture sector responds with some decreased final demand due to higher prices, some substitution of other v egetable oils for palm oil in existing markets, and some increase in palm oil production.

There are four components to the 5,121 g CO 2/MM BTU that the EPA have reported. These are shown in the following table and are discussed individually below.

Table 4-1 Farm Inputs and Rice Methane

	Value, g CO_2/MM BTU
Agricultural Inputs	1,466
N_2O Emissions	2,076
Agricultural Energy	1,479
Rice Methane Emissions	99
Total	5,121

4.1 AG INPUTS

The emissions from the manufacture of the fertilizer, herbi cides and pesticides amount to 1,466 g CO_2/MM BTU according to the EPA calculati ons. The breakdown of these emissions is shown in the following table.

Table 4-2 Ag Input Composition

	Value, g CO_2/MM BTU
N Manufacture	815
P Manufacture	200
K Manufacture	376
Herbicide Manufacture	36
Pesticide Manufacture	38
Total	1,465

Sixty percent of those emissi ons are from the manufacture of nitrogen fertilizer. There are two components to the calculation, the quantity of fertilizer applied and the emissions per unit of fertilizer. The EPA uses the fertilizer emission factors from GREET and they are representative of US production rates. The fertilizer applic ation rates are derived from data published by the International Fertilizer Associ ation and the FAO (2009). The fertilizer rates are shown in the following table for Indonesia and Malaysia.

Table 4-3 Fertilizer Application Rates

	Indonesia	Malaysia
Nitrogen, kg/ha	74	100
Phosphorus, kg/ha	29	36
Potassium, kg/ha	92	235

The Malaysian nitrogen value is higher than used by Lifecycle Associates in their report for the MPOB, but it is not out of line with other estimates. There are a few values for fertilizer that are very high, N for Mexico of 436 kg/ha, but the area from FAPRI is very small at 85 ha.

One of the more difficult to explain results from the FAPRI modelling is an increase in cotton acres due to the increased production of biodiesel. The model projects an additional 39,000 ha of cotton production. While cotton produces a small amount of oil, the value of the oil is very low compared to the value of the fibre and it is difficult to see how an increase in oil price would drive cotton production. Cotton has high fertilizer and chemical inputs and the cotton nitrogen fertilizer accounts for 25% of the total increase in nitrogen fertilizer. The nitrogen fertilizer for palm accounts for 75% of the total and all other crops show an increase or decrease but have no net impact. There were similar increases in cotton in both the canola and soybean modelling runs. The cotton nitrogen accounts for 219 g CO_2/MM BTU.

The phosphorus and potassium fertilizer consumption is essentially totally accounted for by the oilseed crops, palm, rapeseed, soybeans, and sunflowers.

4.2 N_2O Emissions

The N_2O emissions are the largest source in this group. They arise from the application of nitrogen fertilizer and from the decomposition of residues containing nitrogen. The emissions are dominated by palm, rapeseed, and sunflower. The EPA follows the IPCC methodology for these calculations.

4.3 Ag Energy

The emissions from the fuel required for producing the crops amounts to 1,479 g CO_2/MM BTU. Thirty-nine percent of the emissions are from increased palm oil production and the remainder are from changes in the production of other crops.

The fuel usage for palm oil production is 18.5 gal of diesel per hectare of palm production. The EPA chose the value in the Lifecycle Associates LCA study. They noted that values of 14-32 gal/ha could be found in the literature. The GHG emissions from this quantity of diesel fuel are 233,300 g CO_2/ha.

The emissions for crop production (other than palm) in other countries are the same as used by the EPA in the rest of their analyses. It relies on IEA data on total CO_2 emissions from agricultural fuel combustion by country. The EPA also collected IEA data on agricultural electricity and fuel use by country, which was combined with emissions factors to estimate country-level GHG emissions from agricultural electricity and fuel use. The IEA uses data supplied to it by member countries so there can be some inconsistency in this information. There is also a very wide range of results that are applied, the CO_2 emissions range from a low of 10,034 to a high of 4,491,072 g CO_2/ha. While some variation could be expected depending on crops produced and production practices, the overall data quality for these calculations are very low but better quality global information does not currently exist.

While the methodology is the same for all of the feedstocks that the EPA has considered, the results can be different, depending on the distribution of countries that experience changes in crop production from the FAPRI model. The average emissions for palm are about 294,000 g CO_2/ha whereas the average for canola was higher at 327,0000 g CO_2/ha. Note that the value used for palm production is lower than the average for all crops. Even if the palm oil number were used for all crops the emissions would only drop by 309 g CO_2/MM BTU.

4.4 Rice Methane

The production of rice causes emissions of methane during the time that the fields are flooded. Changes in rice area will therefore lead to changes in methane emissions. The FAPRI palm oil run results in an additional 840 hectares of rice production world wide. Using emission factors ranging from 37 to 137 kg methane/acre/year, the EPA calculates that the increased palm oil production creates an increase in rice methane emissions of 99 g CO_2eq/MM BTU of biodiesel.

The EPA soybean and canola FAPRI analysis produced generally similar results, increased biodiesel demand caused an increase in oil production from palm, rapeseed, and soybeans; an increased in protein from dry beans, rapeseed, and soybeans, and a decrease in starch crops, but with an increase in rice production. However, soybeans and canola also had a FASOM run to determine changes in GHG emissions in the United States These runs show some differences between the FASOM and FAPRI results for rice. These are summarized in the following table.

Table 4-4 FAPRI and FASOM Rice GHG Emissions

	Soybean Biodiesel	Canola Biodiesel	Palm Biodiesel
US			
FAPRI Rice, 1000 t	5.1	-0.2	-1.3
FASOM Rice, GHG g CO_2eq/MM BTU	-7,350	-469	Not run
ROW			
FAPRI Rice, 1000 t	152	26	7
FAPRI Rice, GHG g CO_2eq/MM BTU	2,180	310	99

With the EPA soybean analysis, the FAPRI model projected an increase in rice production in both the United States and the rest of the world, but the FASOM model must have projected a decrease in US rice production which resulted in a large GHG credit. Similarly with the EPA canola analysis, there was an increase in rice production but FASOM generated a larger credit than the calculated FAPRI emissions, so there was a small decrease in GHG emissions due to changes in the world rice production. In both cases FASOM generated a credit whereas FAPRI generated increased GHG emissions. It would appear that the two models do not treat rice emissions the same way.

There was no FASOM run for palm oil, so while there is not any palm production in the US, there will still be changes in agricultural production that could generate either GHG emission credits or additional GHG emissions. A reduction in US rice production would be expected to generate a large credit in FASOM, perhaps as much as 3,000 g CO_2eq/MM BTU based on a simple scaling (1.3/0.2*469=3,048).

These changes in rice area should also be kept in perspective. The total area of rice harvested in the world is 153 million hectares. The change predicted by the FAPRI model, 10

years into the future is 0.00055% (5 ha for every one million ha). There is no way that the model has this degree of accuracy. Some level of materiality should be applied to the model results.

4.5 SUMMARY

The EPA analyses of these emissions are generally similar to the approach used for the other fuel pathways that the EPA has studied. The one significant difference is that the EPA has not run the FASOM model for palm oil biodiesel, as palm oil is not produced in the United States. The problem is that there are changes to US agriculture as a result of the increased demand for palm oil. The FAPRI model documents these changes. The issue is that it appears that for some emission sources, like rice methane, the FASOM model results for the US are quite different than the results that are calculated from the FAPRI model using the EPA emission factors. For palm oil the difference could be as large as a 3,000 g CO_2/MM BTU positive impact on the lifecycle emissions.

These emissions result from very small changes to the overall agricultural production in the world. The rice changes are on the order of 5 parts per million and the FAPRI forecasting model does not have that degree of precision. The changes in world GHG emissions with and without the level of palm oil biodiesel that the EPA has modelled are not significantly different.

There is significant uncertainty in the GHG emission estimates for fertilizer production, agricultural energy use and emissions, and the N_2O emissions but the overall impact on the results is expected to be relatively small. The same degree of uncertainty with respect to these emission categories exists in the EPA analyses of the other biodiesel pathways.

5. LIVESTOCK CHANGES

The emission credit for livestock is also derived from the FAPRI model. The model predicts a decline in the population of beef and swine animals and an increase in dairy, sheep, and poultry. The largest changes occur in the United States, Asia, and Brazil. The decline reduces methane emissions from the livestock population.

The US sees gains in poultry and swine, with losses in beef. Asia sees gains in sheep, and Brazil sees reductions in their beef herd.

Like the methane emissions from increased rice production, one must question the capability of the model to determine these very small changes with any precision. The total changes projected by the model are compared to the total livestock populations (FAO) in the following table.

Table 5-1 Livestock Changes

	Model Changes	World Population	% Population
	1,000 head		
Beef and dairy	-35	1,428,701	0.0025
Swine	51	965,885	0.0053
Sheep	-29	1,084,577	0.0027
Poultry	430	19,907,370	0.0022

While these percentage changes are larger than the changes in the rice area, they are still miniscule and the accuracy of the model to solve for changes this small should be questioned.

There is also the issue that some of these emissions occur in the United States and in other pathways the US emissions are modelled using FASOM. Different results could arise for the palm oil pathways from using the FAPRI model and associated emission factors for changes in US emissions rather than using FASOM. There is not enough detail in the information supplied by the EPA to determine if there are any differences but a comparison with the canola results does raise some concerns. That comparison is shown below.

Table 5-2 Comparison to Canola Biodiesel

	Canola	Palm
Emissions, g CO2/MM BTU		
US Livestock	-1,501	-
International Livestock	-6,657	-399
Total Livestock	-8,158	-399
Total gallons, million	200	400
Change in livestock population/100 million gal		
Beef (1,000 head)	-43	-7
Dairy (1,000 head)	7	2
Sheep (1,000 head)	64	13
Swine (1,000 head)	-40	-0.3
Poultry (100,000 head)	38	12

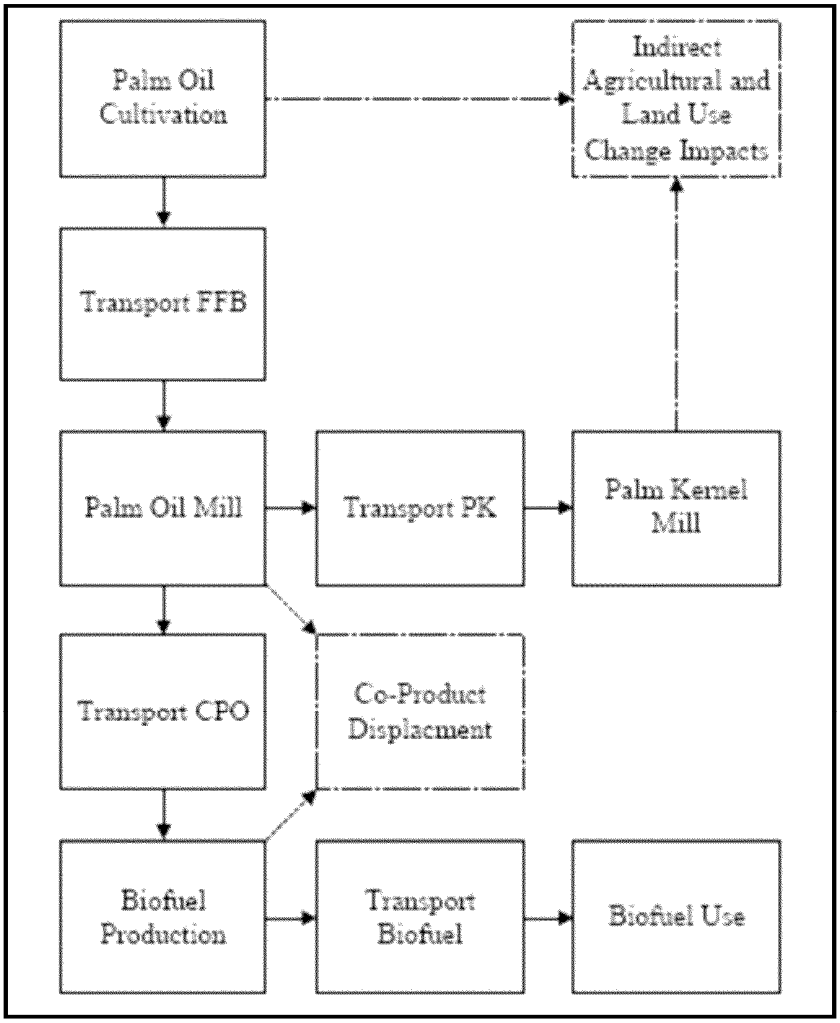
The palm oil impact should be lower than the canola since there is less protein generated from palm oil than from canola/rapeseed. The question is should it be 20 times lower? Or are

the results impacted by different methodol ogies between the FASOM and FAPRI models? The differences in the changes in livestock populations do not appear to be large enough to support the 20 times factor in the results.

6. PALM OIL

The system boundaries that the EPA have establis hed for the palm oil biodiesel system were identified in the document "S ummary of Modeling Inputs and Assumptions". The simplified system boundaries used for this work is shown in the following diagram.

Figure 6-1 Palm Oil System Boundaries



The system boundaries are critical in determini ng what is to be incl uded in the analysis and what must be excluded. The EPA calculated the em issions for each of the boxes separately.

6.1 PALM FRUIT TRANSPORT

The transport of fresh fruit bunches and empty fruit bunches is modelled using medium duty trucks and an assumed two way distance of 34 m iles. In both cases the trucks operate with empty back haul. Only 50% of the empty fruit bunc hes are returned to t he field. 90% of the emissions are accounted for the transport of the fresh fruit bunches to the mill. All of these

assumptions appear to come from the Life Cycle Associates, LLC report prepared for the Malaysian Palm Oil Council (2011).

Harris et al (2011b) analyzed the distance from existing oil palm plantations to oil mills and found that the median distance in Indonesia was between 8 and 9 km. The average truck haul based on that analysis would be 12 km (7.5 miles). This is calculated by taking the median distance and multiplying by the square root of two. The round trip would be 15 miles.

It is also not clear why the empty fruit bunches would not be used as a back haul. Finally there is a recurring issue in the analysis that the energy intensity of the backhaul is assumed to be the same as the loaded trip. This is just not possible.

Changing the distance to 15 miles from the 34 used by the EPA and eliminating the empty back haul reduces these emissions from 866 g CO_2eq/MM BTU to 343 g CO_2eq/MM BTU.

6.2 Palm Oil Mill

The palm oil mill accounts for about 25% of the lifecycle emissions in the EPA analysis. There are two primary components, emissions arising from energy use, and fugitive methane emissions from the effluent systems. The emissions from the two sources are shown in the following table. These are discussed separately below.

Table 6-1 Palm Oil Mill Emissions

	GHG Emissions, g CO_2/MM BTU
Oil Mill energy	1,768
Oil Mill methane	23,478
Total	25,246

6.2.1 Energy Use

The energy use at the oil mills is a relatively small portion of the total emissions. The mills use diesel fuel and biomass to supply their energy needs. They are independent of the power grid. The diesel fuel use is 1.18 gal/tonne of CPO and is based on the paper by Subramaniam (2008). This value was also used in the Lifecycle Associates work. The biomass use is based on the paper by Schmidt (2007). The biomass quantities that are in the Subramaniam paper are similar to those in the Schmidt paper.

6.2.2 Methane Emissions

More than 90% of the palm oil mill emissions result from methane emissions from the effluent systems. The EPA had done a thorough job of analyzing these emissions. They considered 10 different configurations of mills and calculated different methane emission rates for each system. Some systems have no capture and others capture the methane and use it to produce steam and electricity. The following table summarizes the systems and their emission rate.

Table 6-2 Summary of Methane Emissions

Digester	Biogas Utilization	Flare Type	% mills	Emissions, g CO_2/MM BTU
Open lagoon			90	26,031
Covered lagoon	Flaring	Enclosed	2	5,180
Covered lagoon	Steam		0.2	2,882
Covered lagoon	Electricity		3	-664
Covered lagoon	CHP		1	-645
Closed Tank	Flaring	Enclosed	1	5,180
Closed Tank	Steam		0	2,882
Closed Tank	Electricity		2	-664
Closed Tank	CHP		1	-645
POME CH_4 avoidance	NA	NA	0	0

It is apparent from the table that the issue is primarily whether or not the mill has any system and not the overall performance of the system. It needs to be noted that some systems will produce a credit for avoided grid power production. Mills that produce electricity would have an emissions reduction of 44.4% even without addressing any of the other issues that have been identified in this report.

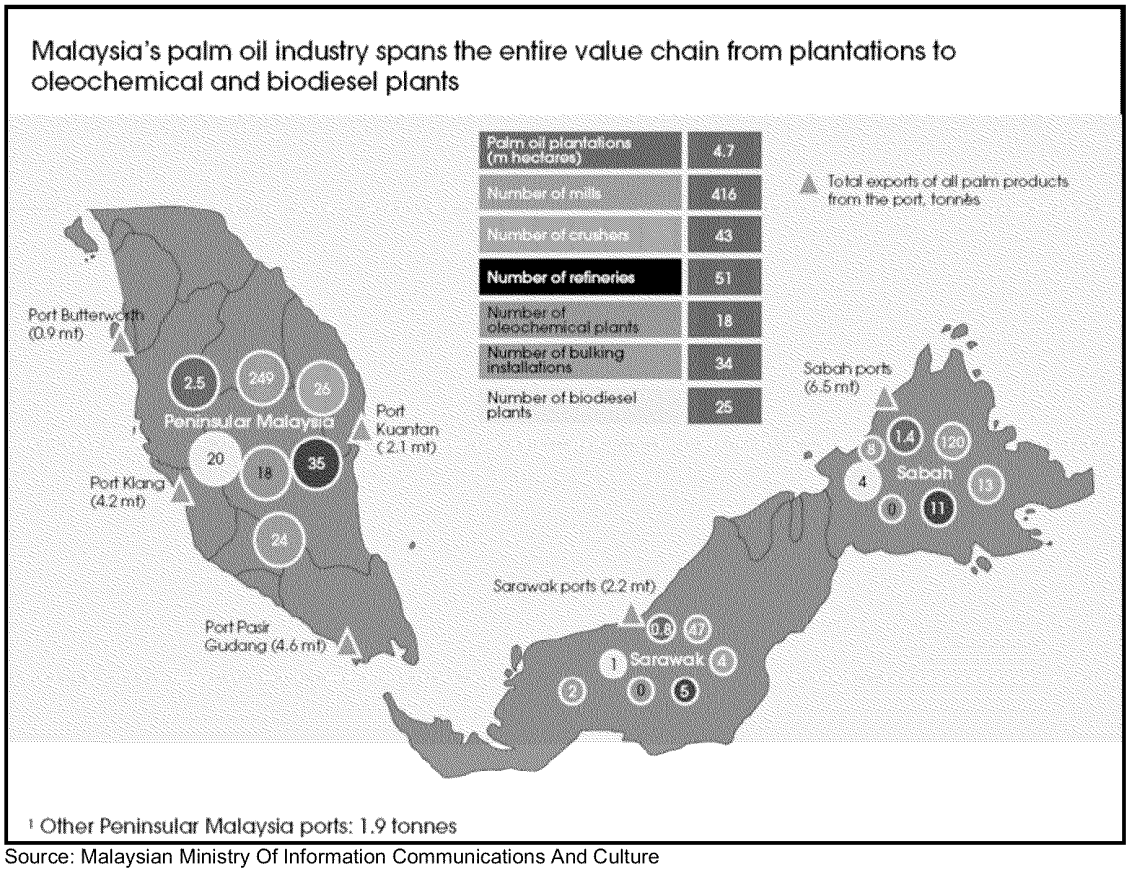
The EPA has assumed that there is no progress made between now and 2022 in terms of addressing these emissions. They justify this assumption based on the fact that they have a single data point for methane capture at mills and therefore can't make a reasonable projection of what the future may look like. While there are not any laws on methane capture at the present time there are incentives to install the systems both from governments and through market mechanisms such as the EU RED and the various sustainability schemes. Based on this one could state, with almost 100% certainty, that the 10% of mills with methane capture that the EPA has assumed in 2022 will be incorrect.

The EPA has faced similar issues in the past with corn ethanol pathways and have responded with multiple pathways based on the technology employed at the ethanol plants. A similar approach could be used here, with 5 bins that covered the technologies that the EPA has studied. Alternatively, the dates that the existing mills installed methane capture could be determined through a survey to establish an implementation curve.

6.3 Palm Kernel Transport

The emissions for the transport of the palm kernels from the crude palm oil mill to the palm kernel mill are relatively small at 122 g CO_2eq/MM BTU of biodiesel and are based on a transportation distance of 100 miles. The 122 g is 0.13% of the lifecycle fossil diesel emissions. The distribution of the Malaysian palm oil industry is shown in the following figure.

Figure 6-2 Malaysian Palm Oil Industry



Source: Malaysian Ministry Of Information Communications And Culture

There is approximately one palm kernel mill for ev ery 10 palm oil mills. In the state of Sabah, which accounts for 30% of the palm product shipments, the total land area is 28,429 miles. If this were a true circle, the radius would be 95 miles. A distance of 100 miles between the oil mill and the palm kernel mill is obviously too hi gh in this region. A distance of 25 miles is much more appropriate given the area and the concentration of mills.

Peninsular Malaysia has about 50,000 sq. miles and twice as many oil mills and palm kernel mills, so the distances would be similar. Only in the state of Sarawak might the distances be larger as the density of oil mills is lower. Given the low production from this region it would be difficult to justify a distance of more than 30 miles for this stage of the lifecycle.

6.4 PALM KERNEL MILL

The palm kernel mills consume electricity and diesel fuel to produce palm kernel oil (PKO) and palm kernel meal (PKM). The EPA includes the emissions from these mills in the calculation of the GHG emissi ons for crude palm oil. The tw o products are included in the FAPRI model runs where they would be used in stead of other vegetable oils and sources of protein. They are essentially given a credi t for land requirements avoided by the increased availability of these products.

The problem with this approac h is that FAPRI doesn't incl ude the emissions for crushing vegetable oils. Essentially w hat is being done in the analyses is that PKO and PKM are displacing oilseeds rather than the products of crushing the oilseeds.

In the following table, the energy and emissions associated with oilseed crushing for several oilseeds are compared.

Table 6-3 Energy and Emissions for Crushing Oilseeds

	Electricity	Diesel	Nat Gas	GHG Emissions
	BTU/tonne seed	BTU/tonne	BTU/tonne	g CO_2e/tonne
Palm Kernel	379,127	331,736	0	104,477
Soybeans[1]	208,315	0	788,130	90,749
Canola[2]	167,335	0	945,000	91,436

While less energy is used to crush the palm kernels, the energy has a higher carbon intensity than the energy used to crush soybeans and canola, so the GHG emissions are similar.

The appropriate approach for modelling would be to exclude the palm kernel crushing energy and emissions. That way the palm kernels are displacing an equivalent product in the FAPRI analysis of land use and land use change.

If the appropriate treatment of the emissions from the palm kernel mill is to exclude them because these emissions are not included in the analysis of the products that the PKO and PKM displace, then the transport emissions should also be excluded since the transport emissions of the displaced products are also not included in the FAPRI analyses. It is only when the system boundaries of the produced product are identical to the displaced product that the conditions of equivalent products required for LCA are met. The transport distance issue identified above becomes irrelevant.

6.5 Crude Palm Oil Transport

From Figure 6-2 it would appear that there are about half as many biodiesel plants as there are palm kernel mills. The transportation distances should be larger than the distance from the oil mill to the kernel mill. Using the recommended 30 mile distance from the oil mill to the kernel mill, the distance from the oil mill to the biodiesel plant would be $30*2^{0.5}$ or no more than 45 miles. This would lower the emissions from 320 g CO_2/MM BTU to 144 g CO_2/MM BTU.

6.6 Summary

The transportation distance assumptions used by the EPA are quite high for most of the assumptions made. There is also some inconsistency between the values chosen for palm oil biodiesel and the values used in some of the other biodiesel pathways the EPA has studied.

The palm oil mill emissions are driven by the methane emissions. The assumption made by the EPA that there would be no change to the rates of methane capture are unrealistic given the early stages of development of this technology and the mounting pressure placed on mills by government and the marketplace to reduce these emissions. Either better forecasts need to be developed or an alternative approach, like the one the EPA used for corn ethanol plants, needs to be developed.

The treatment of the emissions credit for palm kernel meal and oil is inappropriate. The products are being compared to other vegetable oils and meals in FAPRI that need to have

[1] EPA RFS2.
[2] Canola Council of Canada submission to EPA in support of Canola biodiesel under RFS2.

energy and emissions accounted for. The easiest way to make the two systems equivalent is to not count the emissions associated with palm kernel transport and milling as part of the palm oil lifecycle.

7. BIODIESEL

In the EPA analysis, the crude palm oil is converted to biodiesel in the region that the oil is produced in and then transported to the United States. There will be emissions from the biodiesel production process, emissions avoided from the production and use of the co-products from the production system, and emissions from the transportation of the final product. These issues are discussed below.

7.1 BIODIESEL PRODUCTION

The EPA report that they have used the same biodiesel production factors as used for the other biodiesel pathways. There are two issues here.

The energy used for biodiesel production by the EPA is higher than has been reported by the biodiesel industry. This has been pointed out to the EPA in previous comment periods for the soybean and canola biodiesel rulemakings. The differences are summarized in the following table.

Table 7-1 Comparison of Biodiesel Processing Energy

	EPA	NBB
Year	2022	2008
Natural gas	4,381 BTU/gal Biodiesel	2,700 BTU/gal Biodiesel
Electricity	381 BTU/gal Biodiesel	410 BTU/gal Biodiesel
GHG emissions	- 969 g CO_2/MM BTU	-1,865 g CO_2/MM BTU

The other issue is that the EPA have used a feedstock requirement of 7.6 pounds CPO/gal biodiesel, whereas for the soybean analysis they used 7.4 pounds of feedstock per gallon. This doesn't change the biodiesel emissions but it does change all of the upstream emissions. The total impact of this is a reduction of 2,059 g CO_2/MM BTU.

7.2 GLYCERINE CO-PRODUCT

The EPA has treated glycerine in the same manner as they did for soybeans and canola. They have asked for comments on their approach. The original EPA assumption was that increased biodiesel production would flood the market with crude glycerine and it would be used as a fuel. The approach they developed gives glycerine a credit for fuel oil (the market with the greatest ability to accept greater volumes) but assumes that it is a biogenic product. The problem with this is that the EPA also considered biodiesel to be a 100% biogenic product. In both cases ignoring the fossil carbon in the methanol used to produce the biodiesel. There has been some criticism of the EPA's approach and including the fossil carbon in one of the products would increase the GHG emissions for biodiesel by 4,000 g CO_2/MM BTU.

The argument is that the glycerine is used for other applications other than as a fuel and the other applications provide greater GHG emission benefits than use as a fuel. The glycerine from biodiesel production can be upgraded to produce USP grade products, it can be converted into other products such as propylene glycol, it can be used as animal feed, or it can be used as a fuel. A recent survey of NBB members (2010) reported the following distribution of glycerine markets.

Table 7-2 Biodiesel Glycerine Markets

Market	% of Glycerine
Refined Glycerine	48
Livestock Feed	33
Sold with unknown end use	14
Fuel	4
Reprocessed to biodiesel	1

Since this survey was taken, ADM has started a processing facility to convert glycerine to propylene glycol. This plant is designed to manufacture Industrial Grade and USP Specifications Grade propylene glycol from renewable sources. The plant's capacity is 100,000 metric tons. The feedstock for the plant is approximately 128,000 tonnes of glycerine, which is equivalent to the production from about 365 million gallons of biodiesel.

7.2.1 Petroleum Based Glycerine

Synthetic Glycerine was manufactured primarily by the Faber process until the rapid expansion of the biodies el industry in Europe and the United States over the past 15 years. Many of the traditional Faber processes closed, including those in t he United States. This process was quite GHG emission intensive and t he various estimates of the GHG emissions from this process are summarized in the followi ng table. The oxidation credit is to recognize that the product is biogenic compared to t he fossil based product produced by the Faber process.

Table 7-3 Estimates of GHG Emissions from Glycerine from the Faber Process

Source	Production	Oxidation	Total
	kg CO_2eq/MM BTU Biodiesel		
GREET	23.7	4.0	27.7
EPA RFS2	19.5	4.0	23.5
LEM	18.4	4.0	22.4
Ecoinvent	13.9	4.0	17.9
GEMIS	23.0	4.0	27.0
Average	19.7	4.0	23.7

With 50% of the biodiesel glycerine being upgraded to USP grade product, this is a significant market for the biodi esel industry. If this glyceri ne did not exist, then Faber type plants would be required to serve the market and these would have a significant carbon footprint. This is higher than the fuel value used by the EPA.

7.2.2 Feed Usage

Glycerine used as animal feed is used to supply energy in the diet. The glycerine will displace other energy feeds such as corn. The metabolized energy values for crude glycerine and various feeds are shown in the following table.

Table 7-4 Energy Value of Feeds

Ingredient	Net Energy Lactation, kcal/kg	Reference
Corn	2,000	Preston
Wheat	2,000	Preston
Glycerine	2,000 –2,300	Donkin

Donkin (2008) observed that based on the typical starch levels in rations fed to dairy cattle, an energy value for glycerol that is equal to the energy value of corn starch is an appropriate starting point until more information is available.

The typical co-product credits for various materials are shown in the following table. Co-product feeding values are always difficult to determine as the effect can vary between species, but if glycerine displaces corn at 115% of corn, or displaces soybean oil at 35% of the oil credit, then the material has a GHG emission value between 380 and 560 g CO_2eq/kg plus any indirect land use emissions associated with that feedstock.

Table 7-5 Emissions Credit for Glycerine and Feed

Material	g CO_2eq/kg
Corn	330
Soybean oil	1,600
Glycerine displacing corn	380
Glycerine displacing soyoil	560

Significant quantities of crude glycerine from biodiesel plants are being used as animal feed to supply energy to the ratio. The glycerine typically displaces corn from the ration. The exact displacement ratios vary from specie to specie but appear to be in the range of 1 to 1.2 pounds of corn displaced per pound of glycerine fed. This has a direct GHG impact of only 1.0 to 1.2 kg CO_2e/MM BTU of biodiesel, but it will also have an impact on the indirect land use emissions. If the glycerine is displacing soybean oil, the emission credit may be 1.5 kg CO_2e/MM BTU of biodiesel plus any indirect land use emissions avoided.

In the case of animal feed, the glycerine is displacing another biogenic source of carbon so there is no benefit from the ultimate oxidation of the glycerine.

7.2.3 Fuel

The EPA has established that the fuel value of the glycerine is approximately 8 kg CO_2/MM BTU of biodiesel.

7.2.4 PG Production

One of the newest applications of glycerine is the conversion to propylene glycol. This process is relatively carbon intensive, the Ecoinvent LCI database reports that the GHG emissions of propylene glycol are 4.135 kg CO_2eq/kg PG. This does not include the emissions from the oxidation of the final product and in most applications the product is eventually oxidized. These emissions add a further 1.76 kg CO_2eq/kg PG, for a total of 5.73 kg CO_2eq/kg PG. An analysis done using the GABI LCA program reported lifecycle emissions for PG (including oxidation) of 8.23 kg CO_2eq/kg PG (ADM, 2011). One of the reasons for the variation could be the source of propylene (oil based or natural gas based).

One million BTU of biodiesel will produce about 2.8 kg of glycerine. This quantity of glycerine will produce 2.1 kg of PG. The co-product credit for PG produced from glycerol, using the displacement approach, would therefore be between 8.7 and 13.6 kg/MM BTU biodiesel without the end of life credit and between 12.4 and 17.3 kg CO_2eq/MM BTU with the end of life credit, less the emissions associated with the production process. In the case of ADM, these process emissions are reported to be 3.24 kg CO_2eq/kg PG. The net GHG reduction reported by ADM is therefore 5.0 kg CO_2eq/kg PG or 10.5 kg CO_2eq/MM BTU biodiesel.

This is higher than the fuel value used by the EPA.

7.2.5 Glycerine Summary

When all of the markets for glycerine are considered the EPA treatment of glycerine is conservative. In the following table the GHG emission benefits of glycerine are summarized for the historical uses of glycerine and the incremental use based on producing PG. A conservative assumption is made for the PG carbon emissions avoided. In this table it is assumed that the glycerine has biogenic carbon.

Table 7-6 GHG Benefits of Glycerine

	GHG Benefit	2010 Market	Incremental Applications
	kg CO_{2eq}/MM BTU Biodiesel	% Market Share	
Refined Glycerine	23.75	48	0
Livestock Feed	1.5	33	0
Sold with unknown end use	4.0	14	0
Fuel	4.0	4	0
Reprocessed to biodiesel	0.0	1	0
Propylene Glycol	10.5	0	100
GHG Benefit		12.62	10.5

7.3 BIODIESEL TRANSPORT

There are considerable transportation distances involved in the palm biodiesel pathway that the EPA have analyzed. The emissions from all of the transportation total about 3% of the lifecycle diesel fuel emissions. The transportation assumptions are summarized in the following table.

Table 7-7 Transportation Assumptions and Emissions

	Mode	Distance	Emissions
		Miles	g CO_2eq/MM BTU
Biodiesel plant to port	Truck	300	937
Port to US port	Ship	9,000	884
US Port to Bulk Storage	Truck	50+50	312
Bulk storage to distributor	Truck	90+90	562
Total			2,695

The 300 miles by truck to a port would also appear to be a high cost. Many of the biodiesel plants are located at ports to reduce the transportation costs. The whole palm oil

industry is export oriented and would therefore naturally be located close to port facilities. The Malaysian Palm Oil Board (2011) publishes a list of biodiesel plants with their locations. This list was compared to the Malaysian ports identified in the document "Deepening Malaysia's Palm Oil Advantage" to determine the average transportation distance from a biodiesel plant to a port. The average distance was about 20 miles. Assuming an empty backhaul, the distance used in the calculations should be 40 miles, not 300 miles.

The port to port transportation distance is reasonable.

The transportation distances in the US are considerably higher than the EPA used for the soybean biodiesel analysis. In that work a distance of 30 miles was used from the last truck distribution. In addition there was some distribution from the biodiesel plant to a terminal via a combination of barge, rail, and truck. While the palm biodiesel would not be able to penetrate the continental US to the same degree that domestic production could, the 280 mile truck distance (round trip) from the port appears to be high compared to the analysis that was done for soybean. It is recommended that the bulk storage to distributor distance be reduced to the same 30 mile distance used previously. With the rail freight energy intensity being about one third of truck energy intensity a combination of 300 mile rail and 100 mile truck distribution from a port to a distribution point would offer considerable market penetration.

The recommended transportation distances and emissions are summarized in the following table.

Table 7-8 Recommended Transportation Assumptions and Emissions

	Mode	Distance	Emissions
		Miles	g CO_2eq/MM BTU
Palm Oil mill to biodiesel plant	Truck	45	144
Biodiesel plant to port	Truck	40	125
Port to US port	Ship	9,000	884
US Port to Bulk Storage	Truck	100	312
Bulk storage to distributor	Truck	60	188
Total			1,653

It is not clear why the energy intensity that is being used in the calculations is the same for the loaded trip as for the empty back haul. This is the assumption that is in GREET but it is obviously not correct. The recommended transportation distances reduce the emissions by 1,400g CO_2eq/MM BTU even using the same energy intensity for a loaded trip as a backhaul.

7.4 Biodiesel Combustion

The emission from the combustion of biodiesel are consistent with the approach used in the other biodiesel pathways that have been analyzed by the EPA.

The issue of the fossil carbon in the methanol increasing the combustion emissions by 4 kg/MM BTU needs to be related to the treatment of the glycerine. If the fossil carbon is found in the biodiesel then the glycerine is composed of biogenic carbon and the use of biogenic glycerine needs to be compared to the use of fossil glycerine and other fossil based products. Ultimately all of the products produced using the glycerine will be oxidized and the fossil based products will contribute 4 kg of CO_2 emissions to the environment and the biogenic based products will not.

7.5 SUMMARY

The energy consumption assumed for biodiesel plants is high compared to the energy use survey conducted by the NBB several years ago. The energy consumption is the same as the EPA has used in other biodiesel pathways.

The biggest issue with the biodiesel calculations is that the yield is lower than that used by the EPA for the soybean pathway. In that work it was assumed that 7.4 pounds of feedstock was required to produce a gallon of biodiesel. In this analysis the EPA has assumed 7.6 pounds/gallon. It should be the same as the soybean yield.

The glycerine issue is difficult to quantify but the current EPA values are appropriate when considered in combination with the treatment of the combustion of the biodiesel. In this case the two errors do cancel out and the final result is reasonable given the lack of verified information about glycerine markets.

8. CONCLUSIONS

This work has involved a comprehensive review of the EPA proposed lifecycle analysis of palm oil biodiesel. It has involved a review of the methodology, the data used, and a comparison to the other biodiesel pathways that the EPA has analyzed. The review has identified issues with all three aspects, comparability, methodology, and data quality. These are summarized below.

8.1 METHODOLOGY

With two exceptions, the EPA has applied the same general methodology to the analysis of the palm oil pathway as they did to the canola and soybean biodiesel pathways. The two exceptions are that the FASOM model was not used in this analysis, and the method used to project what kind of land would be converted to palm oil plantations was revised.

The justification for not running FASOM was that no palm oil is produced in the United States and so the model used to determine domestic emissions is not needed. This would be an acceptable approach if the FAPRI and FASOM models produced identical results for the United States.

The second change in methodology was a more detailed and site specific look at what kind of new land would be brought into production. This in concept is an improvement over the previous methodology of just using satellite images to determine land use change patterns, as that approach is unable to differentiate the drivers of land use change. The problem is that the model results are not at all aligned with the patterns of land use change that have occurred in Malaysia and Indonesia over the period of 2005 to 2010. The model does not include land that has previously been logged and left abandoned and thus over estimates the GHG emissions from land use change in those two countries by approximately 16,000 g CO_2/MM BTU.

The EPA co-product treatment of the palm kernel oil and palm kernel meal is not correct. The EPA includes the emissions from the transport and milling of palm kernels and attributes those emissions to the crude palm oil. Their justification for doing this is that two products are accounted for in the FAPRI model and that is where the co-product credit is accounted for. It is true that FAPRI includes PKO and PKM in their model but FAPRI does not model emissions. In reality, PKO and PKM will substitute for vegetable oils and meals within FAPRI but, since FAPRI doesn't model the emissions to crush soybeans or rapeseed or any of the oilseeds, one can't include those emissions in the palm oil analysis. To do so is comparing two systems with different system boundaries. Correcting this issue has a small impact on the results of 824 g CO_2/MM BTU.

The EPA has improved their estimates of carbon stocks of natural ecosystems and palm plantations and made a small step forward in their treatment of harvested wood products, but the HWP benefit is still understated, as it is not a lifecycle comparison.

8.2 COMPARABILITY

There is evidence that The FASOM and FAPRI models may not produce the same results when dealing with the same issue. This is the case for at least rice, livestock, and perhaps agricultural energy. The magnitude of the differences is not possible to determine precisely without running the FASOM model with a production shock occurring outside of the US (which would be different than what has been done with the model previously) but the

difference could amount to a few percentage points in the GHG reductions offered by palm oil biodiesel.

8.3 DATA

Much of the data that is used by the EPA is sound and is drawn from some of the best papers in the literature. It doesn't differ significantly from the data used by the Malaysian Palm Oil Board in their commissioned work on Lifecycle Analysis. However, there are a number of areas where the EPA has made assumptions that do not appear to be well supported by facts. This is particularly the case with the assumed transportation distances of fresh fruit bunches, crude palm oil, and palm oil biodiesel. Correcting these factors reduces the emissions by 1,885 g CO_2/MM BTU.

The energy requirements for producing biodiesel used by the EPA are the same as those that have been used in other analyses but they are too high. Reducing the energy use to that of the average value from the 2008 NBB production survey reduces the emissions by 896 g CO_2/MM BTU.

The issue of the methane emissions from the oil mills make the assumption that nothing will change in the future. For a technology that has just been introduced into the industry, this is an unreasonable assumption to make about the future 10 years from now. Either the EPA needs to undertake more work to determine the implementation rates in the past, or consider looking at multiple technology pathways as it has done with corn ethanol in the RFS2 final rule.

Finally the EPA has assumed that 7.6 pounds of palm oil are required to produce a gallon of biodiesel when they use 7.4 pounds for soybean biodiesel (1 kg oil/kg biodiesel). This has an impact on all of the upstream emissions.

In the following table the adjusted emissions for two scenarios are shown, one with no methane capture and one with the methane capture using the best scenario modelled by the EPA. Some of the values are the result of two changes, the change identified in the report and the change in conversion rate (from 7.6 to 7.4 lbs. oil/gal biodiesel). The palm oil mills with methane capture would easily surpass the 50% GHG emission threshold, whereas the mills that don't employ this technology would not meet the minimum GHG emission reduction.

Draft

Table 8-1 Adjusted Palm Biodiesel Emissions

	Diesel Fuel	Palm Biodiesel		
		EPA NODA	Adjusted	
		Base	W/o methane capture	With methane capture
	g CO_2eq/MM BTU			
Land Use Change		46,110	29,395	29,395
Farm Inputs & Rice Methane		5,121	4,986	4,986
Livestock Changes		(359)	(350)	(350)
Palm Fruit Transport		866	334	334
Palm Oil Mill		25,246	27,072	1,094
Crude Palm Oil Transport		320	140	140
Palm Kernel Transport		122	0	0
Palm Kernel Mill		824	0	0
Fuel Production	17,998	(969)	(1,865)	(1,865)
Yield Adjustment			0	0
Fuel Transport		2,696	1,509	1,509
Fuel Combustion	79,008	700	700	700
Total	97,006	80,677	61,921	35,943
% reduction		17%	36.2%	62.9%

9. REFERENCES

ADM. 2011. Lifecycle Analysis Propylene Glycol. http://www.adm.com/en-US/products/evolution/Propylene-Glycol/Pages/Life_Cycle_Analysis.aspx

Donkin, S., Doane, P. 2008. Glycerol from Biodiesel Production: The New Corn for Dairy Cattle. http://ag.arizona.edu/ANS/swnmc/Proceedings/2008/14Donkin_08.pdf

Gallaun, H., Zanchi, G., Nabuurs, G.J., Hengeveld, G., Schardt, M., Verkerk, P.J. 2010. EU-wide maps of growing stock and above-ground biomass in forests based on remote sensing and field measurements. *Forest Ecology and Management* 260: 252-261.

Gunarso, P., Malik, R.A., Hamzah, K.A., Joseph, K.T., Hartoyo, M.E., Supriatna, W. 2008. Land use and land cover change in Palm Oil Producing Countries.

Harris, N.L. 2011. Revisions to Land Conversi on Emission Factors since the RFS2 Final Rule.

Harris, N.L., Grimland, S., Pearson, T. 2011b. Spatial Modelling of Future Oil Palm Expansion in Indonesia, 2000 to 2022. http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2011-0542-0058

Heath, L., Smith, J., Woodall, C., Azuma, D., Waddell, K.. 2011. Carbon stocks on forestland of the United States, with emphasis on USDA Forest Se rvice ownership. Ecosphere, **2**, 1-21 (2011). http://www.esajournals.org/doi/pdf/10.1890/ES10-00126.1

International Fertilizer Association. (2009). Fertilizer Use by Crop. http://www.fertilizer.org/ifa/HomePage/LIBRARY/Publication-database.html/Assessment-of-Fertilizer-Use-by-Crop-at-the-Global-Level-2006-07-2007-08.html2

Life Cycle Associates, LLC. 2011. Well- to-wheel GHG Emissions and Land Use Change Impacts of Biodiesel from Malaysian Palm Oil. http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480f880a5

Malaysian Ministry of Information Communica tions and Culture. Deepeni ng Malaysia's Palm Oil Advantage. http://www.kpkk.gov.my/pdf/tahukah_anda/ETP_bi/chapter9.pdf

Malaysian Palm Oil Board. 2011. Biodiesel Plants. http://econ.mpob.gov.my/economy/biodiesel/Directory%20of%20Biodiesel%20Producers%209.2.11.pdf

NBB. 2010. Glycerin Use as a Byproduct of Biodiesel Production.

Oneil, E., Lippke, B., McCarter, J. 2009. Life Cycle Carbon Tracking for the Working Forests of British Columbia:Carbon Pool Interactions from Forests, to Building Products, and Displacement of Fossil Emissions. Prepared for the Forest Sector Climate Action Steering Committee.

Saatchi, S.S., Harris, N.L., Brown, S., Lefsky, M., Mitchard, E.T.A., Salas, W., Zutta, B.R., Buermann, W., Lewis, S.L., Hagen, S., Petrova, S., White, L., Silman, M. and Morel, A. 2011. Benchmark map of forest carbon stocks in tropical regions across three continents. *PNAS* doi: 10.1073/pnas.1019576108.

Schmidt, Jannick. 2007. Life cycle assessment of rapeseed oil and palm oil: Ph. D. thesis, Part 3:Life cycle inventory of rapeseed o il and palm oil. Department of Development and Planning. Aalborg University.

Subramaniam, V., Ngan, M., A., May, C., Y ., Sulaiman, N., M., N., 2008. Environmental Performance of the Milling Proc ess of Malaysian Palm Oil Using the Life Cycle Assessment Approach. American Journal of Environmental Sciences 4 (4): 310-315.

To: Atkinson, Emily[Atkinson.Emily@epa.gov]
From: Biedlingmaier, Mark J
Sent: Fri 11/3/2017 8:34:26 PM
Subject: FW: Accreditation: 23rd Conference of the Parties to the UNFCCC, November 6 - 17, 2017 in Bonn, Germany

Emily,

Attached is the cable sent moments ago following Secretary's final approval of the credentials.
Mark B.

Mark J. Biedlingmaier, Director

International Conferences, IO/C

Bureau of International Organizations Affairs

Room H-436, State Annex-1, Columbia Plaza

tel: (202) 663-1024; BB: (202) 341-7824

Subject: Accreditation: 23rd Conference of the Parties to the UNFCCC, November 6 - 17, 2017 in Bonn, Germany

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Info Office: HS_HUMAN_SECURITY, HR_Prin, C_PROG, GS_ENVIRONMENT, PRF_OMS, USUN_W_SA_WI, PRF_AF, UNP_MAO_UNGA, UNP_MAO_EUR, HR_Human_Rights, UNESCO_SCIENCE, UNP_DIR

MRN: 17 STATE 110484

Date/DTG:	Nov 03, 2017 / 031808Z NOV 17
From:	SECSTATE WASHDC
Action:	DUSSELDORF, AMCONSUL *IMMEDIATE*
E.O.:	13526
TAGS:	AORC, PUND, UN, UNFCCC
Subject:	Accreditation: 23rd Conference of the Parties to the UNFCCC, November 6 - 17, 2017 in Bonn, Germany

1. The Department requests accreditation of the following U.S. delegation to the 23rd Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC), November 6 - 17, 2017 in Bonn, Germany:

Representative

The Honorable

Thomas Shannon Jr.

Under Secretary of State for Political Affairs

Department of State

Alternate Representative

Lilburn Talley

Director

Office of Global Change

Bureau of Oceans and International Environmental

and Scientific Affairs

Department of State

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Kathryn Bacher

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Department of State

George Banks

Special Assistant to the President

for International Energy and Environment

National Security Council

Executive Office of the President

Brittany Bolen

Deputy Associate Administrator for Policy

Environmental Protection Agency

Francis Brooke Jr.

Associate Director for Policy

Office of the Vice President

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Kimberly Carnahan

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Mandy Gunasekara

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William Irving

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Edward Markey

United States Senate

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House of Representatives

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Office of Senator Jeff Merkley

United States Senate

Debbie Yamada

Administrative Director

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United States Senate

2. The Delegation is reminded that only officially accredited members of the delegation are

authorized to participate in conference sessions.

3. Recommendations or commitments which create or imply new U.S. financial obligations, establishment of new organizations, participation in additional meetings, and offers to host meetings in the U.S. require express authorization. Instructions to U.S. delegations on action to restrain growth of international organization assessed budgets are contained in the "Guidance for U.S. Delegations at International Conferences" (Section XV). This guidance is distributed to most heads of delegation.

4. The Head of delegation is responsible for ensuring proper coordination of all U.S. delegation activities and for submitting telegraphic summary of conference results prior to departure.

5. All questions should be directed to the drafter of this cable in the Bureau of International Organization Affairs, Office of International Conferences via the following email address: IO-C-Program@state.gov. Thank you for your assistance.

Signature: Tillerson

Drafted By: IO:Short, Debbie A
Cleared By: IO/C:Biedlingmaier, Mark J
Approved By: IO/C:Biedlingmaier, Mark J
Released By: IO:Short, Debbie A

Action Post: NONE
Dissemination Rule: DIS_HS_ECON_MACRO, DIS_HR_HUMAN_RIGHTS, DIS_C_ADMIN, DIS_GS_ENVIRONMENT, DIS_PRF_AF, DIS_USUN_W_SA_WI, DIS_UNP_MAO_UNGA, DIS_UNP_MAO_EUR, DIS_UNESCO_SCIENCE, DIS_UNP_DIR

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DEPARTMENT OF STATE
WASHINGTON

Madam:

I have the honor to inform you that the United States of America will be represented at the Twenty-Third Conference of the Parties to the United Nations Framework Convention on Climate Change, to be held in Bonn, Germany, November 6 – 17, 2017, by the delegation named on the enclosed list.

Please accept, Madam, the renewed assurances of my high consideration.

Ralph W. Tillman

Enclosure:

As stated.

The Honorable
Patricia Espinosa,
Executive Secretary,
UN Framework Convention on Climate Change,
Bonn.

DIPLOMATIC NOTE

UNITED STATES DELEGATION TO THE TWENTY-THIRD SESSION OF THE CONFERENCE OF THE PARTIES (COP-23) TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC) BONN, GERMANY, NOVEMBER 6-17, 2017

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United Nations
Framework Convention on
Climate Change

UN Climate Change Conference
6–17 November 2017
OVERVIEW SCHEDULE

Twenty-third Conference of the Parties (COP 23)

Thirteenth Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP 13)

Second part of the first Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA 1.2)

Forty-seventh session of the Subsidiary Body for Scientific and Technological Advice (SBSTA 47)

Forty-seventh session of the Subsidiary Body for Implementation (SBI 47)

Fourth part of the first session of the Ad Hoc Working Group on the Paris Agreement (APA 1.4)

This overview schedule aims at helping participants to prepare for the sessions. It should be considered indicative and will be updated with new information as it becomes available.

Once the sessions have started, please consult the Daily Programme

Version of 3 August 2017

Overview schedule

Pre-sessional period (29 October - 5 November)

29-30 Oct	Least developed countries (LDCs) preparatory meetings
31 Oct-1 Nov	African Group preparatory meetings Small island developing States (SIDS) preparatory meetings
2 -3 Nov	G-77 & China preparatory meetings

Schedule of pre-sessional events[1], [2]

Saturday, 4 Nov. *(AM)*	APA round table on agenda item 5 (transparency): - Transparency of support	APA round table on agenda item 4 (further guidance relating to the adaptation communications)	SBSTA round table on Article 6.4: - Mechanism	
Saturday, 4 Nov. *(PM)*	APA round table on agenda item 5 (transparency): - Technical expert review including a focus on transparency of support - Facilitative multilateral consideration of progress including a focus on transparency of support	APA round table on agenda item 4 (further guidance relating to the adaptation communications)		Workshop on response measures
Sunday, 5 Nov. *(AM)*	APA roundtable on agenda item 5 (transparency): - Adaptation	APA round table on agenda item 6 (global stocktake)	SBSTA round table on Article 6.2: - Cooperative approaches	Workshop on response measures

[1] In-session documents and information on agenda items from the sessions in May 2017 are available at the relevant pages for SBSTA, SBI, APA.
[2] Further details on timing will be provided in due course: every effort will be made to minimize clashes as much as possible.

Sunday, 5 Nov. *(PM)*	APA round table on agenda item 5 (transparency): - Mitigation	APA round table on agenda item 6 (global stocktake)	SBSTA round table on Article 6.8: - Non-market approaches	Workshop on response measures
Monday, 6 Nov.	APA round table on agenda item 3 (further guidance relating to the mitigation section of decision 1/CP.21)	APA round table on agenda item 7 (modalities/procedures for committee to facilitate implementation and promote compliance)		

First week (6-11 November)					
	TIME	**Plenary meetings and meetings of groups of the Convention and Protocol bodies**	**Mandated events and workshops**	**UNFCCC and special events**	
Monday, 6 Nov	10:00-13:00	Opening plenaries of the COP and CMP and resumption of the CMA			
	Lunch				
	15:00-18:00	Opening plenaries of the SBs			
		Opening plenaries of the SBs			
Tuesday, 7 Nov	10:00-13:00	Resumption of APA			
		Groups of the Convention and Protocol bodies			
	Lunch				Joint AC/LEG event *(1.15-2.45pm)*
	15:00-18:00	Groups of the Convention and Protocol bodies	Technical workshop on budget *(3-7pm)*		
	Evening				

Wednesday, 8 Nov	10:00-13:00	Groups of the Convention and Protocol bodies			
	Lunch				
	15:00-18:00	Groups of the Convention and Protocol bodies			
	Evening				
Thursday, 9 Nov	10:00-13:00	Groups of the Convention and Protocol bodies			
	Lunch				
	15:00-18:00	Groups of the Convention and Protocol bodies			
Friday, 10 Nov	10:00-13:00	Groups of the Convention and Protocol bodies	Facilitative Sharing of Views		
	Lunch				
	15:00-18:00	Groups of the Convention and Protocol bodies	Facilitative Sharing of Views to be followed by Multilateral Assessment		
	Evening				

Saturday, 11 Nov	10:00-13:00	Groups of the Convention and Protocol bodies			
	Lunch				
	15:00-18:00	Groups of the Convention and Protocol bodies			

Second week (13-17 November)					
	TIME	**Plenary meetings and meetings of groups of the Convention and Protocol bodies**	**Events and workshops**	**UNFCCC and special events**	
Monday, 13 Nov	10:00-13:00	Groups of the Convention and Protocol bodies			
	Lunch				
	15:00-18:00	Groups of the Convention and Protocol bodies			
	Evening				
Tuesday, 14 Nov	10:00-13:00	Groups of the Convention and Protocol bodies			
	Lunch				
	15:00-18:00	Groups of the Convention and Protocol bodies			
	Evening				

Second week (13-17 November)					
Wednesday, 15 Nov	10:00-13:00	Closing plenaries of the SBSTA, SBI and APA			
	Lunch				
	15:00-18:00	Opening of the high-level segment			
	Evening				
Thursday, 16 Nov	10:00-13:00	High-level segment (national statements)			
	Lunch				
	15:00-18:00	High-level segment (national statements)			
Friday, 17 Nov	10:00-13:00	Closing plenaries of the COP, CMP and CMA			
	Lunch				
	15:00-18:00	Closing plenaries to be continued as needed			

ADVANCE VERSION

United Nations

FCCC/CP/2017/1

Framework Convention on Climate Change

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Conference of the Parties
Twenty-third session
Bonn, 6–17 November 2017

Item 2(c) of the provisional agenda
Organizational matters
Adoption of the agenda

Provisional agenda and annotations

Note by the Executive Secretary

I. Provisional agenda

1. Opening of the session.
2. Organizational matters:
   - (a) Election of the President of the Conference of the Parties at its twenty-third session;
   - (b) Adoption of the rules of procedure;
   - (c) Adoption of the agenda;
   - (d) Election of officers other than the President;
   - (e) Admission of organizations as observers;
   - (f) Organization of work, including for the sessions of the subsidiary bodies;
   - (g) Dates and venues of future sessions;
   - (h) Adoption of the report on credentials.
3. Reports of the subsidiary bodies:
   - (a) Report of the Subsidiary Body for Scientific and Technological Advice;
   - (b) Report of the Subsidiary Body for Implementation;
   - (c) Report of the Ad Hoc Working Group on the Paris Agreement.
4. Preparations for the implementation of the Paris Agreement and the first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.
5. Consideration of proposals by Parties for amendments to the Convention under Article 15:
   - (a) Proposal from the Russian Federation to amend Article 4, paragraph 2(f), of the Convention;

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(b) Proposal from Papua New Guinea and Mexico to amend Articles 7 and 18 of the Convention.

6. Report of the Adaptation Committee.

7. Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts.

8. Development and transfer of technologies and implementation of the Technology Mechanism:

(a) Joint annual report of the Technology Executive Committee and the Climate Technology Centre and Network;

(b) Review of the effective implementation of the Climate Technology Centre and Network.

9. Second review of the adequacy of Article 4, paragraph 2(a) and (b), of the Convention.

10. Matters relating to finance:

(a) Long-term climate finance;

(b) Matters relating to the Standing Committee on Finance;

(c) Report of the Green Climate Fund to the Conference of th e Parties and guidance to the Green Climate Fund;

(d) Report of the Global Environment Facility to the Conference of the Parties and guidance to the Global Environment Facility;

(e) Sixth review of the Financial Mechanism;

(f) Process to identify the information to be provided by Parties in accordance with Article 9, paragraph 5, of the Paris Agreement.

11. Reporting from and review of Parties included in Annex I to the Convention.

12. Reporting from Parties not included in Annex I to the Convention.

13. Capacity-building under the Convention.

14. Implementation of Article 4, paragraphs 8 and 9, of the Convention:

(a) Implementation of the Buenos Aires programme of work on adaptation and response measures (decision 1/CP.10);

(b) Matters relating to the least developed countries.

15. Assessment of the technical examination processes on mitigation and adaptation.

16. Gender and climate change.

17. Other matters referred to the Conference of the Parties by the subsidiary bodies.

18. Administrative, financial and institutional matters:

(a) Audit report and financial statements for 2016;

(b) Budget performance for the biennium 2016–2017;

(c) Programme budget for the biennium 2018–2019;

(d) Decision-making in the UNFCCC process;

(e) Review of the process established by decision 14/CP.1 relating to the selection and nomination of the Executive Secretary (at the level of Under -Secretary-General) and the Deputy Executive Secretary (at the level of Assistant Secretary-General).

19. High-level segment:

(a) Statements by Parties;

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(b) Statements by observer organizations.

20. Other matters.

21. Conclusion of the session:

(a) Adoption of the draft report of the Conference of the Parties on its twenty-third session;

(b) Closure of the session.

II. Proposed organization of the session: overview

(a) Scenario for the launch and completion of work in all bodies

1. The President of the Conference of the Parties (COP) at its twenty-second session will open COP 23 and propose the election of the President of COP 23, who will also serve as the President of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) at its thirteenth session and the President of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) at the second part of its first session. The COP will then take up some of the organizational and procedural items on its provisional agenda, including the adoption of the agenda and the organization of work. The COP will refer items on its agenda to the subsidiary bodies, as appropriate. The opening plenary meeting of the COP will then be adjourned. CMP13 will then open and take up some of the organizational and procedural items on its provisional agenda. The opening plenary of the CMP will then be adjourned. CMA 1 will resume for the second part of its first session and take up some of the organizational and procedural items on its agenda. The resumed plenary of the CMA will then be adjourned.

2. After launching their work, the COP, the CMP and the CMA will convene a joint plenary meeting to hear statements made on behalf of groups of Parties. On the basis of the guidance from the Subsidiary Body for Implementation (SBI) urging Parties and presiding officers to conclude the conference in a timely manner,[1] it is envisaged that statements made on behalf of groups of Parties will be concise.

3. The following sessions of the subsidiary bodies have been scheduled in conjunction with COP 23, CMP 13 and CMA 1.2:

(a) Forty-seventh session of the Subsidiary Body for Scientific and Technological Advice (SBSTA);

(b) Forty-seventh session of the SBI;

(c) Fourth part of the first session of the Ad Hoc Working Group on the Paris Agreement (APA).

4. The COP, the CMP and the CMA will convene plenary meetings during the first week of the conference to take up the items on their agendas that have not been referred to the SBSTA, the SBI or the APA.

5. During the conference, the COP and the CMA will convene a joint meeting to review progress in the implementation of the work programme under the Paris Agreement.[2]

6. During the conference, meetings will be organized in line with the conclusions of the SBI[3] so as to ensure the observance of clear and effective working practices agreed to by all Parties.

7. In order to ensure that draft texts can be processed and made available in all United Nations official languages before the COP, the CMP and the CMA consider them for

[1] FCCC/SBI/2014/8, paragraph 218.
[2] Decision 1/CP.22, paragraph 11, and decision 1/CMA.1, paragraph 10.
[3] FCCC/SBI/2014/8, paragraphs 218–221.

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adoption, and to enable timely closure of the conference, all negotiations under the COP, the CMP and the CMA must conclude by Wednesday, 15 November.

8. In keeping with the conclusions adopted at SBI 40,[4] all meetings are scheduled to end by 6 p.m. each day in order to give Parties and regional groups sufficient time to prepare for daily meetings, but may, in exceptional circumstances and on a case-by-case basis, continue for two to three hours.

9. The SBI also recommended[5] that the secretariat, when organizing sessional periods, follow the practice of holding no more than two meetings of plenary and/or contact groups concurrently, with the total number of meetings held concurrently, including informal meetings, not exceeding six, to the extent possible. It further recommended that the secretariat continue to take into consideration, when scheduling meetings, the constraints faced by delegations and avoid clashes on similar issues, to the extent possible.

10. The principles of openness, transparency and inclusiveness will guide the organization of work leading up to and during the conference. To this end, efforts will continue, as at recent conferences, to demonstrate these principles through the use of informal plenary meetings, the enhanced availability of electronic documentation, timely meeting announcements and the broadcasting of meeting information on closed-circuit television, the UNFCCC website and Twitter.

(b) High-level segment

11. The inauguration of the high-level segment will take place in the afternoon of Wednesday, 15 November (see paras. 121–127 below).

(c) Mandated and other events

12. The high-level event on climate action[6] will open on Monday, 13 November, in the Bonn Zone and close on Wednesday, 15 November, in the Bula Zone in conjunction with the high-level segment.[7] During that period, the high-level climate champions, Mr. Inia Seruiratu and Ms. Hakima El Haite, will convene a series of events and round tables with high-level decision makers on key issues. The climate champions will also convene a series of events on specific thematic areas aimed at demonstrating progress, showcase success stories and highlight opportunities to further scale up action. The climate champions will report on the outcomes of these activities and their engagement throughout 2017 at the closing of the high-level event on Wednesday, 15 November.

13. The conference will be organized in two interlinked zones with all events taking place in the Bonn Zone. Further information on these events will be provided as it becomes available on the Information Hub on the UNFCCC website[8].

III. Annotations to the provisional agenda

1. Opening of the session

14. COP 23 will be opened by the President of COP 22, Mr. Salaheddine Mezouar (Morocco).

[4] FCCC/SBI/2014/8, paragraph 219.
[5] FCCC/SBI/2010/10, paragraph 164.
[6] Decision 1/CP.21, paragraph 120.
[7] See http://newsroom.unfccc.int/cop23bonninformationhub/cop23-information-hub-overview/ for information on the two zones.
[8] See http://newsroom.unfccc.int/cop23bonninformationhub/.

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2. Organizational matters

(a) Election of the President of the Conference of the Parties at its twenty-third session

15. *Background*: The President of COP 22 will call for t he election of Mr. Josaia Frank Voreqe Bainimarama, Prime Minister of Fiji, as President of COP 23. Mr. Bainimarama was nominated by the Asia -Pacific States in accordance with the principle of rotation of the Presidency among the regional groups. He will also serve as President of CMP 13 and CMA 1.2.

(b) Adoption of the rules of procedure

16. *Background*: At COP 22, Parties decided to continue to apply the draft rules of procedure contained in document FCCC/CP/1996/2, with the exception of rule 42, and agreed that the President would continue consultations during the intersessional period and report back to COP 23 in the event of any new developments.

17. *Action*: The COP may wish to decide to continue applying the draft rules of procedure and to invite the President of COP 23 to undertake consultations to try to achieve adoption of the rules.

FCCC/CP/1996/2	*Organizational matters: adoption of the rules of procedure. Note by the secretariat*

(c) Adoption of the agenda

18. *Background*: The secretariat, in agreement with the President of COP 22, has drafted the provisional agenda for COP 23, after consultations with the Bureau and Parties.

19. *Action*: The COP will be invited to adopt its agenda.

FCCC/CP/2017/1	*Provisional agenda and annotations. Note by the Executive Secretary*

(d) Election of officers other than the President

20. *Background*: At the request of the President of COP 22, consultations on nominations to the Bureau of COP 23, CMP 13 and CMA 1.2 were initiated during the sessions of the subsidiary bodies held in Bonn in May 2017 with the chairs and coordinators of regional groups and constituencies. Chairs and coordinators were informed that the deadline for submission of nominations is 10 November 2017. Parties are invited to recall decisions 36/CP.7 and 23/CP.18 and give activeconsideration to the nomination of women for elective posts in bodies established under the Convention.

21. *Action*: The COP will be invited to elect the members of the Bureau of COP 23, CMP 13 and CMA 1.2 at the earliest opportunity following completion of consultations.

Further information	*www.unfccc.int/6558.php*

(e) Admission of organizations as observers

22. *Background*: The COP will have before it document FCCC/CP/2017/2, containing the list of organizations seeking admission as observers, following review and consideration by the Bureau of COP 23, CMP 13 and CMA 1.2.[9]

23. *Action*: The COP will be invited to consider the list and admit the organizations as observers.

[9] In accordance with decisions 36/CMP.1 and 2/CMA.1, a single process will be used for the admission of observer organizations to sessions of the COP, the CMP and the CMA, with decisions on the admission of observer organizations being taken by the COP.

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FCCC/CP/2017/2	*Admission of observers: organizations applying for admission as observers. Note by the secretariat*

(f) Organization of work, including for the sessions of the subsidiary bodies

24. *Action*: The COP will be invited to agree upon the organization of the work of the session, including the proposed schedule of meetings (see paras.1–13 above) and the referral of items to the SBSTA and the SBI as indicated under the relevant agenda items.

25. The COP 22 President will report on the outcomes of the consultations on the special needs and special circumstances of Africa,[10] and on the request by Turkey to seek access to support from the Green Climate Fund (GCF) and the Climate Technology Centre and Network (CTCN) under the Paris Agreement by Parties whose special circumstances are recognized by the COP.[11]

26. In response to the recommendation of APA 1.3,[12] the COP may wish to address the need for procedural clarity with regard to the draft decision for consideration and adoption at CMA 1 on the matter referred to in paragraph 28(c)(ii) of the report on APA 1.3.[13]

27. CMP 12 invited[14] the COP to bring to the attention of the APA the information provided by the Adaptation Fund Board on the added value of the Adaptation Fund for the operationalization of the Paris Agreement.[15]

28. The COP will be invited to organize the work in a manner that is flexible enough to respond to changing circumstances and new developments, that is guided by the principles of openness, transparency and inclusiveness and that can ensure that mandates for COP 23 are addressed.

FCCC/CP/2017/1	*Provisional agenda and annotations. Note by the Executive Secretary*
FCCC/KP/CMP/2017/1	*Provisional agenda and annotations. Note by the Executive Secretary*
FCCC/PA/CMA/2017/1	*Agenda and annotations. Note by the Executive Secretary*
FCCC/SBSTA/2017/5	*Provisional agenda and annotations. Note by the Executive Secretary*
FCCC/SBI/2017/8	*Provisional agenda and annotations. Note by the Executive Secretary*
FCCC/APA/2017/3	*Agenda and annotations. Note by the Executive Secretary*

(g) Dates and venues of future sessions

29. *Background*: COP 22 decided[16] to adjust the dates of the second sessional period in 2018 to Monday, 3 December, to Friday, 14 December, and to accept[17] the offer of the Government of Poland to host COP 24.

30. Regarding other future sessions, in keeping with the principle of rotation among the regional groups, the President of COP 25 will come from the Latin American and Caribbean States and the President of COP 26 from the Western European and other States.

[10] FCCC/CP/2016/10, paragraph 155.
[11] FCCC/CP/2016/10, paragraphs 162 and 163.
[12] FCCC/APA/2017/2, paragraph 30.
[13] FCCC/APA/2017/2.
[14] Decision 2/CMP.12, paragraph 14.
[15] FCCC/KP/CMP/2016/2, addendum to annex I.
[16] Decision 24/CP.22, paragraph 7.
[17] Decision 24/CP.22, paragraph 9.

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31. SBI 46 recommended the dates for the sessional periods in 2022 and that the dates for the first sessional periods in 2018 and 2019 be amended to Monday, 30 April, to Friday, 11 May 2018, and Monday, 17 June, to Friday, 28 June 2019, respectively.[18]

32. *Action*: The COP must decide on the dates for the sessional periods in 2022. It may wish to invite interested Parties to present offers to host COP 25 and COP 26 and to take any further action it deems appropriate.

(h) Adoption of the report on credentials

33. *Background*: According to rule 19 of the draft rules of procedure being applied, the credentials of representatives of Parties, as well as the names of alternate representatives and advisers, shall be submitted to the secretariat not later than 24 hours after the opening of the session. Any later change in the composition of the delegations shall also be submited to the secretariat. The credentials shall be issued either by the Head of State or Government or by the Minister of Foreign Affairs or, in the case of a regional economic integration organization, by the competent authority of that organization. The Bureau will examine the credentials and submit its report on credentials for adoption by the COP (see rule 20 of the draft rules of procedure). Representatives shall be entitled to participate provisionally in the session, pending a decision by the COP to accept their credentials (see rule 21 of the draft rules of procedure). Only Parties with valid credentials would be able to participate in the adoption of amendments to the Convention, a protocol or another legal instrument. The COP will have before it for adoption the report on credentials, to be submitted by the Bureau.

34. *Action*: The COP will be invited to adopt the report on credentials of the representatives of Parties attending COP 23. Representatives may participate provisionally, pending this action.

3. Reports of the subsidiary bodies

(a) Report of the Subsidiary Body for Scientific and Technological Advice

35. *Background*: The Chair of the SBSTA will report, inter alia, on any recommendations of draft decisions or conclusions for consideration and adoption at COP 23 arising from the work conducted at SBSTA 46 and 47 and on any other issues that have been mandated for consideration by the SBSTA.

36. *Action*: The COP will be invited to take note of the progress made in the work of the SBSTA in 2017 and to consider the recommended draft decisions or conclusions for adoption.

FCCC/SBSTA/2017/4 and Add.1	*Report of the Subsidiary Body for Scientific and Technological Advice on its forty-sixth session, held in Bonn from 8 to 18 May 2017*

(b) Report of the Subsidiary Body for Implementation

37. *Background*: The Chair of the SBI will report, inter alia, on any recommendations of draft decisions or conclusions for consideration and adoption at COP 23 arising from the work conducted at SBI 46 and 47 and on any other issues that have been mandated for consideration by the SBI.

38. *Action*: The COP will be invited to take note of the progress made in the work of the SBI in 2017 and to consider the recommended draft decisions or conclusions for adoption.

FCCC/SBI/2017/7 and Add.1	*Report of the Subsidiary Body for Implementation on its forty-sixth session, held in Bonn from 8 to 18 May 2017*

[18] FCCC/SBI/2017/7, paragraphs 112 and 115.

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EPA-HQ-2018-007113 Production Set #1

(c) Report of the Ad Hoc Working Group on the Paris Agreement

39. *Background*: COP 21 established the APA to prepare for the entry into force of the Paris Agreement and for the convening of CMA 1. The Co-Chairs of the APA will report on the progress of its work in preparing for the convening of CMA 1.

40. *Action*: The COP will be invited to consider the report of the APA on the progress of its work in 2017 and to take any action it deems appropriate.

FCCC/APA/2017/2	*Report of the Ad Hoc Working Group on the Paris Agreement on the third part of its first session, held in Bonn from 8 to 18 May 2017*

4. Preparations for the implementation of the Paris Agreement and the first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement

41. *Background*: COP 21 decided to oversee the implementation of the work programme resulting from the relevant requests contained indecision 1/CP.21.[19] Further, at the invitation of the CMA, COP 22 decided to continue to over see the implementation of the work programme under the Paris Agreement, to conclude the work programme as soon as possible and to forward the outcomes to CMA 1.3, at the latest, for its consideration and adoption.[20]

42. The COP also decided to convene a joint meeting with CMA 1.2 in order to review progress in the implementation of the work programme under the Paris Agreement.[21]

43. The Presidents of COP 22 and 23 will report on the preparations for the 2018 facilitative dialogue, informed by their consultations with Parties.[22]

44. *Action*: The COP will be invited to review , jointly with the CMA , progress in the implementation of the work programme under the Paris Agreement and to take any action it deems appropriate. The COP mayalso wish to take any action it deems appropriate regarding the 2018 facilitative dialogue.

FCCC/SBSTA/2017/4	*Report of the Subsidiary Body for Scientific and Technological Advice on its forty-sixth session, held in Bonn from 8 to18 May 2017*
FCCC/SBI/2017/7	*Report of the Subsidiary Body for Implementation on its forty-sixth session, held in Bonn from 8 to 18 May 2017*
FCCC/APA/2017/2	*Report of the Ad Hoc Working Group on the Paris Agreement on the third part of its first session, held in Bonn from 8 to 18 May 2017*

5. Consideration of proposals by Parties for amendments to the Convention under Article 15

45. *Background*: Article 15 of the Convention contains procedures for amending the Convention. In accordance with Article 15, Parties submitted two proposals for consideration at COP 17.

(a) Proposal from the Russian Federation to amend Article 4, paragraph 2(f), of the Convention

46. *Background*: By a letter dated 24 May 2011, the Russian Federation transmitted to the secretariat the text of a proposal for an amendment to Article 4, paragraph 2(f), of the Convention. The secretariat communicated the proposal to Parties and signatories to the

[19] Decision 1/CP.21, paragraph 9.
[20] Decision 1/CP.22, paragraphs 7 and 12.
[21] Decision 1/CP.22, paragraph 11.
[22] Decision 1/CP.22, paragraph 16.

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EPA-HQ-2018-007113 Production Set #1

Convention six months before COP 17 and sent it, for information, to the Depositary on 22 June 2011.

47. COP 22 agreed that this matter would be included on the provisional agenda for COP 23, noting the understanding that it would be held in abeyance for the session.[23]

48. *Action*: The COP will be invited to hold this sub-item in abeyance at the adoption of the agenda.

FCCC/CP/2011/5	*Proposal from the Russian Federation to amend Article 4, paragraph 2(f), of the Convention. Note by the secretariat*

(b) Proposal from Papua New Guinea and Mexico to amend Articles 7 and 18 of the Convention

49. By a letter dated 26 May 2011, Papua New Guinea and Mexico transmitted to the secretariat the text of a proposal for amendments to Articles 7 and 18 of the Convention. The secretariat communica ted the proposal to Parties and signatories to the Convention six months before COP 17 and sent it, for information, to the Depositary on 22 June 2011.

50. At COP 17, the President noted that a revised proposal had been received. [24] COP 22 decided to include the matter on the provisional agenda for COP 23.[25]

51. *Action*: The COP will be invited to consider the proposal and to take any action it deems appropriate.

FCCC/CP/2011/4/Rev.1	*Revised proposal from Papua New Guinea and Mexico to amend Articles 7 and 18 of the Convention. Note by the secretariat*

6. Report of the Adaptation Committee

52. *Background*: COP 17 requested the Adaptation Committee to report annually to the COP through the subsidiary bodies.[26]

53. *Action*: The COP will be invited to refer this item to the SBSTA and the SBI for their consideration and to take any action it deems appropriate on the basis of the recommendations of the SBSTA and the SBI. The COP will also be invited to elect members of the Adaptation Committee.

FCCC/SB/2017/2	*Report of the Adaptation Committee*
Further information	*www.unfccc.int/6053 and www.unfccc.int/6558.php*

7. Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts

54. *Background*: COP 19 established the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, including extreme events and slow onset events, in developing countries that are particularly vulnerable to the adverse effects of climate change.[27]

55. COP 19 also established an Executive Committee that shall function under the guidance of, and be accountable to, the COP to guide the implementation of the functions of the Warsaw International Mechanism, and requested the Executive Committee to report annually to the COP through the SBSTA and the SBI and to make recommendations, as appropriate.[28] COP 21 adopted the Paris Agreement, which states in its Article 8, paragraph

[23] FCCC/CP/2016/10, paragraph 72.
[24] FCCC/CP/2011/4/Rev.1.
[25] FCCC/CP/2016/10, paragraph 75.
[26] Decision 2/CP.17, paragraph 96.
[27] Decision 2/CP.19, paragraph 1.
[28] Decision 2/CP.19, paragraphs 2 and 3.

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EPA-HQ-2018-007113 Production Set #1

2, that the Warsaw International Mechanism shall be subject to the authority and guidance of the CMA.[29]

56. COP 21 requested the Executive Committee to establish a clearing house for risk transfer that serves as a repository for information on insurance and risk transfer, and a task force to develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change. It also requested the Executive Committee to report on progress thereon in its annual report.[30]

57. *Action*: The COP will be invited to refer this item to the SBSTA and the SBI for their consideration and to take any action it deems appropriate on the basis of the recommendations of the SBSTA and the SBI. The COP will also be invited to elect members of the Executive Committee.

FCCC/SB/2017/1 and Add. 1	*Report of the Executive Committee of the Warsaw International Mechanism on Loss and Damage associated with Climate Change Impacts*
Further information	www.unfccc.int/7545 *and* *www.unfccc.int/6558.php*

8. Development and transfer of technologies and implementation of the Technology Mechanism

(a) Joint annual report of the Technology Executive Committee and the Climate Technology Centre and Network

58. *Background*: COP 16 decided that the Technology Executive Committee (TEC) and the CTCN shall report to the COP, through the subsidiary bodies, on their respective activities and the performance of their respective functions.[31]

59. *Action*: The COP will be invited to refer this sub-item to the SBSTA and the SBI for their consideration and to take any action it deems appropriate on the basis of the recommendations of the SBSTA and the SBI. The COP will also be invited to elect members of the Advisory Board of the CTCN and the TEC.

FCCC/SB/2017/3	*Joint annual report of the Technology Executive Committee and the Climate Technology Centre and Network for 2017*
Further information	*www.unfccc.int/ttclear/* *and* *www.unfccc.int/6558.php*

(b) Review of the effective implementation of the Climate Technology Centre and Network

60. *Background*: COP 17 agreed on the arrangements to make the Technology Mechanism fully operational in 2012 and adopted the terms of reference for the CTCN and the selection process for the host of the Climate Technology Centre (CTC).[32] It requested the secretariat, subject to the availability of resources, to commission an independent review of the effective implementation of the CTCN four years after its inception.[33] The findings of the review, including any recommendations regarding enhancing the performance of the CTCN, will be considered by the COP. Subsequently, periodic independent reviews of the effectiveness of the CTCN will be conducted every four years.

61. COP 17 decided that the initial term of the agreement to host the CTC will be for five years, with two four-year renewal periods, if so decided by the COP.[34] The renewal of the

[29] See also decisions 1/CP.22, paragraph 7, and 1/CMA.1, paragraph 5.
[30] Decision 1/CP.21, paragraphs 48–50.
[31] Decision 1/CP.16, paragraph 126.
[32] Decision 2/CP.17, paragraph 133.
[33] Decision 2/CP.17, annex VII, paragraph 20.
[34] Decision 2/CP.17, annex VII, paragraph 21.

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EPA-HQ-2018-007113 Production Set #1

agreement is subject to the host organization fulfilling its functions laid out in decision 2/CP.17, annex VII, paragraph 2, and its responsiveness to the direction given to it in decision 2/CP.17, annex VII, paragraphs 4–6, as identified in the findings of the independent review, referred to in paragraph 60 above.

62. COP 18 decided that the United Nations Environment Programme (UNEP), as the leader of the consortium of partner institutions, would be selected as the host of the CTC for an initial term of five years, with possible renewal if so decided by COP 23.[35] COP 18 adopted a memorandum of understanding (MOU) between the COP and UNEP regarding the hosting of the CTC.[36]

63. At the request of the COP referred to in paragraph 60 above, the secretariat has commissioned an independent review. The report containing the findings of and recommendations arising from the review will be made available for consideration at COP 23.

64. *Action*: The COP will be invited:

(a) To consider the findings of, and recommendations arising from, the independent review referred to in paragraph 60 above and to determine any further follow-up actions for enhancing the performance of the CTCN;

(b) To consider matters relating to the renewal of the MOU between the COP and UNEP regarding the hosting of the CTC and to determine any follow-up action, as appropriate.

FCCC/CP/2017/3	*Report on the independent review of the effective implementation of the Climate Technology Centre and Network*
Further information	www.unfccc.int/ttclear/

9. Second review of the adequacy of Article 4, paragraph 2(a) and (b), of the Convention

65. *Background*: Article 4, paragraph 2(d), of the Convention provides that a second review of the adequacy of Article 4, paragraph 2(a) and (b), shall take place not later than 31 December 1998. At COP 4, the COP President informed Parties that it had proved impossible to reach any agreed conclusions or decisions on the matter. During the consideration of the provisional agenda for COP 5, the Group of 77 and China proposed amending the item to read "Review of the adequacy of implementation of Article 4, paragraph 2(a) and (b), of the Convention". There was no agreement on this and the COP adopted the agenda for that session with the item held in abeyance. This item was included on the provisional agendas for COP 6 up to and including COP 12, with a footnote reflecting the amendment proposed by the Group of 77 and China. COP 13, acting on a proposal by the President, decided to invite the Executive Secretary to reflect on the situation in the light of developments at that session and come forward with proposals to be considered at SBI 28. On a proposal by the President, and on the basis of the recommendation made by the SBI, it was decided at COP 14 to defer consideration of this item to COP 16.[37] COP 16, acting on a proposal by the President, deferred its consideration of the item, pursuant to rule 13 of the draft rules of procedure being applied, to COP 17. At COP 17, 18, 19, 20, 21 and 22, the agenda was adopted with the item held in abeyance and the President undertook consultations on the matter and reported back to Parties on the outcome of the consultations. COP 22 agreed that, in accordance with rule 16 of the draft rules of procedure being applied, this item will be considered at COP 23.

66. *Action*: The COP will be invited to consider this item and to take any action it deems appropriate.

[35] Decision 14/CP.18, paragraph 2.
[36] Decision 14/CP.18, annex I.
[37] FCCC/CP/2008/7, paragraph 10.

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EPA-HQ-2018-007113 Production Set #1

10. Matters relating to finance

(a) Long-term climate finance

67. *Background*: COP 20 requested the secretariat to organize annual in-session workshops through to 2020 and to prepare a summary report on the workshops for annual consideration by the COP and the biennial high-level ministerial dialogue on climate finance.[38] COP 22 decided that in 2017 the in-session workshops would, with a view to scaling up climate finance for mitigation and adaptation, focus on experience and lessons learned in relation to:

(a) Articulating and translating needs identified in country-driven processes into projects and programmes;

(b) Roles and policies and enabling environments for mitigation and adaptation finance;

(c) Facilitating enhanced access.[39]

68. COP 22 requested the secretariat to prepare a compilation and synthesis of the biennial submissions on the strategies and approaches for scaling up climate finance from 2014 to 2020, in order to inform the in-session workshops.[40]

69. An in-session workshop on long-term climate finance was organized in conjunction with the forty-sixth sessions of the subsidiary bodies and APA 1.3 in May 2017. The secretariat prepared a summary report on the workshop for consideration by the COP.

70. *Action*: The COP will be invited to consider the summary report on the workshop and to take any necessary action as deemed appropriate. The COP will also be invited to provide guidance on the organization of future workshops on long-term climate finance.

FCCC/CP/2017/4	*In-session workshop on long-term climate finance in 2017. Summary report by the secretariat*
FCCC/CP/2017/8	*Second biennial high-level ministerial dialogue on climate finance: a multi-stakeholder approach to the mobilization and delivery of adaptation finance. Note by the President*
Further information	*www.unfccc.int/6814.php*

(b) Matters relating to the Standing Committee on Finance

71. *Background*: COP 17 decided that the Standing Committee on Finance (SCF) shall, at each ordinary session of the COP, report and make recommendations to the COP, for its consideration, on all aspects of its work.[41]

72. COP 22 requested the SCF to report to COP 23 on the progress made in the implementation of its workplan.[42]

73. COP 22 adopted the terms of reference for the review of the functions of the SCF. Furthermore, SBI 46 was requested to initiate work on the review of the functions of the SCF in accordance with the terms of reference contained in the annex to decision 9/CP.22, taking into account the submissions referred to in paragraph 3 of decision 9/CP.22. Additionally, SBI 47 was requested to complete the work on the review of the SCF with a view to recommending a draft decision on the matter for consideration and adoption at COP 23.[43]

[38] Decision 5/CP.20, paragraph 12.
[39] Decision 7/CP.22, paragraph 12.
[40] Decision 7/CP.22, paragraph 10.
[41] Decision 2/CP.17, paragraph 120.
[42] Decision 8/CP.22, paragraph 11.
[43] Decision 9/CP.22, paragraphs 1, 4 and 6.

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74. *Action*: The COP will be invited to consider the report of the SCF and to take any action it deems appropriate. The COP will also be invited to consider and adopt the draft decision prepared by the SBI on the review of the functions of the SCF.

FCCC/CP/2017/9	*Report of the Standing Committee on Finance*
FCCC/TP/2017/4	*Review of the functions of the Standing Committee on Finance. Technical paper by the secretariat*
Further information	*www.unfccc.int/6877*

(c) Report of the Green Climate Fund to the Conference of the Parties and guidance to the Green Climate Fund

75. *Background*: The Board of the GCF submits an annual report to the COP, as provided for in its governing instrument, containing information such as on the implementation of the guidance provided at COP 22[44] and in any other relevant decisions of the COP.

76. The SCF will provide draft guidance to the GCF for consideration by the COP based on the annual report of the GCF to the COP, inputs from the thematic bodies under the Convention and views submitted by Parties.[45]

77. *Action*: The COP will be invited to provide guidance to the GCF on policies, programme priorities and eligibility criteria, taking into consideration the reports of the GCF and the SCF as well as the annual report to the COP on the operation of the registry of nationally appropriate mitigation actions.

FCCC/CP/2017/5 and Add.1	*Report of the Green Climate Fund to the Conference of the Parties. Note by the secretariat*
FCCC/CP/2017/9	*Report of the Standing Committee on Finance*
FCCC/CP/2017/INF.3	*Operation of the registry of nationally appropriate mitigation actions. Report by the secretariat*
Further information	*www.unfccc.int/5869*

(d) Report of the Global Environment Facility to the Conference of the Parties and guidance to the Global Environment Facility

78. *Background*: The MOU between the COP and the Council of the Global Environment Facility (GEF) provides that the GEF will report annually to the COP on the implementation of the guidance received. The GEF is expected to report on actions taken to implement the guidance provided at COP 22[46] and in any other relevant decisions of the COP.

79. The SCF will provide draft guidance to the GEF for consideration by the COP based on the annual report of the GEF to the COP, inputs from the thematic bodies under the Convention and views submitted by Parties.[47]

80. *Action*: The COP will be invited to provide guidance to the GEF on policies, programme priorities and eligibility criteria, taking into consideration the reports of the GEF and the SCF as well as the annual report to the COP on the operation of the registry of nationally appropriate mitigation actions.

FCCC/CP/2017/7 and Add.1	*Report of the Global Environment Facility to the Conference of the Parties. Note by the secretariat*
FCCC/CP/2017/9	*Report of the Standing Committee on Finance*

[44] Decision 10/CP.22, paragraph 16.
[45] Decision 2/CP.17, paragraph 121(c).
[46] Decision 11/CP.22, paragraph 22.
[47] Decision 2/CP.17, paragraph 121(c).

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EPA-HQ-2018-007113 Production Set #1

FCCC/CP/2017/INF.3	*Operation of the registry of nationally appropriate mitigation actions. Report by the secretariat*
Further information	*www.unfccc.int/3655*

(e) Sixth review of the Financial Mechanism

81. *Background*: COP 4 decided to review the Financial Mechanism every four years in accordance with Article 11, paragraph 4, of the Convention.[48] COP 17 decided that the SCF shall assist the COP in exercising its functions with respect to the Financial Mechanism by, inter alia, providing expert input, including through independent reviews and assessments, to the preparation and conduct of the periodic reviews of the Financial Mechanism by the COP.[49]

82. COP 20 decided to initiate the sixth review of the Financial Mechanism at COP 22, in accordance with the criteria contained in the guidelines annexed to decision 8/CP.19, or as the guidelines may be subsequently amended.[50] COP 22 adopted the updated guidelines for the sixth review and requested the SCF to provide expert input to the review, with a view to the review being finalized at COP 23.[51]

83. *Action*: The COP will be invited to consider the expert input provided by theSCF and to adopt a decision concluding the sixth review of the Financial Mechanism.

FCCC/CP/2017/9	*Report of the Standing Committee on Finance*
Further information	*www.unfccc.int/3658*

(f) Process to identify the information to be provided by Parties in accordance with Article 9, paragraph 5, of the Paris Agreement

84. *Background*: The COP decided to initiate, at COP 22, a process to identify the information to be provided by Parties, in accordance with Article 9, paragraph 5, of the Paris Agreement, with a view to providing a recommendation for consideration and adoption at CMA 1.[52] COP 22 requested the secretariat to organize a round-table discussion among Parties during the forty-sixth sessions of the subsidiary bodies and to prepare a summary report thereon for consideration at COP 23.[53]

85. *Action*: The COP will be invited to advance w ork on this matter with a view to providing a recommendation for consideration and adoption at CMA 1.

FCCC/CP/2017/INF.2	*Round-table discussion on the process to identify information to be provided under Article 9, paragraph 5, of the Paris Agreement. Summary report by the secretariat*
Further information	*www.unfccc.int/10157*

11. Reporting from and review of Parties included in Annex I to the Convention

86. *Background*: SBSTA 46 recommended a draft decision on thetraining programme for review experts for the technical review of biennial reports and national communications of Parties included in Annex I to the Convention for consideration and adoption at COP 23.[54]

[48] Decision 3/CP.4, paragraph 2.
[49] Decision 2/CP.17, paragraph 121(e).
[50] Decision 9/CP.20, paragraph 8.
[51] Decision 12/CP.22, paragraphs 1 and 2.
[52] Decision 1/CP.21, paragraph 55.
[53] Decision 13/CP.22, paragraphs 2 and 3.
[54] Contained in document FCCC/SBSTA/2017/4/Add.1.

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EPA-HQ-2018-007113 Production Set #1

87. See the SBI 47 provisional agenda and annotations[55] for further details.

88. *Action*: The COP will be invited to refer this item to the SBI for its consideration and to take any action it deems appropriate on the basis of the recommendations of the SBI. The COP will also be invited to consider and adopt the draft decision referred to in paragraph 86 above.

12. Reporting from Parties not included in Annex I to the Convention

89. *Background*: See the SBI 47 provisional agenda and annotations for further details.

90. COP 17 decided to revise the modalities and guidelines for international consultation and analysis on the basis of experience gained in the first round, by no later than 2017.[56]

91. *Action*: The COP will be invited to refer this item to the SBI for its consideration and to take any action it deems appropriate on the basis of the recommendations of the SBI.

13. Capacity-building under the Convention

92. *Background*: The Paris Committee on Capacity -building (PCCB) is mandated to prepare annual technical progress reports on its work for submission to the COP through the SBI and will make these reports available at the sessions of the SBI coinciding with the session of the COP.[57]

93. COP 22 requested the SBI to organize the first meeting of the PCCB in conjunction with the forty-sixth sessions of the subsidiary bodies.[58] Further, the PCCB was requested to develop and adopt its working modalities and procedures at its first meeting.[59]

94. See the SBI 47 provisional agenda and annotations for further details.

95. *Action*: The COP will be invited to refer this item to the SBI for its consideration and to take any action it deems appropriate on the basis of the recommendations of the SBI.

FCCC/SBI/2017/11	*Annual technical progress report of the Paris Committee on Capacity-building*
Further information	*www.unfccc.int/10251*

14. Implementation of Article 4, paragraphs 8 and 9, of the Convention

(a) Implementation of the Buenos Aires programme of work on adaptation and response measures (decision 1/CP.10)

96. *Background*: See the SBSTA 47 provisional agenda and annotations[60] and the SBI 47 provisional agenda and annotations for further details.

97. *Action*: The COP will be invited to refer this sub-item to the SBSTA and the SBI for their consideration and to take any action it deems appropriate on the basis of the recommendations of the SBSTA and the SBI.

(b) Matters relating to the least developed countries

98. *Background*: See the SBI 47 provisional agenda and annotations for further details.

99. *Action*: The COP will be invited to refer this sub-item to the SBI for its consideration and to take any action it deems appropriate on the basis of the recommendations of the SBI.

[55] FCCC/SBI/2017/8.
[56] Decision 2/CP.17, paragraph 58(c).
[57] Decision 2/CP.22, annex, paragraph 17.
[58] Decision 2/CP.22, paragraph 6.
[59] Decision 2/CP.22, paragraph 5.
[60] FCCC/SBSTA/2017/5.

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15. Assessment of the technical examination processes on mitigation and adaptation

100. *Background*: COP 19 decided to intensify , from 2014, the technical examin ation of opportunities for actions with high mitigation potential, including those with adaptation and sustainable development co -benefits, with a focus on the implementation of policies, practices and technologies that are substantial, scalable and replic able, with a view to promoting voluntary cooperation on concrete actions in relation to identified mitigation opportunities in accordance with nationally defined development priorities.[61] COP 20 decided to continue the technical examination of opportunitieswith high mitigation potential, including those with adaptation, health and sustainable development co -benefits, in the period 2015–2020.[62] In addition, COP 21 decided to launch, in the period 2016 2020, a technical examination process on adaptation.[63]

101. COP 21 also decided to conduct an assessment of the technical examination processes on mitigation[64] and adaptation[65] in 2017.

102. *Action*: The COP will be invited to assess the technical examination processes and to take any action it deems necessary.

Further information	*For adaptation:* http://tep-a.org *For mitigation:* http://unfccc.int/resource/climateaction2020/ http://unfccc.int/files/paris_agreement/application/pdf/gca_approach.pdf

16. Gender and climate change

103. *Background*: COP 22 requested the secretariat to continue to prepare the annual report on gender composition in accordance with decisions 23/CP.18 and 18/CP.20.[66]

104. In addition, COP 22 decided to convene annual in -session workshops to be held in conjunction with the sessions of the subsidiary bodies in the first sessional period s of 2018 and 2019. It requested the SBI to elaborate the topics for the workshops during 2017 and to report on the topics that it recommends for the workshops to COP 23.[67]

105. Further, COP 22 requested the secretariat to prepare a technical paper on achieving the goal of gender balance as mandated by decisions 36/CP.7 and 23/CP.18, for consideration at COP 23.[68]

106. See the SBI 47 provisional agenda and annotations for further details.

107. *Action*: The COP will be invited to refer this item to the SBI for its consideration and to take any action it deems appropriate on the basis of the recommendations of the SBI.

FCCC/CP/2017/6	*Gender composition. Report by the secretariat*
FCCC/TP/2017/8	*Achieving the goal of gender balance. Technical paper by the secretariat*
Further information	www.unfccc.int/7516.php

[61] Decision 1/CP.19, paragraph 5(a).
[62] Decision 1/CP.20, paragraph 19.
[63] Decision 1/CP.21, paragraph 124.
[64] Decision 1/CP.21, paragraph 113.
[65] Decision 1/CP.21, paragraph 131.
[66] Decision 21/CP.22, paragraph 19.
[67] Decision 21/CP.22, paragraphs 11 and 12.
[68] Decision 21/CP.22, paragraph 20.

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17. Other matters referred to the Conference of the Parties by the subsidiary bodies

108. *Background*: Any other matters concerning the Convention referred to the COP by the subsidiary bodies will be taken up under this agenda item.

109. *Action*: The COP will be invited to consider for adoption any other draft decisions or conclusions recommended by the subsidiary bodies under this agenda item.

18. Administrative, financial and institutional matters

(a) Audit report and financial statements for 2016

110. *Background*: See the SBI 47 provisional agenda and annotations for further details.

111. *Action*: The COP will be invited to refer this sub-item to the SBI for its consideration and to take any action it deems appropriate on the basis of the recommendations of the SBI.

(b) Budget performance for the biennium 2016–2017

112. *Background*: See the SBI 47 provisional agenda and annotations for further details.

113. *Action*: The COP will be invited to refer this sub-item to the SBI for its consideration and to take any action it deems appropriate on the basis of the recommendations of the SBI.

(c) Programme budget for the biennium 2018–2019

114. *Background*: SBI 46 recommended a draft decision on the programme budget for the biennium 2018–2019 for consideration and adoption at COP 23.[69]

115. *Action*: The COP will be invited to consider and adopt the draft decision referred to in paragraph 114 above.

(d) Decision-making in the UNFCCC process

116. *Background*: COP 22 received a report from the President of COP 21 on the forward-looking, open-ended informal consultations on decision-making in the UNFCCC process that were convened in conjunction with SBSTA 44.[70] COP 22 continued consideration of this matter; however, Parties were unable to conclude their consideration. In accordance with rules 10(c) and 16 of the draft rules of procedure being applied, this matter has been included on the provisional agenda for COP 23.

117. *Action*: The COP will be invited toconsider this matter and to take any action it deems appropriate.

(e) Review of the process established by decision 14/CP.1 relating to the selection and nomination of the Executive Secretary (at the level of Under-Secretary-General) and the Deputy Executive Secretary (at the level of Assistant Secretary-General)

118. *Background*: COP 22 requested SBI 46 to consider this matter with a view to forwarding a recommendation to COP 23.[71]

119. See the SBI 47 provisional agenda and annotations for further details.

120. *Action*: The COP will be invited to refer this sub-item to the SBI for its consideration and to take any action it deems appropriate on the basis of the recommendations of the SBI.

FCCC/CP/2016/INF.2	*Background information on decision 14/CP.1 and the process to appoint the Executive Secretary. Note by the secretariat*

[69] Contained in document FCCC/SBI/2017/7/Add.1.
[70] FCCC/CP/2016/10, paragraphs 139 and 140.
[71] FCCC/CP/2016/10, paragraph 148.

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19. High-level segment

121. The inauguration of the high-level segment will take place in the afternoon of Wednesday, 15 November. National statements will be heard in the joint plenary meetings of the COP, the CMP and the CMA to be held on Wednesday, 15 November, and Thursday, 16 November, followed by the statements of the representatives of intergovernmental and observer organizations.

122. The COP, the CMP and the CMA will hold separate meetings on Friday, 17 November, to conclude their work.

(a) Statements by Parties

123. National statements may be delivered by the Head of State or Government, a minister or the head of delegation.

124. There will be one list of speakers and each Party, including Parties to the Convention, the Kyoto Protocol and the Paris Agreement, may speak only once. Parties may wish to note that, as per SBI guidance urging Parties and presiding officers to conclude conferences in a timely manner,[72] statements must not exceed three minutes. Statements on behalf of groups, where other members of the group do not speak, are strongly encouraged and will be accorded additional time. Time limits will be strictly enforced. Following United Nations practice, a mechanism, in this case a bell system, will signal to speakers when the time limit has been exceeded. Speakers will be interrupted should they exceed the time limit.

125. The full text of the official statements will be posted on the UNFCCC website and will not be circulated in hard copy. In order to have a statement posted on the UNFCCC website, Parties speaking at the high-level segment are requested to send a copy of the statement in advance to external-relations@unfccc.int.

126. Registration for the list of speakers will be open from Monday, 10 July, to Friday, 27 October 2017. Information related to the list, including a registration form, was included in the notification of the sessions sent to Parties on 10 July 2017.[73]

(b) Statements by observer organizations

127. Representatives of intergovernmental and observer organizations will be invited to make statements upon conclusion of the national statements. The time limit of two minutes per statement will be strictly enforced (see para. 124 above). The full text of the official statements will be posted on the UNFCCC website and will not be circulated in hard copy (see para. 125 above).

20. Other matters

128. Any other matters for the attention of the COP will be taken up under this agenda item.

21. Conclusion of the session

(a) Adoption of the draft report of the Conference of the Parties on its twenty-third session

129. *Background*: A draft report on the session will be prepared for adoption by the COP at the end of the session.

130. *Action*: The COP will be invited to adopt the draft report and authorize the Rapporteur to complete the report after the session under the guidance of the President and with the assistance of the secretariat.

[72] FCCC/SBI/2014/8, paragraph 218.

[73] http://unfccc.int/files/parties_and_observers/notifications/application/pdf/notification_to_parties_cop_23.pdf.

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(b) Closure of the session

131. The President will declare the session closed.

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BCSE DELEGATION to the 23rd CONFERENCE OF THE PARTIES TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (COP 23)

November 6 -17, 2017

Business Council for Sustainable Energy
Ms. Lisa Jacobson, President
Ms. Laura Tierney, Director, International Programs
Ms. Carolyn Sloan, Manager, Federal Policy
Mr. Mike Penansky, Master of Public Policy Candidate '19, Sanford School of Public Policy, Duke University

Alliance to Save Energy
Ms. Laura Van Wie McGrory, Vice President, Strategic Initiatives

American Carbon Registry, an enterprise of Winrock International
Ms. Mary Grady, Deputy Director
Mr. Arjun Patney, Policy Director

Corn Refiners Association
Mr. Ben Gruitt, Director, Sustainability & Advanced Bioproducts
Mr. Kyle Harris, Manager, Environmental Affairs/ Workplace Safety

Fuel Cell & Hydrogen Energy Association
Mr. Morry Markowitz, President & Executive Director

Global Policy Associates
Mr. James Wolf, President and Consultant to Jupiter Oxygen Corporation

Ingersoll Rand
Mr. W. Scott Tew, Director, Center for Energy Efficiency and Sustainability
Mr. Jeff Moe, Director, Global Product Advocacy

Johnson Controls
Mr. Clay Nesler, Vice President, Global Sustainability and Industry Initiatives

Jupiter Oxygen Corporation
Mr. Thomas Weber, President

Mars, Inc.
Mr. Kevin Rabinovitch, Vice President, Global Sustainability
Ms. Ashley Allen, Climate and Land Senior Manager

MEG LLC
Ms. Amber Leonard, Managing Director
Dr. Irving Mintzer, Principal

PG&E Corporation
Mr. Steve Malnight, Senior Vice President, Strategy and Policy
Ms. Melissa Lavinson, Vice President, Federal Affairs and Policy and Chief Sustainability Officer
Mr. Ray Williams, Director, Climate Policy and Analysis

Philips Lighting
Mr. Harry Verhaar, Head of Global Public & Government Affairs
Mr. Bill Bien, CMO, Head of Strategy

Scepter Inc.
Mr. Jon Jacobs, Advisor, Government Relations
Mr. Peter Rosti, Vice President, Technology

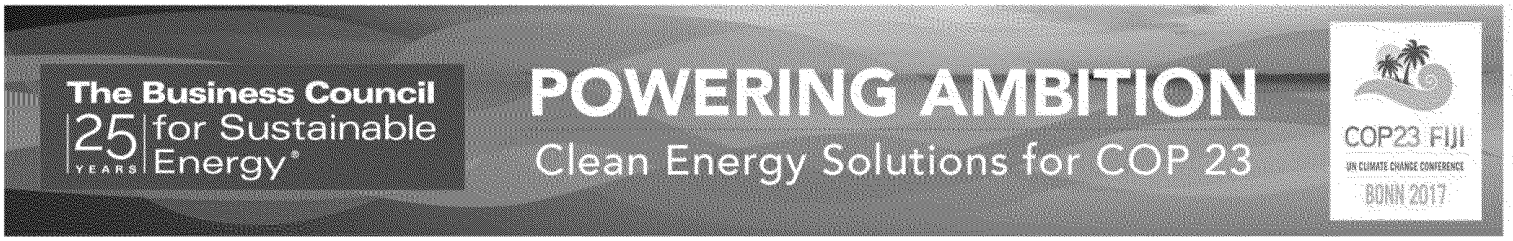
U.S. Green Building Council
Ms. Elizabeth Beardsley, Senior Policy Counsel
Ms. Gretchen Sweeney, Vice President for Technical Solutions

Wedgemere, Inc.
Mr. Dan Delurey, President

Winrock International
Mr. John Kadyszewski, Senior Director, Strategic Initiatives and Director, American Carbon Registry
Mr. Amit Bando, Senior Director, Clean Energy and Water Group

World Resources Institute
Ms. Jennifer Layke, Global Director, Energy Program

For more information, please contact Laura Tierney, BCSE (ltierney@bcse.org).



BCSE SCHEDULE OF PUBLIC & PRIVATE EVENTS at COP 23
November 6-17, 2017
Updated: October 20, 2017, Not for External Distribution

Monday, November 6 – Friday, November 17

UNFCCC Exhibit Booth – Hosted by the Business Council for Sustainable Energy and the U.S. Green Building Council in the Bonn Zone, accreditation required.

Thursday, November 9

UNFCCC Side Event as part of Business & Industry Day

Mobilizing the Business of Clean & Productive Energy
Co-hosted by the Business Council for Sustainable Energy, Alliance to Save Energy, Corn Refiners Association and U.S. Green Building Council
Details: 13:15 – 14:45, Meeting Room 7, Bonn Zone, accreditation required

The private sector plays an integral role in powering forward ambitious action on climate change. There is a broad array of already existing clean and more productive energy technologies, as well as renewable bioproducts that can help propel both local communities and national governments towards meeting their climate goals and building smart, sustainable infrastructure.

Hear how companies are investing in this global low-carbon future, and deploying solutions today – in the electricity grid, the built environment, transportation systems, and in homes and communities – that are reducing greenhouse gas emissions, increasing resilience, and at the same time creating jobs and growing economies.

Moderator: Lisa Jacobson, President, Business Council for Sustainable Energy (BCSE)

Speakers:

Laura Van Wie McGrory, Vice President, Strategic Initiatives, Alliance to Save Energy
Elizabeth Beardsley, Senior Policy Counsel, U.S. Green Building Council
Clay Nesler, Vice President, Global Sustainability and Industry Initiatives, Johnson Controls
Ben Gruitt, Director, Sustainability & Advanced Bioproducts, Corn Refiners Association
Jeff Moe, Director, Global Product Advocacy, Center for Energy Efficiency and Sustainability, Ingersoll Rand
Harry Verhaar, Head of Global Public & Government Affairs, Philips Lighting
John Kadyszewski, Senior Director, Strategic Initiatives, Winrock International
Thomas Weber, President, Jupiter Oxygen Corporation

Friday, November 10

BCSE Annual International Delegate Dinner –19:30 – 21:30 at Bastei Bonn Restaurant, Von-Sandt-Ufer 1 (Ecke Rheinallee), 53173 Bonn-Bad Godesberg. This private dinner is for senior international country government representatives, leaders within the UNFCCC process and BCSE member executives. Accreditation not required, by invitation only.

Saturday, November 11

BCSE Clean Energy Industry Evening Reception with U.S. Delegation – 18:00 – 20:00 at the Piano Bar at GOP Varieté-Theater Bonn, Karl-Carstens-Straße 1, 53113 Bonn (next to the Marriott Bonn Hotel near the Bula Zone). This annual reception is for BCSE members, industry partners and members of the U.S. delegation. Accreditation not required, by invitation only.

Tuesday, November 14

Media Briefing/Webcast: Business Council for Sustainable Energy - Industry Speaks on Resiliency and Climate Action – 12:30 – 13:00 in Press Conference Room 2, Bula Zone. Accreditation required. Speakers to be announced.

Wednesday, November 15

US Climate Action Pavilion's Business Showcase
Details: 12:00 – 18:00, Fiji Room, reception to follow, at Pavilion, located adjacent to the Bula Zone on the DHL premises. Accreditation not required.

From 16:55 – 17:40, the Council will host a segment on "Energy Technologies and Systems Solutions." This panel will feature American businesses that are implementing solutions to reduce greenhouse gas emissions and increase resilience in the electricity grid, the built environment, transportations systems and in homes and communities in the U.S. and abroad. By utilizing a wide array of clean energy technologies and innovative business models, we can power the ambition of governments to drive further climate action and achieve economic growth at the local and national levels.

Moderator: Lisa Jacobson, President, BCSE

Speakers:

Josh Sawislak, Global Director of Resilience, AECOM Design and Consulting Services
Jeff Moe, Director, Global Product Advocacy, Ingersoll Rand
Clay Nesler, Vice President, Global Sustainability and Industry Initiatives, Johnson Controls
Irving Mintzer, Consultant, Jupiter Oxygen Corporation
Melissa Lavinson, Vice President, Federal Affairs and Policy, Chief Sustainability Officer, PG&E Corporation

The Business Council for Sustainable Energy®
25 YEARS

COP23 FIJI
UN CLIMATE CHANGE CONFERENCE
BONN 2017

POWERING AMBITION AT COP 23

The Business Council for Sustainable Energy (BCSE) represents companies and trade associations in the energy efficiency, natural gas and renewable energy sectors. These industries are delivering technology solutions and low-carbon energy resources that enable countries to meet their Paris Agreement goals and power further ambition to address the challenges of climate change.

The 23rd Conference of the Parties (COP 23) of the United Nations Framework Convention on Climate Change (UNFCCC) hosted by the government of Fiji in Bonn, Germany, in November 2017, will work to establish the implementation guidelines for the Paris Agreement and open the *Talanoa Dialogue* to shape the focus of the *Facilitated Dialogue* in 2018 that will assess global progress toward the long-term goals of the Agreement.

The "Power" of Clean Energy

The BCSE participates in the UNFCCC process to tell the story of the rapid and sweeping transformation that is occurring in global energy sectors and to share information on the role that clean energy is playing to reduce emissions and adapt to climate change impacts. Telling this story also helps to show how the diverse set of clean energy solutions can be used to meet a country's nationally determined contribution (NDC) under the Paris Agreement and to support deeper ambition levels.

With falling clean energy technology prices and new sources of supply becoming available, powering increased ambition to address climate change can be done more cost-effectively.

Global investment in renewable energy and energy smart technologies topped $59 billion in 2016, and $507 billion over the past decade. As hundreds of billions of dollars are invested every year, the costs of deploying clean energy technologies are falling precipitously.

From 2011 to the end of 2016, the costs to produce solar photovoltaic modules have decreased by 58%, lithium-ion battery pack prices have dropped 66%, and the price index for wind turbines is down 18%.[1]

These market changes show that more ambitious greenhouse gas emission reductions can be made with fewer investment dollars. Our economies can be more energy productive, and energy access can be improved as clean energy is deployed more broadly.

Powering Greater Ambition to Meet Climate Challenges

Greater ambition is needed because the challenges remain significant. The International Energy Agency estimates that investment of $1 trillion annually in low-carbon energy by 2030 is needed to avoid the potentially catastrophic effects of climate change.[2] The Paris Agreement provides a framework for action, and market trends show lower costs for many technologies. Yet a lot of work still needs to be done to move toward adequate levels of ambition.

Making the Business Case for Clean Energy and Climate Action

Companies are committed, in both the United States and abroad, to making smart, low-carbon investments in their

The falling costs of clean energy technologies makes it more affordable for countries to power ambition toward strong climate action.

A bird's eye view of the clean energy transition in the U.S. over the past 25 years:

- **92% of all new power capacity built is from renewable energy and natural gas**
- **58% gains in U.S. energy productivity**
- **25-year low in annual greenhouse gas emissions from the power sector in 2016**

supply chains and operations, and for their customers. Companies are choosing to source low-carbon and renewable energy, produce on-site energy through combined heat and power and distributed generation, and make operational and systems choices to better manage their energy consumption. The motivations are many: increased stability through portfolio diversification, improved energy productivity, protection against unpredictable and extreme weather events, reduced greenhouse gas intensity, better air quality, improved workforce productivity, and overall efficiency and cost savings.

Similarly, the BCSE believes that embracing a diverse portfolio of clean energy solutions will enable countries to reduce greenhouse gas emissions and meet their NDC goals, enhance climate resilience and create new climate-friendly and inclusive pathways of economic growth.

This portfolio includes carbon capture utilization and storage; supply-side and demand-side energy efficiency in buildings, utilities and transportation; energy storage; grid modernization; natural gas; and renewable energy resources (biomass, biogas, geothermal, hydropower, solar, waste-to-energy and wind).

The Paris Agreement: A Framework for Clean Energy Deployment

With the Paris Agreement and the 166 NDCs pledged by its signatories, a roadmap and vision for the clean energy transformation has been provided. It is important that the implementation guidelines or "rulebook" for the Paris Agreement provide a clear and transparent framework to track the progress of all countries toward their respective climate mitigation and adaptation goals.

This framework can help to provide the private sector certainty with which to guide its investment decisions and to ensure that capital flows into low-carbon solutions. It will drive innovation of the next generation of clean energy technologies. It will create a blueprint for local and sub-national governments to invest in smarter, cleaner, more resilient technology choices and infrastructure in the building, electricity and transportation sectors.

The BCSE will work at COP 23 to ensure that the discussions and decisions on the implementation guidelines for the Paris Agreement, as well as NDC implementation:

» Recognize that if we are to hold the increase in global average temperature to well below 2 °C above pre-industrial levels, **new, innovative approaches to working with the private sector to deliver sustainable solutions** will be required. There is great opportunity in partnering with the private sector to increase the ambition of NDCs and to build out practical investment and technology pathways for countries to meet their NDC targets. (Articles 2, 4)

» **Expand the reach of market-based policies and carbon pricing** through NDCs and a Paris Agreement framework that encourages enhanced ambition, including sector-wide approaches; that establishes robust carbon accounting rules and measures and a transparent reporting framework to protect environmental integrity; and that prevents the double counting of emissions reductions. The early setting of operational rules for cross-border transfers and a new mitigation mechanism will accelerate private sector investment in low-carbon opportunities. (Article 6)

» Demonstrate continued support for **international climate finance** by donor countries post-2020 and for climate-related finance mechanisms. The **Green Climate Fund (GCF)** is oriented in the right direction, and it must continue to work with the private sector to ensure that attractive financing tools and a more streamlined project process are implemented to leverage greater levels of private sector investment. (Article 9)

» Agree to a new **Technology Framework** that builds on the existing Technology Mechanism and continues to

protect innovation systems. When the private sector makes investment decisions in a country, it assesses a potential market based on the existence of stable policies, sound governance and infrastructure, and effective legal frameworks that encourage competition and innovation and that protect intellectual property rights (IPRs). A robust Technology Framework will enable the deployment of existing clean energy solutions and the creation of next-generation low-carbon technology solutions. (Article 10)

- Reaffirm the shared commitment to transparency and data integrity by all countries and ensure that the **measurement, reporting and verification (MRV)** system for emissions and mitigation actions utilizes the latest technologies and borrows from best practices already in place for corporate greenhouse gas emissions reporting and disclosure. (Article 13)
- Recognize that **public-private partnerships**, such as *Sustainable Energy for All* and the *Energy Efficiency Accelerators* focused on buildings, district energy, lighting, appliances, vehicles and industry, are collaborative efforts that will drive action and help countries meet NDC goals.
- Renew investment in the **Technical Examination Process** (TEP) through the Marrakesh Partnership for Global Climate Action, and work to include the views of the private sector in these important policy and technology implementation discussions.

Facilitating the Global Clean Energy Transition

The international community is preparing for 2018's *Facilitative Dialogue*, or what is essentially a global stock-taking of climate actions and pledges toward the Paris Agreement's long-term goals. Deeper, more ambitious emissions cuts will be needed in the next round of NDCs. The BCSE and its members know that these stronger targets are achievable because of the market trends we are witnessing today. Technology costs are falling, the advancement of the internet of things and data analytics is generating data and knowledge at an unprecedented pace, and innovative financing models are enabling an increased scale of investments. Countries are well positioned to deploy clean energy solutions that have been successfully implemented and are cost-effective and reliable.

The BCSE encourages the inclusion of the views of the private sector in the *Talanoa Dialogue* and urges all Parties to power greater ambition through the deployment of a broad range of clean energy technologies and resources.

Endnotes

1. Bloomberg New Energy Finance. Wind price is from 2011/H1 to 2017/H2.
2. International Energy Agency, *Energy Technology Perspectives 2012: How to Secure a Clean Energy Future* (Paris: 2012).

ABOUT THE BCSE

The Business Council for Sustainable Energy (BCSE) is a broad coalition of clean energy business sectors, including renewable energy, supply-side and demand-side energy efficiency, and natural gas and electric utilities in North America. The BCSE is an advocate for policies that increase the use of commercially available clean energy technologies and drive investment into a low-carbon, diversified energy portfolio. The BCSE is celebrating its 25th anniversary in 2017, and has represented the views of clean energy industries in the United Nations Framework Convention on Climate Change (UNFCCC) since 1992. For more information, please visit http://www.bcse.org to download the **Sustainable Energy in America Factbook** for the latest market data, and follow us on Twitter: @BCSECleanEnergy.

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From: Penman, Crystal
Location: 1201 Constitution Ave NW, Washington DC 20640 WJCE 3233 Please call 202-564-5700 for escort
Importance: Normal
Subject: Meeting with Union of Greek Shipowners (UGS)
Start Date/Time: Wed 4/18/2018 8:30:00 PM
End Date/Time: Wed 4/18/2018 9:15:00 PM
Real ID Information.pdf
ugs briefing document april 2018.pdf

Union of Greek Shipowners

Delegation to Washington, DC

April 16-20, 2018

Mr. Theodore Veniamis - President of UGS

Mr. George Angelopoulos – Vice President of UGS

Mr. John C. Lyras – UGS Board Member, UGS Past President

Mr. Dimitrios Fafalios – UGS Board Member

Ms. Katerina Peppa – UGS Secretary-General

Ms. Kyriaki Mitrousi – Senior Advisor

Mr. Edmund Welch – U.S. Representative

Edmund B. Welch

For the Union of Greek Shipowners

103 Oronoco Street, Suite 200

Alexandria, VA 22314

Phone: 703-518-5005 ext. 27

Cell: 571-275-2066

Fax: 703-518-5151

Email: ewelch@passengervessel.

From: Atkinson, Emily
Location: WJC-N 5400 + Video with RTP + Dial: Ex. 6 - Personal Privacy ; Participant Code: 6 Ex. 6 - Personal Privacy Ex. 6 - Personal Privacy
Importance: Normal
Subject: OAR International Priorities and Opportunities for Engagement
Start Date/Time: Fri 4/13/2018 8:00:00 PM
End Date/Time: Fri 4/13/2018 9:00:00 PM
RE: Request for International briefing meeting with Bill
Draft OAR International Priorities REVISED 3-29-18 OAR-wide clean.docx

Materials attached

To: Wehrum, Bill; Ferland, Henry; Gunasekara, Mandy; Harvey, Reid; Tsirigotis, Peter; Grundler, Christopher; Edwards, Jonathan; Krieger, Jackie; Gunning, Paul; Koerber, Mike; Sasser, Erika; Evarts, Dale; Cook, Leila; Hengst, Benjamin; Blubaugh, Jim; Cherepy, Andrea; Shoaff, John; Woods, Clint; Mitchell, John; Shaw, Betsy; Dominguez, Alexander; Franklin, Pamela; Newberg, Cindy; Sarofim, Marcus

ΕΝΩΣΙΣ ΕΛΛΗΝΩΝ ΕΦΟΠΛΙΣΤΩΝ

UNION OF GREEK SHIPOWNERS

Greek Shipping
A Strategic Partner of the US

"It is with great pleasure that we continue the long tradition of regular visits to the US by the Union of Greek Shipowners (UGS). It is a unique opportunity for the industry to meet and discuss issues of common interest with the US Administration and other US stakeholders but also for high o cials to engage with a strategic industrial partner.

It is in this context that, on behalf of the UGS, I would like to introduce you, through this brochure, to the UGS's viewpoints on some of the most critical policy issues facing the shipping industry today. Most of these issues are evolving and it is of paramount importance, for the uninterrupted service of global trade, that policy makers understand and factor in the industry's special characteristics.

Representing the largest cross-trading eet in the world and ranking rst in terms of tonnage capacity, the Greek-owned eet renders an indispensable service to the world. It also has a strategic and important economic role in serving the US export - import trade through the provision of reliable, e cient, green, as well as safe and secure sea transportation for the bene t of US citizens and the US economy.

e Greek shipping community is always ready to consistently respond to the changing economic and trade requirements of the US. We hope to continue our long standing, close co-operation with this great country at all levels."

eodore Veniamis
President

April 2018

GREEK SHIPPING: A GLOBAL LEADER

A truly entrepreneurial sector and the backbone of global and EU shipping (Fig. 1 & 2):

- **mainly comprised of small and medium-sized private companies:** predominantly family businesses, involved in bulk / tramp shipping, transporting staples necessary for all economies, e.g. oil, gas, grain, iron ore, coal, phosphate and bauxite (Fig. 3). Bulk shipping represents more than 83% of world seaborne trade in cargo ton-miles (Fig. 4, 5 & 6).
- **inherently flexible and adaptable** with characteristics of perfect competition.
- **with a young & modern fleet:**
  ✓ average age 13.7 years for Greek-flagged vessels and 11.5 years for Greek-owned vessels (below the average age of the world fleet: 14.6 years)
  ✓ substantial and diverse orderbook (Fig. 7 & 8).
- **a leader in safety:** only 0.76% of ships or 0.16% of tonnage involved in minor accidents in 2016 – Greece is on the IMO "List of confirmed STCW Parties" and on the White Lists of Paris and Tokyo MoUs.

GREEK SHIPPING AND THE US

A strategic vector for US trade

- **Serving US trade & ensuring energy security:** 98.5% of the Greek-owned fleet's trading capacity carries cargoes between third countries, with a quarter of this activity dedicated to trade with the American continent (Fig. 9 & 10). Greek-owned tanker and LNG fleet has traditionally secured US energy imports and is instrumental in allowing the US to pursue its strategic goal to become the world's largest LNG exporter and net exporter of oil.
- **A highly responsive fleet:** the Greek fleet is highly responsive to shifts in trade patterns and can readily respond to major reorientations of global trade flows and assist in building new trading partnerships between suppliers and importers in a cost-effective way.
- **A major part of the US maritime cluster:** presence in the New York Stock Exchange, daily port calls at US ports.
- **A reliable partner of the US Coast Guard:** formal co-operation on and participation in the AMVER list.

POLICY ISSUES

Free trade: the lifeblood of the global economy

- Strong correlation between global trade and international maritime transport: globalization increases demand for the transport of goods by sea, while seaborne trade more fully enables globalization.
- Shipping has been a global industry since the era of sail, but trade routes were not open and accessible to all flags until the end of colonialism, in which the US was instrumental, especially after WWII.
- WTO and OECD rules, especially those pertaining to maritime transport, as well as the principle of free and fair competition facilitate global trade.
- The decline of protectionist measures allowed trade and, by extension maritime transport, to thrive. Protectionist measures – an attractive but ultimately ineffective solution – should be avoided as they delay a return to healthy economies and risk triggering a retaliatory trade war.
- A constructive trade dialogue and co-operation between the European Union and the United States is most desirable to meet future geopolitical challenges. Both trade partners should reaffirm their commitment to uphold free and open markets for maritime transport and support for a transparent and non-discriminatory bilateral trading system.

CO_2 emissions reductions: global rules for a global industry

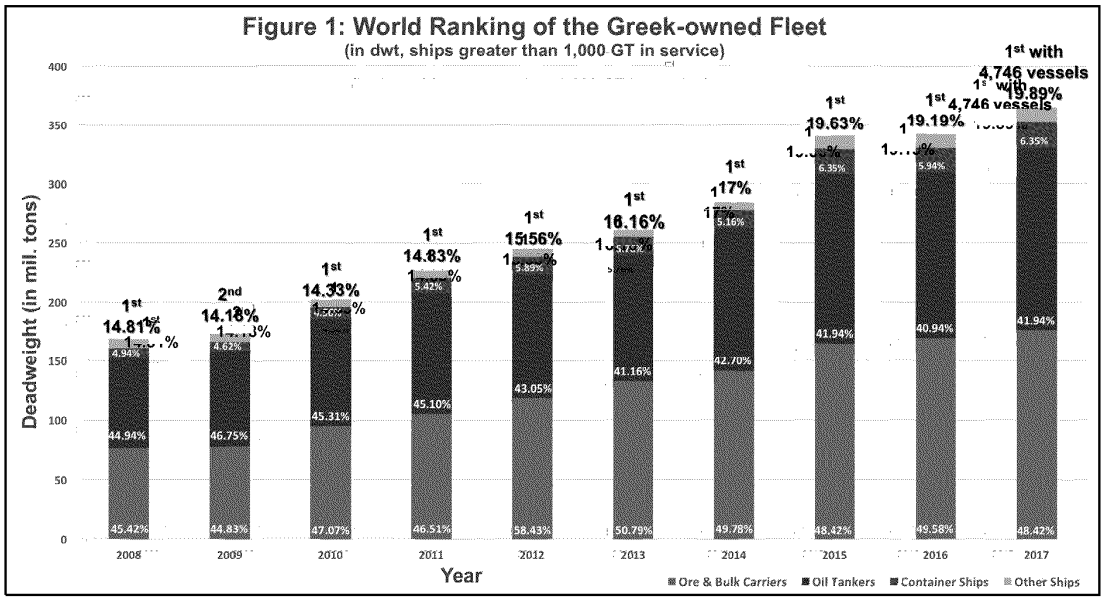
- Climate change is a global challenge that should be tackled through an international response.
- Shipping as a whole should contribute its fair share, although:
  ✓ it will remain carbon-captive in the absence of a major breakthrough in alternative ship propulsion fuel and technology.
  ✓ it is entirely dependent on the global demand for the transport of goods by sea, which is bound to increase.
- Shipping requires global IMO-backed rules on CO_2 emissions in order to avoid market distortion and ensure a global level playing field.
- The IMO's substantial progress should be safeguarded. Efforts to curb CO_2 emissions from shipping should be pursued at IMO level with a view to developing, within the time schedule agreed in the Roadmap, an aspirational and realistic strategy that factors in the industry's special characteristics.
- The IMO's mandatory Global Data Collection System for ships' fuel consumption is a step in the right direction and will feed into an initial 2018 strategy, to be finalized and adopted in 2023.
- Looking ahead, Market Based Measures (MBMs) cannot be regarded as viable long term measures for the decarbonization of the ocean-going transport sector. Should an MBM be deemed necessary in the short to medium term, the shipping industry has a clear preference for a bunker fuel levy system, administered by the IMO and not an Emissions Trading System (ETS).
- ETSs are inappropriate for shipping and have been shown to be laden with problems in practice, while serious abuses have also occurred.

Sulphur Oxide (SOx) Emissions: transitioning to the new norm

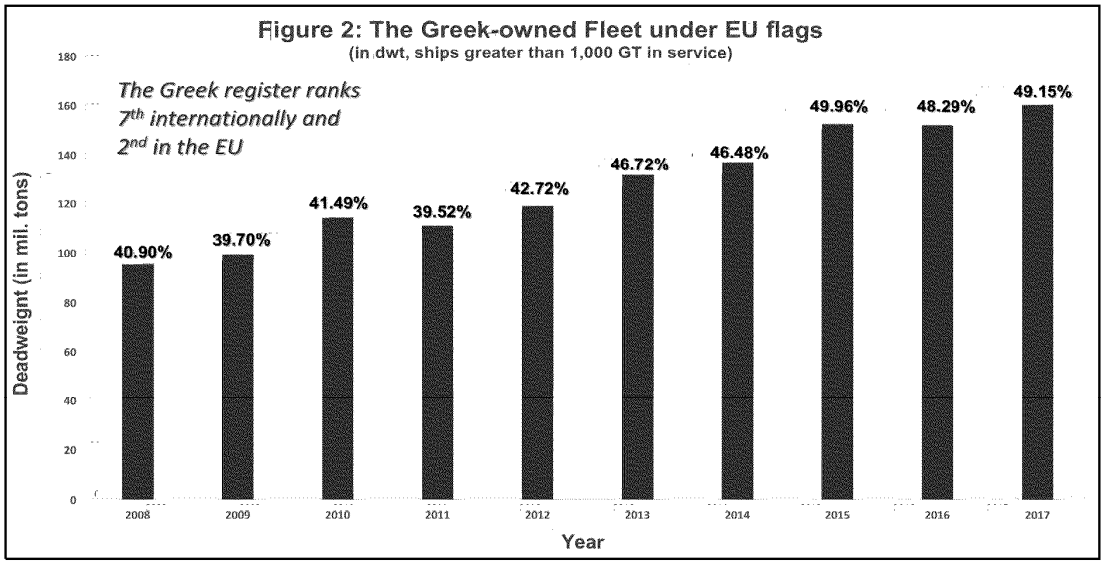
- The 2020 IMO 0.5% sulphur cap for marine fuel raises legitimate concerns with regard to:
  ✓ the availability and suitability of scrubbers, which will have been fitted only on a small percentage of the world fleet by 2020.
  ✓ the refining industry's ability to supply the market with sufficient quantities of quality compliant low sulphur fuel.
  ✓ the safety issues related to the switch to low sulphur fuels, especially to blends of different fuels (issues of e.g. stability, compatibility, flashpoints lower than the minimum SOLAS requirement).
  ✓ the global enforcement of the upcoming sulphur cap in order to ensure a level playing field.
- In this regard, the UGS supports a smooth transition to the new marine fuel sulphur limits on the high seas, which will grant the shipping and refining industries the flexibility they need to iron out these outstanding issues.

UNION OF GREEK SHIPOWNERS

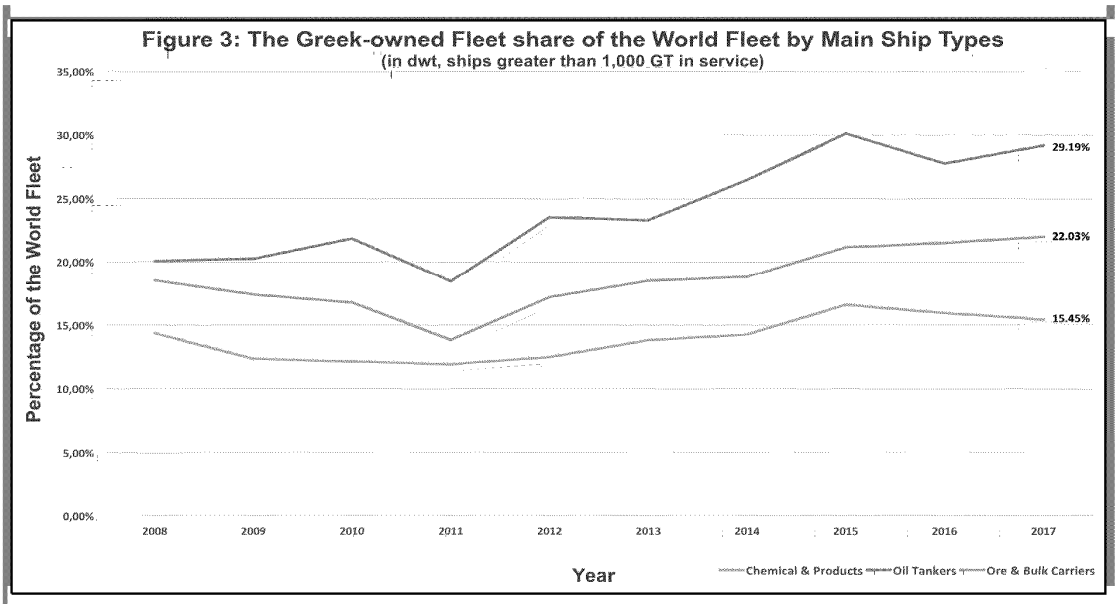
Key figures for shipping and trade 2018



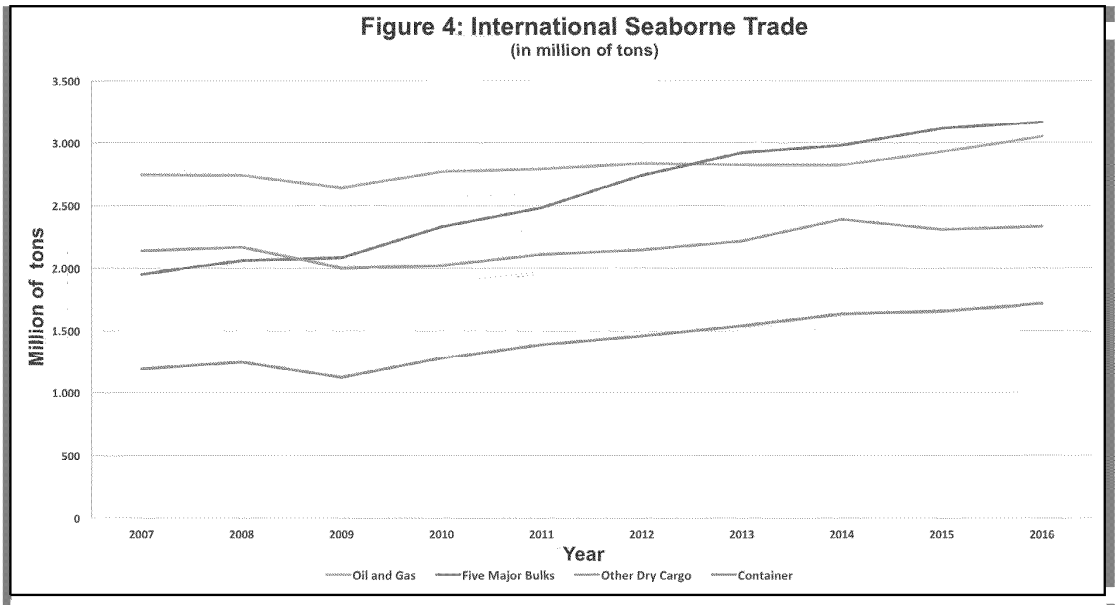
Source: IHS Markit, World Shipping Encyclopaedia, 2009-2018



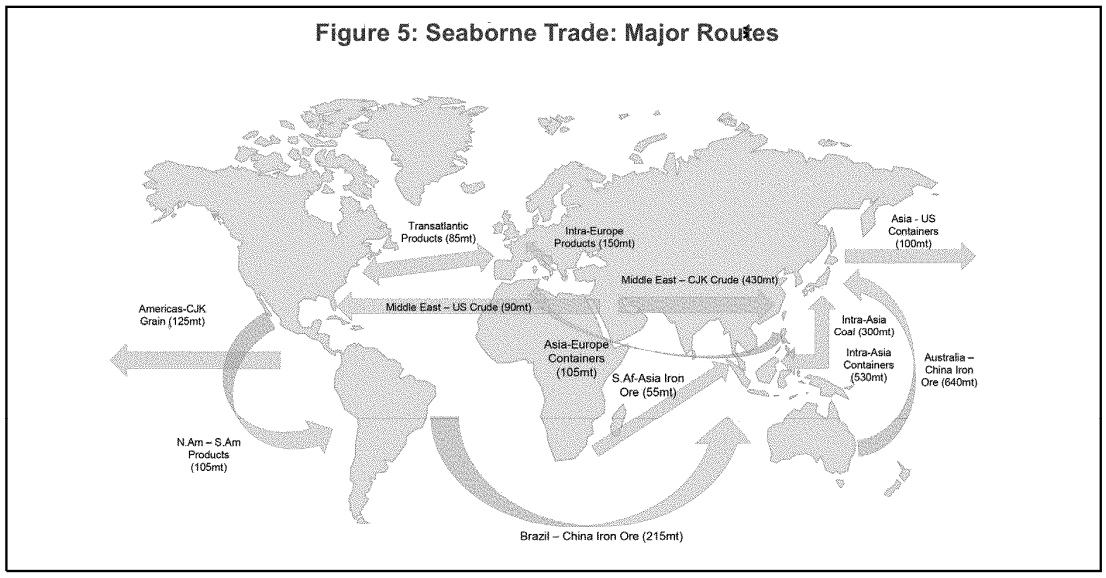
Source: IHS Markit, World Shipping Encyclopaedia, 2009-2018



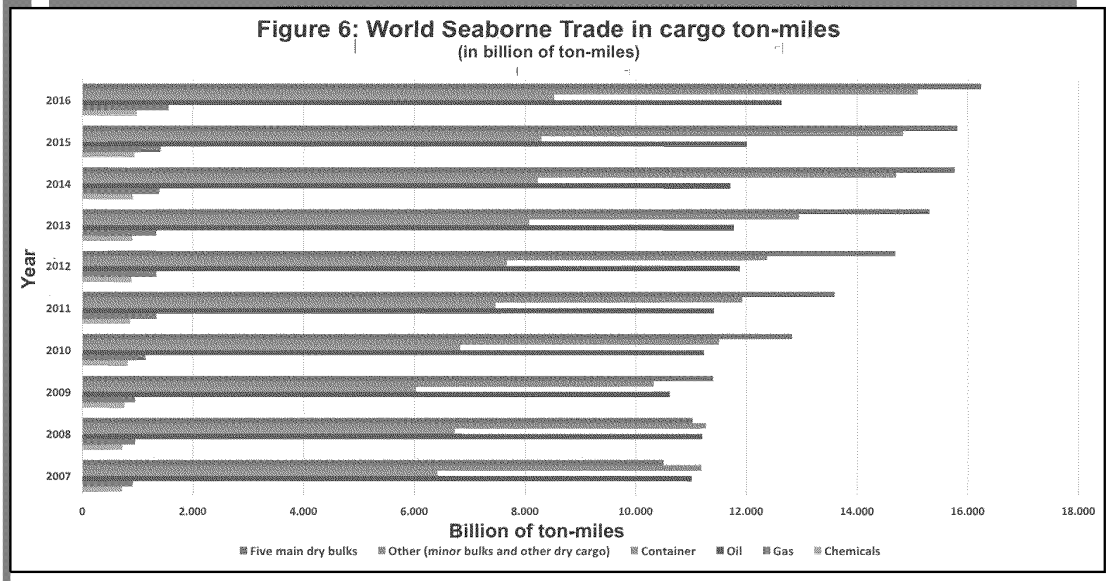
Source: IHS Markit, World Shipping Encyclopaedia, 2009-2018



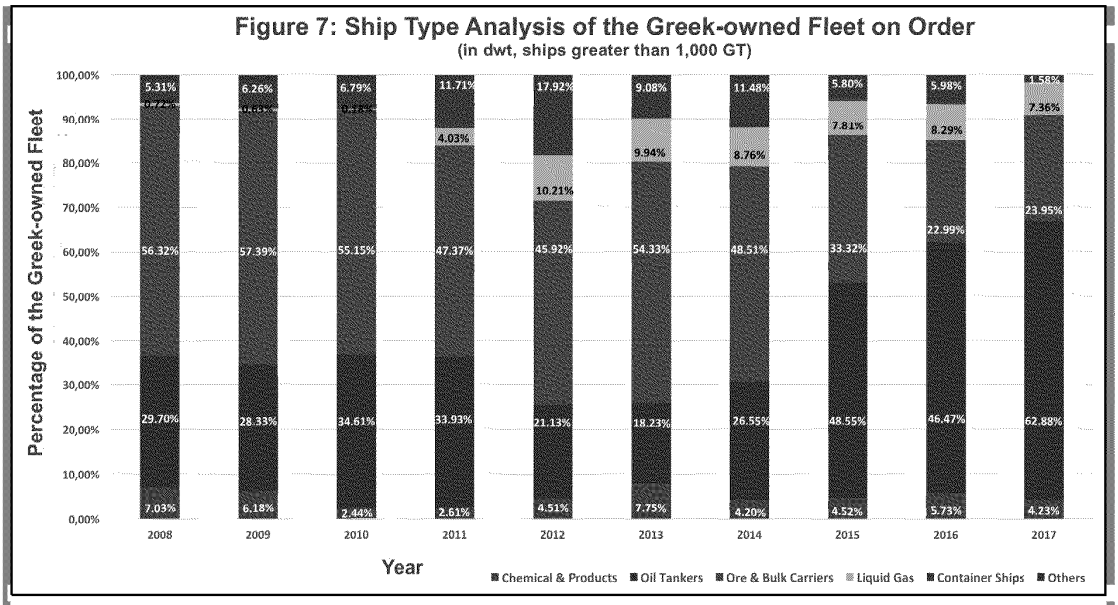
Source: UNCTAD, Review of Maritime Transport 2017



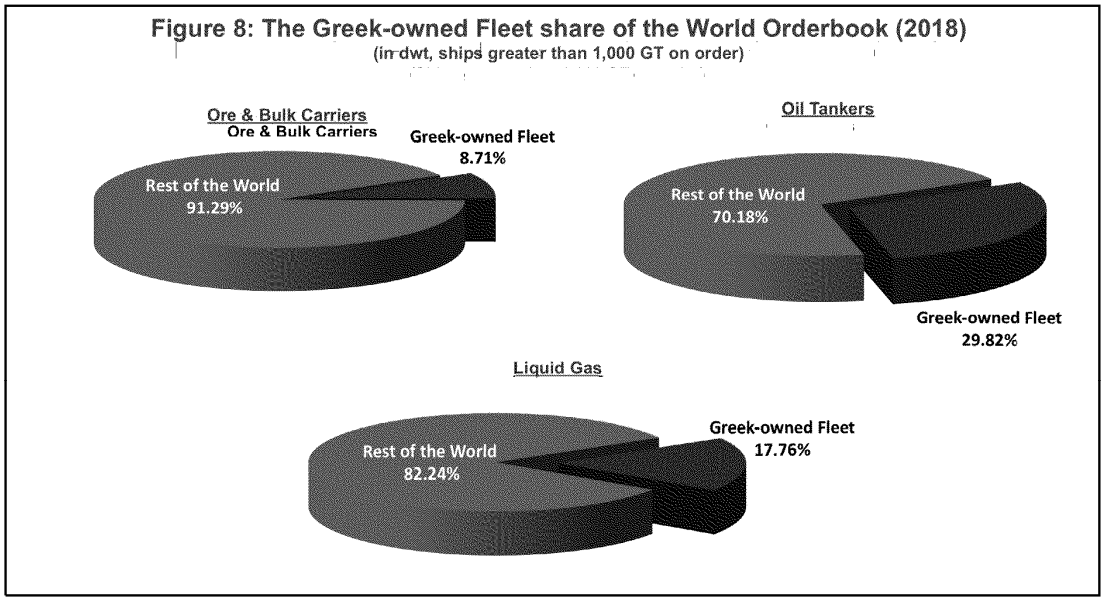
Source: Clarksons Research, March 2017



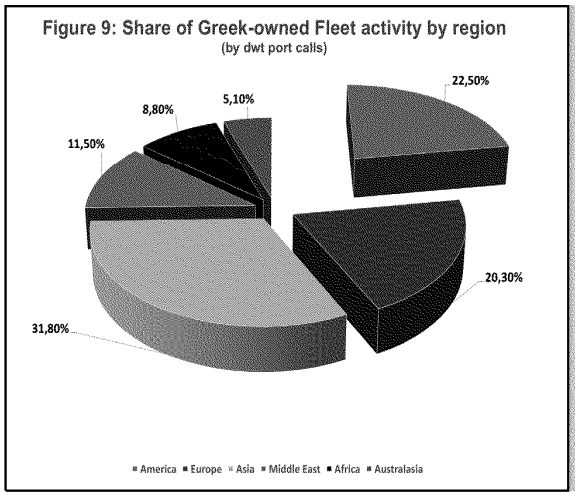
Source: UNCTAD, Review of Maritime Transport 2017



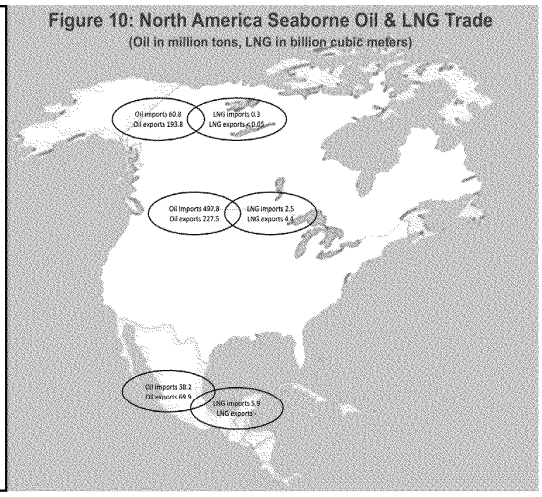
Source: IHS Markit, World Shipping Encyclopaedia, 2009-2018



Source: IHS Markit, World Shipping Encyclopaedia, January 2018



Source: Lloyd's List, Maritime Intelligence, 2016



Source: Review of World Energy, June 2017

HFO in the Arctic: a stepwise and measured approach is needed

- The use of the Northern Sea Route as an alternative to the existing Asia-Europe pendulum has raised concerns over the risks associated with Heavy Fuel Oil (HFO) used or carried for combustion purposes, and not as cargo, by ships as well as over the impact of marine Black Carbon (BC) emissions in this area.
- Calls for IMO measures to reduce the environmental risks associated with ships navigating in the Arctic are certainly valid.
- An outright IMO ban on the carriage and use of HFO by ships in the Arctic is premature, as BC emissions have so far not been addressed within the IMO's regulatory framework.
- Any IMO initiative on the issue should be preceded by a thorough and evidence-based analysis, which will set the basis for an informed discussion. The UGS, therefore, hopes that the US sees merit in such a careful and stepwise approach at IMO level.

Ballast Water Management: ensuring consistent and result-oriented implementation

- Maritime operators are expected to take important investment decisions to comply with the IMO Ballast Water Management Convention (BWMC).
- IMO is currently gathering data from flag States, port States and other stakeholders about implementation-related challenges for an evidence-based review of the BWMC.
- During the institutionalised IMO Experience-Building Phase (EBP), US authorities should allow some flexibility in the treatment of proactive early movers in cases of an occasional exceedance of the ballast water performance standard.
- The ongoing revision of the 2013 Vessel General Permit (VGP) is a good opportunity to streamline by the end of 2018 various federal and state regulations of ballast water discharges and other incidental discharges, centralizing all relevant regulations into the US Coast Guard, thus establishing a single comprehensive framework applicable to all vessels operating in US waters.

Ship Recycling: an effective global solution

- The 2009 Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (IMO HKC) should be ratified soonest to ensure that end-of-life vessels are scrapped through safe and environmentally sound recycling operations at global level.
- The ratification of the HKC becomes even more important in view of the entry into force of the EU's Ship Recycling Regulation (EU SRR) by the end 2018, allowing EU-flagged vessels to be scrapped only in EU-approved recycling yards, which, however, currently have insufficient capacity to respond to the scrapping demand for EU-flagged vessels. The approval of Asian and US recycling yards has repeatedly been postponed.
- A speedy ratification of the HKC from both EU and non-EU member states, including the US, and its subsequent entry into force, would make the EU SRR redundant and ensure global high standards for ship recycling operations.
- Recycling facilities also have to play their part and step up their efforts to become HKC compliant.

Cyber security: global guidance for a global threat

- Increasing dependence on digital technology makes shipping companies more vulnerable. Cyberattacks present an escalating danger to the safety of ships and crew and cost the industry hundreds of millions of dollars in 2017.
- Especially for the nascent segment of autonomous shipping, cyber resilience is paramount and careful consideration should be given to risks and vulnerabilities so as to ensure the safe, secure and environmentally sound operations.

- The 2016 IMO Guidelines on Maritime Cyber Risk Management can be incorporated into existing risk management processes. A resolution on Maritime Cyber Risk Management in Safety Management Systems was also adopted by IMO in 2017, encouraging administrations to ensure that cyber risks are appropriately addressed in existing safety management systems starting from 1 January 2021.
- The US government's recent plans to introduce cyber security legislation would affect all vessels entering US waters. The UGS is concerned about this move and remains an ardent supporter of non-mandatory global initiatives, such as the IMO's relevant guidelines.

Rationalising the US quality shipping incentive schemes

- The UGS supports the rewarding of high-quality shipping via incentives to encourage quality operations through the Qualship 21 and E-zero programs.
- In the Qualship 21 methodology, the absence of a weighted (proportional) system puts flags with ships frequently calling at US ports at a disadvantage, as a small number of underperformers can penalize the vast majority of quality operators.
- A differentiation based on the type of vessel would further fine-tune the existing system, as the requirements of the program vary per vessel type.
- Also, incorporating the listing of a flag on the White Lists of the Paris and Tokyo MoUs in the current Qualship 21 methodology would render the latter more accurate and representative.

Piracy and armed robbery: following through with current efforts

- Piracy constitutes a serious global threat to regional security, global trade, maritime transport and the world economy but, above all, to the life and safety of seafarers.
- The reduction in Somali piracy attacks has largely been attributed to the combined success of action taken by the United Nations, IMO, the European Union, NATO as well as of the self-protective measures taken by shipping companies (BMP-4, private armed guards).
- Despite efforts to tackle the problem, shipping routes in the Gulf of Guinea and the waters around Nigeria, Southeast Asia as well as in the South Red Sea and off Bab al-Mandeb remain at risk.
- The presence of the Combined Maritime Forces (CMF) should be maintained and the mandate of the EU's Naval Force ATALANTA (EU NAVFOR), active in Somalia and the Red Sea, should be extended until at least 2020.

Large scale migration by sea / stowaways: guaranteeing smooth disembarkation

- Despite a recent lull in the influx of migrants crossing the Mediterranean Sea, largely attributed to successful EU naval operations, geopolitical tensions in the area persist.
- Bound by maritime tradition and international legal obligations, shipping has been asked to play a disproportionately large role in the rescue of people in distress at sea.
- Commercial ships are neither built nor equipped, and seafarers are not trained to undertake such large-scale rescues, which also render ships unseaworthy under SOLAS with serious implications. Therefore, all coastal states should guarantee smooth disembarkation procedures following a rescue operation carried out by a commercial ship.
- The same smooth disembarkation procedures should also be followed in cases involving stowaways, a problem that still remains unsolved after years of discussion at IMO and other international fora.

1916 - 2016
Centenary of the Union of Greek Shipowners

The Union of Greek Shipowners has stood as the "Ithaca" of Greek shipping throughout the storms it has weathered during its centennial voyage.

On the occasion of its 100 years anniversary, the UGS commissioned the renowned filmmaker Athina Rachel Tsangari to create a film that salutes the Greek seafaring family which laboured at home and in the far corners of the Earth to reach and retain the summit of world shipping.

Enjoy Seven Seas, a tribute to the Greek maritime tradition and its legacy.

100 YEARS

UNION OF GREEK SHIPOWNERS

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TEL. +30 210 429 1159, FAX: +30 210 429 1166
e-mail: ugs@ath.forthnet.gr
website: www.ugs.gr

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Eames, Frederick R.
Sent: Thur 4/19/2018 3:39:07 PM
Subject: Energy Advance Center CPP ANPRM Comments
Energy Advance Center CPP ANPRM Comments-c.pdf

Mandy – Per our discussion. This is what we submitted to the docket this week. Hope all is going well for you.

To: Gordon, Stephen[gordon.stephen@epa.gov]; Daniell, Kelsi[daniell.kelsi@epa.gov]; Kundinger, Kelly[kundinger.kelly@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Ford, Hayley
Sent: Thur 4/19/2018 3:02:18 PM
Subject: FW: Biomass Policy Memo
policy memo_DRAFT to SP 2018 04 19.docx

If you have access to a printer, he can review this on his flight home today. He wants to get this out ASAP so I think he'd like to see.

Thanks!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

From: Gunasekara, Mandy
Sent: Thursday, April 19, 2018 11:00 AM
To: Ford, Hayley <ford.hayley@epa.gov>
Cc: Wehrum, Bill <Wehrum.Bill@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Biomass Policy Memo

Hey Hayley,

Attached is the latest draft of the biomass policy memo. Is it possible to get to SP tonight? I know he's traveling. If not, then can you print out and have it ready for him tomorrow morning when he gets back?

Thanks!

Mandy

Mandy M. Gunasekara

Principal Deputy Assistant Administrator

Office of Air and Radiation

US Environmental Protection Agency

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Harlow, David
Sent: Fri 1/26/2018 8:00:26 PM
Subject: Draft briefing paper Ex. 5 - Deliberative Process
Ex. 5 - Deliberative Process

Here's a draft of what I've managed to come up with.

David S. Harlow
Senior Counsel

Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K

1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233

Harlow.David@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Leavy, Jacqueline
Sent: Thur 8/10/2017 7:09:18 PM
Subject: Controlled Correspondence
17-001-1950_2.pdf

FYI – Providing copy to you; assigned to OAR in CMS FYI

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]
Cc: Wright, Rhonda[Wright.Rhonda@epa.gov]; Lubetsky, Jonathan[Lubetsky.Jonathan@epa.gov]; Saltman, Tamara[Saltman.Tamara@epa.gov]
From: Lewis, Josh
Sent: Fri 1/26/2018 3:15:45 PM
Subject: Fwd: for IO review: OAR staff draft responses to Administrator QfRs from 12.7.17
12.7.17 QFRs_Pruitt-_for OAR IO review.docx
ATT00001.htm

Mandy and Alex,

Sending these your way for review....and in a few cases to help provide answers (noted in red)

My recollection from a recent morning meeting is you've been in touch with ocir on these and have committed to getting them draft responses by Monday?

We'll stand by if you have comments/questions.

To: Harlow, David[harlow.david@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Baptist, Erik
Sent: Fri 10/6/2017 10:51:19 PM
Subject: GHG Standards for Heavy-Duty Trucks; Gliders
2016 - HD Phase 2 FRM.PDF
GHG waiver for trailers 8-7-2014.pdf
Fitzgerald Summary for EPA.PDF
EPA Procedural Options.docx
FW: Congressman Black - Glider Kits
Heavy-duty Phase 2 NPRM and FRM discussion of EPA authority to regulate ....pdf
Signed - Letter to Fitzgerald - Gliders.pdf

David,

Attached please find the following documents:

1. The underlying GHG Standards;
2. California's Waiver for Trailer GHG Regulations;
3. Fitzgerald's May 2017 Summary;
4. Fitzgerald's Procedural Recommendations;
5. Fitzgerald's Petition for Reconsideration;
6. Studies by Tennessee Tech (attached to email);
7. The FR proposal re statutory authority and the FR final rule re statutory authority; and
8. Signed Letter to Fitzgerald re revisiting the final rule.

I will also you an additional email with attachments from OGC staff on the legal authority questions.

Looking forward to working with you on this issue and many others,

Erik Baptist

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsyvlania Ave., NW

Washington, DC 20460

(202) 564-1689

baptist.erik@epa.gov

Senate Environment and Public Works Committee
Hearing entitled, "Nomination of Attorney General Scott Pruitt to be Administrator of the U.S. Environmental Protection Agency"
January 18, 2017
Questions for the Record for the Honorable E. Scott Pruitt

Senator Booker:

1. For many years I have worked with the EPA on the Passaic River superfund clean-up project in my home city of Newark. In 2016, the EPA announced an historic plan to remediate the Passaic River from toxic chemicals, PCBs, and other contaminants that resulted from the production of Agent Orange. The project will remove 3.5 million cubic yards of toxic sediment from the lower eight miles of the Passaic River in New Jersey—the largest environmental dredging project in the history of the federal Superfund program.
a. If confirmed do you commit to make implementation of the Passaic River cleanup project a priority?
b. If confirmed do you commit to carrying out the EPA Region II March 3, 2016 "Record of Decision" for the Lower 8.3 miles of the Lower Passaic River in a timely and efficient manner?

I am not familiar with the details of the remedy that has been selected for the Passaic River Superfund site, but if confirmed, I expect to make clean up of contaminated sites one of my priorities and will seek input from Congress and relevant stakeholders before taking action in this matter.

2. As the former Mayor of Newark, I have seen how low-income and minority communities living in close proximity to the port of Newark are exposed to high levels of air pollution resulting in serious health problems. Across the nation 13 million people—3.5 million of whom are children—live near major marine ports or rail yards. What is your plan to address the pressing environmental justice concerns regarding poor air quality near major seaports and other congested nodes in our nation's freight network? I have been a champion of the bipartisan Diesel Emissions Reduction Act (DERA) Program that helps replace diesel engines and helps make major sea ports and inland transportation hubs cleaner and more efficient. If confirmed can you commit to supporting the DERA program?

As I committed to you during the meeting in your office, I understand there are wide ranging variety of environmental justice issues affecting urban and rural America. In fact, as you will recall, I've committed to work with your office and visit impacted areas with you. I am also aware that the Diesel Emissions Reduction Act Program has received bipartisan support from

members of the Environment and Public Works Committee. If confirmed, I would like to work with members of Congress to best direct resources to bipartisan initiatives.

3.Climate change is one of the most pressing issues currently facing the planet. Rising sea levels and extreme weather are currently threatening the safety and security of my constituents in New Jersey. Lower income and vulnerable communities are disproportionately impacted by the extreme heat and flooding events that are becoming more common and more severe. Given the immediate and increasing threat to my constituents and to people everywhere, what is your plan to address climate change?

If confirmed, I will work to achieve the objectives of EPA-administered laws consistent with the process and framework established by Congress. I will work closely with the states in establishing and implementing regulatory standards to ensure a meaningful and effective advancement of these objectives.

4. In 2016, troubling reports of lead contamination in school drinking water in New Jersey and other areas of the country made clear the urgent need to test school drinking water and remediate school drinking water infrastructure that is contaminating the water our children drink.
a. What is your plan to prioritize and expedite the EPA's efforts to eliminate lead contamination in school drinking water?

If confirmed, I will fully carry out EPA's authorities, including its authorities under the Safe Drinking Water Act. I note that in the WIIN Act, Congress amended the Safe Drinking Water Act to authorize funding for voluntary school lead testing. If confirmed and if funding is provided, I will carry out that program.

5.If you are confirmed, how would EPA respond when a state permits pollution to be discharged into a smaller waterway that leads to contamination of drinking water supplies in a downstream state?

If confirmed, I would follow the processes set forth in the Clean Water Act and its implementing regulations.

6. How do you define "environmental justice"? Do you think it's a serious issue?

I am familiar with the concept of environmental justice. As I testified, the Administrator plays an important role regarding environmental justice. I agree that it is important that all Americans be treated equally under the law, including the environmental laws.

7. Decades of peer-reviewed academic and government research demonstrate that low-income communities and communities of color disproportionately experience environmental burdens compared to other populations in the United States. Do you agree with this conclusion? If not, why?

As I testified at the hearing, I am familiar with the concept of environmental justice and believe the Administrator plays an important role in this regard. I agree that it is important that all Americans be treated equally under the law, including the environmental laws.

8. What do you believe are the legal obligations of EPA to ensure that recipients of EPA funds comply with Title VI of the Civil Rights Act of 1964?

The obligations of recipients of federal funds are defined by the statutes and regulations to which you refer. Those statutes and regulations speak for themselves.

9. There are currently hundreds of unresolved Title VI civil rights complaints before EPA. Recent reports from EPA's OIG and independent organizations have documented EPA's long-standing failure to enforce Title VI. If confirmed, what will you do as EPA Administrator to address this?

If confirmed, I would expect to be briefed by staff and review any recommendations by the Office of Inspector General before taking action on this issue.

10. Indigenous communities are consistently targeted for energy extraction, nuclear waste, uranium mining and/or oil and natural gas pipelines. How will you address this moving forward?

If confirmed, I will faithfully execute all laws enacted by Congress relating to protection of indigenous communities.

11. Children living in communities of color and low-income communities have the highest blood lead levels of all children in the United States, and even some developing countries. As Administrator, what steps would you take to address this?

I am concerned about high-blood levels in children and children's health generally. As I testified, the Administrator has a significant role regarding environmental issues. If confirmed, I would expect to be briefed to learn about EPA's legal authorities and ongoing programs and outstanding recommendations from the Inspector General, if any, concerning this issue before taking action.

12. As Administrator will you continue to convene and implement the advice and recommendations of the National Environmental Justice Advisory Council, a federal advisory committee to EPA since 1993?

As I testified, the Administrator plays an important role regarding environmental justice. I am not personally familiar with the legal authorities or activities concerning this advisory committee but I would expect, if confirmed, to be briefed by staff about ongoing programs and activities before taking any action. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress.

13. As Administrator, will you work to have of EPA's EJ 2020 Plan fully implemented?

As I testified, the Administrator plays an important role regarding environmental justice. I am personally unfamiliar with the details of current initiatives regarding environmental justice referenced in the question, but I would expect, if confirmed, to be briefed by staff about ongoing programs and activities before taking any action.

14. Do you intend to meet minority community members and leaders who have concerns about an environmental or health issue within your EPA jurisdiction?

Yes, if confirmed.

15. Public participation is the cornerstone of a healthy democracy and a basic component of good US policy development and enforcement. What are your plans to maximize inclusion and participation in decision-making processes by historically marginalized communities of color?

As I testified, the Administrator plays an important role regarding environmental justice. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress, including the Civil Rights Act. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, in order to protect human health and the environment for all Americans.

16.Illegal solid waste dumping sites where hundreds of thousands of pounds of trash and waste tires harbor disease-carrying vectors and pests such as mosquitoes, which transmit life threatening diseases like dengue, west Nile and zika viruses can be found all over the United States. These dumping sites

disproportionally affect low income and minority communities. What will you do to address this health threat to these communities?

I understand the Resource Conservation and Recovery Act prohibits open dumping, and under this law states have primary responsibility to regulate solid waste disposal. If confirmed, I would expect to be briefed by staff and to hear the views of states and other stakeholders before taking any action consistent with EPA's legal authorities.

17.Monitoring of our coastal waters is critical to ensure the health and safety of its swimmers and bathers. Many coastal communities, especially low-income and minority communities have limited free recreational opportunities other than spending the day at the beach. As EPA administrator will you commit to continuing EPA's BEACHES program, which provides funding for state water quality monitoring programs that ensure healthy and safe recreation?

I am not personally familiar with the BEACHES program, but I would expect, if confirmed, to be briefed by staff about the program. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, including those authorizing the BEACHES program, in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress.

18.A 2014 study by scientists at Lawrence National Laboratory at Berkeley reported that an estimated 10 % of chemicals used in fracking fluid are known to be toxic to humans and aquatic life. Fracking practices commonly are conducted in fringe low-income and working class communities. Since these toxics are known to leach into waterways how will you ensure this is prevented?

As was affirmed by Congress in drafting the Lautenberg Act, hazard is only one characteristic of risk and simply stating a chemical substance has toxicity does not mean there is exposure. EPA is tasked with carrying out laws as directed by Congress and if I am confirmed, I will use the authorities vested in me to protect drinking water under the Safe Drinking Water Act.

19. Nationally, 13 percent of the population lives within three miles of a Superfund site while in New Jersey, 50 percent of the population lives within three miles—the highest percentage in any state. New Jersey has 113 Superfund sites on the National Priority List—more than any other state. These sites are the most heavily contaminated properties in the country, and are the areas that pose the greatest potential risk to public health and the environment. What is your plan to strengthen the EPA's superfund program?

If confirmed, I would expect to prioritize the cleanup of contaminated land. I would also expect to be briefed by staff and to receive the views of relevant stakeholders on ways to improve the operation of the Superfund program, if confirmed. I also understand the Government Accountability Office and the EPA Inspector General regularly review the operation and activities of the Superfund program and, if confirmed, I would expect to look to their recommendations for additional areas for improvement, if confirmed.

20. If confirmed do you commit to working to include substantial funding for Superfund cleanups in the new administration's request for a large national infrastructure package?

If confirmed, I expect to make cleanup of contaminated sites one of my priorities.

21. In 2003, Arkansas and Oklahoma signed an agreement, the Statement on Joint Principles to take several measures to reduce phosphorus pollution in the Illinois River Watershed. One requirement was for Oklahoma to revise its 0.037 mg/L phosphorus criterion by 2012, which it did. Why, instead of supporting the conclusion of your own state Water Resources Board, did you delay implementation an additional three years by negotiating another agreement to conduct yet another study?

The "Statement of Joint Principles and Actions" did not require Oklahoma to "revise" its criterion, but rather stated that "Oklahoma will reevaluate Oklahoma's .037 mg/l criterion for total phosphorus in Oklahoma's Scenic Rivers by 2012, based on the best scientific information available at that time, and with the full, timely inclusion of officials from the State of Arkansas representing both point and non point source dischargers." As of 2012, which was the final date for the reevaluation to occur, Arkansas maintained its objection that Oklahoma's .037 mg/l criterion was inappropriate, and not based on the best scientific information available at that time. Rather than protract a now decades long dispute that appeared to again be headed towards litigation once again, I instead negotiated an agreement whereby Arkansas agreed to be finally bound to the results of a new study that would use the best scientific information available at the time to determine the appropriate criterion. This agreement avoided the prospect of more litigation, and ultimately resolved the dispute (with Oklahoma getting the stringent standard that it wanted).

22. In your testimony before the Senate Environment and Public Works Committee, you said that the 2003 agreement expired during your term? Where exactly in the agreement do you see any expiration to the agreement?

The "Statement of Joint Principles and Actions" stated that "Oklahoma will reevaluate Oklahoma's .037 mg/l criterion for total phosphorus in Oklahoma's Scenic Rivers by 2012, based on the best scientific information available at that time, and with the full, timely inclusion of officials from the State of Arkansas representing both point and non point source dischargers." As of 2012, which was the final date for the reevaluation to occur, Arkansas maintained its objection that the .037 mg/l criterion was inappropriate, and not based on the best scientific information available at that time. Therefore, the 2013 Agreement was reached with Arkansas whereby it agreed to be bound by the results of a new study that would use the best scientific information available at the time to determine the appropriate criterion.

23.The 2003 agreement says that, "The state of AR and OK, acting through their environmental agencies, will reissue the above-specified cities' NPDES permits on a normal five (5) year resistance cycle, with the understanding that NPDES permits for these point source dischargers to the shared Oklahoma Scenic Rivers Watershed issued in the year 2012 or beyond must include phosphorus limits stringent enough to meet applicable water quality standards."
a.Do you agree that the 2003 agreement places obligations on NPDES permitted facilities in Arkansas beyond 2012?
b.Because Oklahoma reevaluated its criterion in 2012, does this section require that NPDES permits issued in Arkansas have to be stringent enough to meet Oklahoma's .037 mg/L phosphorus water quality standard by 2012 and then beyond 2012?
c.In your testimony before the Environment and Public Works committee, you testified that the agreement was "historic" and OK's phosphorus limit would be implemented for the first time in history on both sides of the river. Do you agree that the .037 mg/L phosphorus criterion was enforceable on both sides of the border under the terms of the 2003 agreement?

Yes. No. No.

24.In the 2013 agreement between Arkansas and Oklahoma, you agreed "not to institute or maintain administrative enforcement actions, judicial proceedings or take regulatory actions contrary to this second statement."
a. Why did you agree to suspend your enforcement authority?
b. How many enforcement actions did you suspend?
c. Do you interpret "judicial proceedings" to include any judgment in the pending case your predecessor brought against 14 poultry polluters? Was this agreement intended to suspend enforcement of any judicial resolution of that case?

I did not agree to suspend enforcement authority. The Agreement simply acknowledged that neither state would take actions that would violate the terms of the agreement. I do not know if any enforcement proceedings were suspended, as my office is not the entity that would be involved in such

actions. I do not interpret "judicial proceedings" in that manner, and the agreement was not so intended.

25. In 2013, you negotiated an agreement with Arkansas that allowed those municipal dischargers to continue discharging at 1 mg/l phosphorus, agreed to remove the 2012 deadline for complying with Oklahoma's phosphorus standard, and agreed to reopen Oklahoma's phosphorus water quality standard. Since Arkansas had already agreed, in 2003, to ensure that its large municipal dischargers would fully comply with Oklahoma's phosphorus standard starting in 2012, why did you let them out of that agreement in 2013? Please identify any provision of your 2013 agreement that requires these dischargers to meet Oklahoma's phosphorus standards after February 20, 2016.
a. Since the U.S. EPA approved Oklahoma's Phosphorus Standard in 2003, what legal basis do you think Arkansas had to file a lawsuit challenging since the time for filing a legal challenge had expired? If you do not believe the time for filing a legal challenge had expired, please explain the basis for your belief.
b. Do you agree that Arkansas is required to ensure that its point source discharge permits comply with all Oklahoma water quality standards that have been approved by the U.S. EPA under the case of Arkansas v. Oklahoma, including the phosphorus standard approved in 2003? Please state the basis for your belief.
c. The Joint Study Committee authorized by your 2013 agreement recommended a standard different from Oklahoma's existing phosphorus water quality standard. Please explain whether this recommended standard will supplant Oklahoma's current water quality standard, and why you have state that the study confirmed Oklahoma's existing 30-day geometric mean 0.037 mg/l phosphorus standard. What is your understanding of the impact of excluding samples taken during conditions where surface runoff is the dominant influence of total flow and stream ecosystem processes?

The 2013 Agreement did not "let anyone out" of the 2003 Agreement. Arkansas believed that it had legal recourse to resist a criterion to which it objected. Without that additional context as to the claims to which you refer, I am unable to answer your question relating to time bar of Arkansas' hypothetical claims. With regard to Arkansas's obligations, pursuant to the 2013 Agreement, Arkansas is now obligated to adopt and implement a stringent phosphorus standard. The study "used a weight of evidence approach to recommend a six-month average total phosphorus level of not to exceed 0.035 milligrams per liter based on water samples collected during critical conditions was necessary[.]" As I've stated, this confirmed that Oklahoma's 0.037mg/l standard was--despite Arkansas's arguments that it was unnecessarily stringent--necessary to protect the watershed. I am not familiar with the "the impact of excluding samples taken during conditions where surface runoff is the dominant influence of total flow and stream ecosystem processes," to which you refer, and thus cannot offer an opinion on that statement.

26. You stated in your EPW Questionnaire that you negotiated an agreement with Arkansas to reduce phosphorus pollution in the Illinois River watershed that was occurring as a result of poultry growers. Please explain how the agreement reduces pollution from poultry growers.

Runoff from poultry farms contribute to increased phosphorous levels in the Illinois River. The agreement imposed on Arkansas the requirement that it adopt a stringent phosphorous standard, which will necessarily require Arkansas to stringently regulate sources of phosphorous, such as poultry farms, in order to meet that standard.

27. You stated that Oklahoma's phosphorus standard was not being enforced on the Arkansas side of the border prior to your 2013 Agreement. Are you aware that, in April of 2009, the EPA required the Arkansas Department of Environmental Quality to ensure that the discharge permit for the Northwest Arkansas Conservation Authority include an enforceable final effluent limitation for phosphorus stringent enough to meet Oklahoma's phosphorus water standard by June 30, 2012, and that the final NPDES permit for Northwest Arkansas Conservation Authority issued by Arkansas included that requirement? Given the fact that Oklahoma's phosphorus standard was being enforced in Arkansas prior to your 2013 agreement, please explain the benefit to Oklahoma from entering into the agreement.

However, upon reviewing it, I note that Arkansas reserved the right to revise the 0.1 mg/l phosphorus permit limit ("The Department reserves the right to revise the permit limit of 0.1 mg/l for Total Phosphorus upon submission of data which indicates that a Total Phosphorus limit other than 0.1 mg/l is appropriate"). Further, I am aware that Arkansas continued to dispute the validity of Oklahoma's t0.037 mg/ limit, a dispute that is now resolved with Arkansas agreeing that 0.037 mg/l phosphorus standard is appropriate. That agreement greatly benefits Oklahoma.

28. It appears that the last call or meeting that EPA has on the long delayed TMDL for the Illinois River and Lake Tenkiller watersheds occurred on November 14, 2013. Please explain how your 2013 Agreement is related to the TMDL or cleanup of Lake Tenkiller. What steps have you taken with the U.S. EPA to encourage completion of the Illinois River and Lake Tenkiller TMDLs and oppose further delay?

I would certainly encourage the EPA to fulfill any obligations it might have to complete those TMDLs, but I have not taken any legal actions to force the EPA to do so.

29. What steps have you taken to implement and enforce the 0.037 mg/L criterion for phosphorus pollution just approved by the Scenic Rivers Joint Commission in Oklahoma? What measures has Arkansas agreed to in light of the study results?

I have not personally taken any steps to implement or enforce that water quality standard, because the authority to do so is vested in Oklahoma's environmental regulators, such as the Oklahoma Department of Environmental Quality, and Oklahoma Water Resources Board.

30. In 1992 the US Supreme Court in Arkansas v Oklahoma, 503 U.S. 91 (1992), resolved a lawsuit between Oklahoma and Arkansas related to water pollution in the Illinois River and held that upriver states must comply with water quality standards that are adopted by downriver states and approved by EPA. After that Supreme Court decision, effective July 1, 2002, Oklahoma adopted a nutrient criterion for total phosphorous of .037 mg/l for all Oklahoma water bodies designated as Scenic Rivers, codified at Oklahoma Administrative Code 785:45-5-19(c)(2). This new water quality standard had a ten year phase in period before full compliance was required on June 30, 2012. EPA approved Oklahoma's .037 mg/l phosphorous standard, as codified at Oklahoma Administrative Code 785:45-5-19(c)(2), on December 29, 2003.
a. Given this history, do you agree that as of July 1, 2012 Oklahoma's .037 mg/l phosphorous standard was in effect and was binding on upriver states such as Arkansas?
b. More specifically, do you agree that as of July 1, 2012 compliance with Oklahoma's .037 mg/l phosphorous standard was required for the portion of the Illinois River in Arkansas?
c. If you do not agree that as of July 1, 2012 compliance with Oklahoma's .037 mg/l phosphorous standard was required for the portion of the Illinois River in Arkansas, please explain the legal basis for your disagreement.

Oklahoma water quality standards do not automatically apply to upstream dischargers in other states. In 1992, in Arkansas v. Oklahoma, a case that pre-dated Arkansas' authorization to carry out its own Clean Water Act permitting program, the Supreme Court held that it was in EPA's discretion to issue a permit for a publicly owned treatment plant in Fayetteville, Arkansas that required compliance with downstream (Oklahoma) water quality standards. The Court took no position regarding when the Clean Water Act compelled such compliance, only that it was reasonable for EPA to assume that a section 401 water quality certification applied to federally issued NPDES permits. Please note that section 401 applies only to federal permits and as such would not apply to an Arkansas permit now that Arkansas is an authorized state. Under 40 CFR 131.10 state water quality standards are supposed to ensure "attainment and maintenance" of standards applicable to downstream states, but EPA is the arbiter of that when it approves state standards. Under section 402(b) of the Clean Water Act a state that is downstream of an authorized state gets notice of permits

and the opportunity to file recommendations, but has no veto authority. Under section 402(d) of the CWA, EPA has the authority to review state issued permits and impose additional conditions. Interpreting this section, in International Paper Co. v. Ouellette, 479 U.S. 481, 493, 490-91 (1987) , the Supreme Court found that the only law applicable to a point source in an authorized state is the law of the source state. A downstream state is subordinate to a source state and its only recourse it to ask EPA to veto or condition a permit.

31. Please identify any investigations and/or lawsuits the Office of Attorney General initiated after January 17, 2011 to address groundwater contamination associated with swine animal feeding operations and any publicly available data in your possession regarding levels of groundwater contamination at any swine animal feeding operations, as well as any communications that the Office of Attorney General has had with the owners or operators of swine animal feeding operations after January 17, 2011.

The Oklahoma Department of Agriculture regulates Concentrated Animal Feeding Operations (CAFOs) and swine operations generally under the Oklahoma Agriculture and Environmental codes. The Oklahoma Department of Agriculture and the Oklahoma Office of the Attorney General already had several large swine feeding operations under Consent Decree or Settlement Agreement by the time I took office in 2011. (Hanor Roberts & Seaboard Foods, for example) The terms of those Consent Decrees and Settlement Agreements required the swine operations to make regular reports to the Department of Agriculture and the Office of the Attorney General. These reports included monitoring well data, lagoon data and other terms to be carried out by the operators pursuant to the agreements. My office has continued to monitor these operations to confirm compliance with the Consent Decree and Settlement Agreements.

Senator Cardin:

1. Please provide your definition of EPA's "activist agenda" as stated on your professional biography on the State of Oklahoma's official website. Please provide a list of all environmental laws and regulations that you consider to comprise the federal agency's "activist agenda" and how each environmental law or regulation listed in response to this question meets this definition.

I firmly believe that the EPA has a vital role, but it must do so within the bounds of its legal authority. The actions undertaken by the Office of Attorney General have been out of concern that EPA had exceeded its legal authority in those specific actions, not out of animosity toward the mission of the Agency or any specific regulation or statute. Regulations that are not on solid legal foundation and that cannot survive judicial review will not result in environmental protections.

2. For what purpose other than to handle the State of Oklahoma's legal challenges against the EPA did you create the Federalism Unit and defund the Environmental Protection Unit?

The Federalism Unit within the Attorney General's Office serves to protect the State of Oklahoma's sovereign interests in our republican form of government, with a particular focus on issues related to the vertical and horizontal separation of powers demanded by our Constitution. It is headed by the Solicitor General. With regard to the environmental protection unit, it is misleading to say that it was "defunded." Consistent with the practice of every Attorney General save one, I determined that a standalone unit was operationally inefficient. I opted to combine the Environmental Protection Unit and the Consumer Protection Unit into a single unit called the "Public Protection Unit." The Public Protection Unit continued the work of the Environmental Protection Unit, and that work continues to this day, headed by the very same attorney who worked in the Environmental Protection Unit under the prior Attorney General.

3. Do you intend to create a Federalism Unit within the EPA similar to Oklahoma's? Explain why or why not.

My understanding is that the Department of Justice, working in coordination with the EPA Office of General Counsel, represents EPA in litigation, and would thus serve to protect such federalism related interests.

4. Would you support budget cuts to the EPA in similar scope (10% or higher) to those made to Oklahoma Department of Environmental Quality appropriations since FY2009[1]?

I am not familiar with Oklahoma Department of Environmental Quality's budget. I have no first-hand knowledge of EPA's development of its FY 2018 budget request. If confirmed, I look forward to working with EPA's budget staff and program offices and officials with the Office of Management and Budget on EPA's request. I will work to ensure that the limited resources appropriated to EPA by Congress are managed wisely in pursuit of that important mission and in accordance with all applicable legal authorities.

5. Of the lawsuits filed against the EPA in which you participated personally and substantially as Attorney General for Oklahoma, do you intend to recuse yourself from decision making regarding litigation in which you represented the State of Oklahoma as an adversarial party? Do you intend to recuse yourself for the entirety of each case?

As a lawyer, I am bound by the rules of professional conduct not to "switch sides" in any litigation in which I represented the State of Oklahoma, unless my former client gives its informed consent.

6. Do you believe the State of Oklahoma and the EPA should be regarded as the same or different "clients" for conflicts of interest purposes? Explain why or why not.

The State of Oklahoma and the federal government are separate sovereign authorities; representing one does not entail representing the other. In addition, while the State of Oklahoma has been my client as a lawyer during my service as Attorney General, if confirmed as EPA Administrator I will not be acting as a lawyer with clients.

7. The American Bar Association (ABA) Model Rules of Professional Conduct, Rule 1.1, Special Conflicts Of Interest for Former and Current Government Officers and Employees, Comment 5 discusses the balancing of interests. On the one hand, where the successive clients are a government agency and another client, public or private, the risk exists that power or discretion vested in that agency might be used for the special benefit of the other client. A lawyer should not be in a position where benefit to the other client might affect performance of the lawyer's professional functions on behalf of the government. Also, unfair advantage could accrue to the other client by reason of access to confidential government information about the client's adversary obtainable only through the lawyer's government service. In the spirit of Rule 1.11, what previous lawsuits

[1] http://okpolicy.org/wp-content/uploads/2016_Budget_Highlights.pdf?997616#page=7&x42044

might affect your performance of the Administrator's professional functions on behalf of the EPA?

Because I will follow the guidance of ethics officials and my own professional responsibilities in determining whether and how to participate in a particular matter, I do not expect any previous lawsuits to adversely affect my performance as EPA Administrator if confirmed.

8.On the other hand, the rules governing lawyers presently or formerly employed by a government agency should not be so restrictive as to inhibit transfer of employment to and from the government. The government has a legitimate need to attract qualified lawyers as well as to maintain high ethical standards. Thus a former government lawyer is disqualified only from particular matters in which the lawyer participated personally and substantially. The provisions for screening and waiver in paragraph (b) are necessary to prevent the disqualification rule from imposing too severe a deterrent against entering public service. The limitation of disqualification in paragraphs (a)(2) and (d)(2) to matters involving a specific party or parties, rather than extending disqualification to all substantive issues on which the lawyer worked, serves a similar function. Please provide a list of federal lawsuits filed against the EPA in which you participated personally and substantially as Attorney General for Oklahoma.

As Attorney General of Oklahoma, I have participated personally and substantially in the following suits against the EPA:

- **EME Homer City Generation v. EPA, No. 12-1182 (U.S.S.C.)**
- **Michigan v. EPA, No. 14-46 (U.S.S.C.)**
- **Murray Energy Corp. v. EPA, Nos. 14-1112, 14-1151 (D.C. Cir.)**
- **Murray Energy Corp. v. EPA, Nos. 15-1385, 15-1392, 15-1490, 15-1491 & 15-1494 (D.C. Cir.)**
- **Oklahoma v. EPA, Nos.12–9526, 12–9527 (10th Cir.)**
- **Oklahoma ex rel. Pruitt v. EPA, No. 16-5038 (10th Cir.).**
- **Oklahoma ex rel. Pruitt v. McCarthy, No. 15-cv-369 (N.D. Okla.).**
- **Oklahoma v EPA, No, 13-cv-00726 (W.D. Okla.)**
- **West Virginia v. EPA, No. 14-1146 (D.C. Cir.)**
- **West Virginia v. EPA, No. 16-1264 (D.C. Cir.)**

9.Do you accept a screen is appropriate for EPA strategic decisions specific to those lawsuits in which you represented an adversarial party? Explain why or why not.

I will consult with relevant ethics officials and review relevant rules of professional conduct to determine whether a screen is appropriate in a particular matter.

10.Comment 5 discusses a lawyer who moves between different government entities. When a lawyer has been employed by one government agency and then

moves to a second government agency, it may be appropriate to treat that second agency as another client for purposes of this Rule, as when a lawyer is employed by a city and subsequently is employed by a federal agency. However, because the conflict of interest is governed by paragraph (d), the latter agency is not required to screen the lawyer as paragraph (b) requires a law firm to do. The question of whether two government agencies should be regarded as the same or different clients for conflict of interest purposes is beyond the scope of these Rules. Do you believe two government agencies—the State of Oklahoma and the EPA—should be regarded as the same or different "clients" for conflicts of interest purposes? Explain why or why not.

As explained above, the State of Oklahoma and the federal government are separate sovereign authorities. While the State of Oklahoma was my client as a lawyer, if confirmed as EPA Administrator I will not be acting as a lawyer with clients.

11.How might the spirit of Rule 1.11's conflicts of interest provisions apply if those government entities were adversarial parties to a lawsuit?

If two government entities are adversarial parties to a lawsuit, then under ABA Model Rule 1.11 a lawyer's previous representation of one entity in the litigation will preclude his later representation of the other entity in the same litigation, unless the former client gives its informed consent. As explained above, if confirmed as EPA Administrator I will not be acting as a lawyer with clients.

12.ABA Rule 1.7 Conflict Of Interest: Current Clients provides that a "lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if the representation of one client will be directly adverse to another client; or there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer." In the spirit of Rule 1.7, do you reasonably believe that you will be able to provide competent and diligent leadership to the EPA, an agency you "don't like" and have sued several times? Explain why or why not.

I will provide diligent and competent leadership to the EPA if confirmed as Administrator. As I explained in my testimony to the Committee, I am a firm believer in the EPA's mission to protect the environment and look forward to the opportunity to lead the agency to help provide our future generations with a better and healthier environment.

13.Please explain how your litigation position in each case is or is not at odds with the mission of the EPA, to protect human health protect human health and the environment—air, water, and land.

The EPA's mission is defined by the laws passed by Congress granting it the authority to act. Any action by the EPA that exceeds the authority granted to it by Congress, by definition, cannot be consistent with the Agency's mission. In each case filed against the EPA, in the view of the State of Oklahoma, the EPA had acted in excess of the authority granted to it by Congress.

14.Do you accept that EPA, state, local and tribal agencies work together to ensure compliance with environmental laws passed by Congress, state legislatures and tribal governments?

I agree it is essential for the federal government, state governments, and tribal governments to work together to provide the environmental protection that our laws demand and that the American people deserve. As I explained in my testimony to the Committee, I strongly support cooperative federalism. If confirmed, I will make every effort to partner with the EPA's counterparts in state, local, and tribal governments to further these goals.

15.In 2005, former Attorney General Drew Edmondson filed a federal lawsuit in 2005 seeking to prohibit the spreading of chicken waste over land in the Illinois River Basin in northeastern Oklahoma. Companies named in *State of Oklahoma v. Tyson Foods Inc.* (No. 4:05-cv-00329) include Tyson Foods Inc., Tyson Poultry Inc., Tyson Chicken Inc., Cobb-Vantress Inc., Cal-Maine Foods Inc., Cargill Inc., Cargill Turkey Production L.L.C., George's Inc., George's Farms Inc., Peterson Farms Inc., Simmons Foods Inc., Cal-Maine Farms Inc. and Willow Brook Foods Inc. On December 9, 2015, the State of Oklahoma filed brief amici curiae along with 21 other states in support of the petitioners in *American Farm Bureau Federation v. EPA* (No. 15-599). The *Tyson Foods* defendants did not participate in the Bay TMDL lawsuit, and the American Farm Bureau was not a party to the Oklahoma suit. However, Tyson Foods Inc., headquartered in Springdale, Arkansas—the largest poultry producing company in the world—is a member of the Arkansas Farm Bureau. Do you accept that the American Farm Bureau, a national organization, represents the interests of the Arkansas Farm Bureau and its members, including Tyson Foods? Explain why or why not.

It is my understanding that the American Farm Bureau Federation is a distinct corporate entity from the Arkansas Farm Bureau, which is a distinct corporate entity from Tyson Foods. Accordingly, I do not believe one can ignore corporate form and conflate the American Farm Bureau Federation with either the Arkansas Farm Bureau or Tyson Foods. I observe that the Pennsylvania Farm Bureau filed suit against EPA in the challenge to the Chesapeake Bay TMDL on its own behalf, notwithstanding the fact that American Farm Bureau Federation also was a plaintiff.

16.In 2013, despite the lack of a verdict in the *Tyson Foods* case, you added the State of Oklahoma to the American Farm Bureau/poultry industry backed lawsuit

against the EPA's efforts to enforce a TMDL to restore water quality in the Chesapeake Bay. You sided with the American Farm Bureau, the Fertilizer Institute, the National Chicken Council, the National Pork Producers Council and other farming interests. The lawsuit claimed EPA was exceeding its authority in enforcing "total maximum daily load," or TMDL, standards in Chesapeake Bay, limitations on nitrogen, phosphorus and sediments. In what ways did you balance the interests of your client, the State of Oklahoma, as Counsel for Amicus Curiae in *American Farm Bureau* while *Tyson Foods*, in which you represented the State of Oklahoma as Plaintiff, was ongoing?

These are two different lawsuits regarding different parties and different matters. There also is no issue conflict because the issues raised in the two lawsuits also are distinct.

17.In 2016, more than six years after arguments concluded in *Tyson Foods*, there has been no final ruling from U.S. District Court Judge Gregory K. Frizzell. Do you find the six-year delay in *Tyson Foods* to be acceptable or reasonable, and if so, why?

It would not be appropriate for me as an attorney to comment on the acceptableness or reasonableness of the actions of a judge before whom the Office of the Attorney General has a pending case.

18.Please provide a list of all confidential government documents related to the Chesapeake Bay TMDL to which you would not have access but for your status as counsel to the State of Oklahoma as amicus curiae in *American Farm Bureau*.

I am not aware of any such documents. A request for such documents can be made to the Office of the Attorney General pursuant to the Oklahoma Open Records Act.

19.If the Supreme Court were to grant certiorari in *American Farm Bureau*, or a case like it challenging the Chesapeake Bay TMDL, how would you direct the EPA as Administrator to rigorously defend its own rule?

Any TMDL should be a cooperative effort. If confirmed as EPA Administrator and if the litigation challenging the Chesapeake Bay TMDL reached the Supreme Court during my time in office, I would expect to consult with the States and other interested stakeholders about the issues raised in such litigation.

20.In what ways did you balance the interests of your client, the State of Oklahoma, as Amicus Curiae in *American Farm Bureau* and as Plaintiff in *Tyson Foods*?

These are two different lawsuits regarding different parties and different matters. As Attorney General of Oklahoma, I represent the interests of the State of Oklahoma when I seek to ensure that federal law is followed such that Oklahoma retains its sovereign authority to regulate where federal law allows such state regulation..

21.Do you accept that the Chesapeake Bay TMDL could still fail to significantly reduce pollution flowing to the Chesapeake Bay if the EPA steps back from its role in holding states accountable for their cleanup commitments? Explain why or why not.

It is my understanding that recent quality data shows that the water quality of the Chesapeake Bay is improving. Further, it is my understanding that the United States Geological Survey and other researchers have found that the time lag between measures taken on the ground and water quality response can be years, decades or even longer. Accordingly, today's improvements in water quality are likely the result of measures taken before the effective date of the Bay TMDL. These measures, as well as state plans to require treatment plants upgrades that also pre-date the effective date of the Bay TMDL, will continue to improve water quality. That said, the Bay TMDL represents a cooperative effort of all states in the watershed and EPA has a role in overseeing its implementation.

22.The TMDL approach hinges on numeric water quality standards that set a qualitative number for pollution limits, rather than a qualitative description of how healthy waters should be. As Administrator, how would you promote effective numeric standards?

I agree with the Mach 2011 nutrient framework issued by the Assistant Administrator for the Office of Water entitled "Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions," which prioritizes state action to encourage on the ground activities over establishment of numeric nutrient limits. According to the State of Florida, based on their experience with the imposition of federal numeric nutrient limits, controversy over the validity of a number can actually delay pollutant reduction activities, delaying water quality improvements.

23.In the Mississippi River watershed, the Obama Administration defended a lawsuit against the EPA from environmentalists seeking numeric nutrient criteria. The United States District Court for the Eastern District of Louisiana ruled in favor of the EPA, finding “Presumably, there is a point in time at which the agency will have abused its great discretion by refusing to concede that the current approach […] is simply not going to work.” But for now, “EPA is entitled to judgment as a

matter of law in its favor." As Administrator, would you continue to waste resources on a qualitative, voluntary approach?

I was not involved in the litigation your reference, and am not familiar with the details of the case.

24.As Administrator, do you intend to make enforcement of the Chesapeake Bay cleanup plan a priority? How? Do you acknowledge that it will be even more difficult to make progress without EPA?

The Chesapeake Bay TMDL has been upheld by the Third Circuit Court of Appeals. If confirmed, I will continue to enforce the law and will continue EPA's leadership role as a member of the Chesapeake Bay Executive Council. I agree that progress would be difficult without a collaborative process.

25.Would you deny the political will in the states of the Chesapeake Bay watershed to protect the Bay?

I would listen to the views of all interested stakeholders including the States.

26.In a 2013 speech, you said "There are issues with respect to clean water and air that cross state lines. There is a role, and I think it's important for conservatives, for us to recognize, that though I don't like the EPA […] I think it's not good for us to say that the EPA doesn't have any role." How would you characterize the EPA's role in mediating cross-state air and water pollution disputes?

I certainly agree that EPA plays a leadership role in mediating cross-state air and water pollution disputes.

27.In 1992, the Supreme Court held in *Arkansas v. Oklahoma* (No. 90-1262), a case challenging the EPA's issuance of a National Pollution Discharge Elimination System (NPDES) permit to a publicly owned treatment plant in Fayetteville, Arkansas for a discharge into a river flowing into Oklahoma, that the Clean Water Act authorizes the EPA to require that point sources in upstream states not violate water quality standards in downstream states.[2] Is the EPA interpreting this Supreme Court precedent correctly? If not, how would you change its interpretation through NPDES?

[2] https://www.epa.gov/sites/production/files/2015-01/documents/waterpollution-ludwiszewski-memo.pdf

Arkansas v. Oklahoma involved an EPA-issued permit because at the time of the litigation the Fayetteville wastewater treatment plant began operation Arkansas did not have an approved state permitting program. Oklahoma is authorized to implement its own NPDES permitting program, in lieu of the federal program. As such, I am not familiar with how EPA is applying Arkansas v. Oklahoma when it issues permits in the handful of states without such approved permitting programs.

28.After the *Arkansas* decision, you agreed to a three-year delay in 2012 to allow for an independent study of the science behind the standard. What specific factors motivated your decision to delay enforcement of Oklahoma's standard?

The "Second Statement of Joint Principles and Actions" that Oklahoma entered into with Arkansas in 2012 actually required that "[t]he States, through the appropriate Parties, will continue to require existing point source dischargers to the Illinois River Watershed with a design capacity of greater than 1 MGD to operate under existing National Pollutant Discharge Elimination System ("NPDES") permits reflecting an effluent limit for total phosphorus of not more than I mg/L based upon a 30 day average, assuming the U.S. Environmental Protection Agency does not object" and likewise required that "Parties for both States will continue cooperative efforts to improve and protect water quality in the Scenic Rivers."

29.Please provide all communications you had had with representatives of agricultural and other companies regarding water quality litigation between Arkansas and Oklahoma.

Such communications can be requested from the Oklahoma Office of the Attorney General through a request made to that office pursuant to the Oklahoma Open Records Act.

30.Do you commit to fully apply and enforce the Good Neighbor provision if confirmed as EPA Administrator?

Yes. If I am confirmed as Administrator, I will exercise my authority in this area consistent with Congress's intent in enacting the Act. Specifically with respect to Section 110(a)(2)(D) and the "good neighbor" obligations of Section 110, I intend to engage in a transparent process that will allow states to have a meaningful opportunity to understand their obligations with regard to reducing emissions that cause or contribute to nonattainment or interference with maintenance in other states through the SIP process and to act consistent with my authority under Section 110(c) if states fail to do so.

31.What is your understanding of the role of climate change in algal blooms?

EPA identifies the following as causes of harmful algal blooms: sunlight, slow-moving water, and excess nutrients. For climate change to have a role, it would first have to have an impact on one of these three causes.

32.Please provide a list of water treatment plants under consent order from the Oklahoma Department of Environmental Quality during your tenure as Attorney General. Please identity funding sources other than federal funding that are available to bring these treatment plants into compliance with the Clean Water Act.

This question should be directed to the Oklahoma Department of Environmental Quality, as I have no personal knowledge of such matters.

33.Of the 1,677 public water supplies under the purview of the Oklahoma Department of Environmental Quality, 19 had recent elevated detections of lead in March, 2016. Please describe any action you took to address lead contamination as Attorney General.

As the question indicates, the Oklahoma Department of Environmental Quality as opposed to the Office of Attorney General has primary responsibility for implementing and enforcing environmental laws in Oklahoma.

34.When more than 10 percent of tap water samples in a local system contain lead levels of at least 15 parts per billion, the state steps in to review the water system's treatment for corrosive properties and update the sampling schedule as necessary. How have budget cuts to the Oklahoma Department of Environmental Quality impacted sampling?

I have no personal knowledge of the Oklahoma Department of Environmental Quality's budget, or how any budget cuts may have impacted that office.

35.EPA and the Centers for Disease Control and Prevention (CDC) agree that there is no known safe level of lead in a child's blood. Lead is harmful to health, especially for children. Do you accept that there is no safe level of lead in a child's blood?

I am concerned about the health of children. I have not myself reviewed the scientific studies correlating blood lead levels to impacts in children. However, it is my understanding that neither EPA nor CDC have identified a "safe" level of exposure, but instead have adopted levels appropriate for action under their specific statutory authorities.

36.Please provide any information relating to enforcement actions for Lead and Copper Rule violations undertaken during your tenure as Attorney General for Oklahoma.

Such enforcement actions would have been undertaken by Oklahoma's environmental and water regulators, at agencies like the Oklahoma Department of Environmental Quality or the Oklahoma Water Resources Board. This question should be directed to those agencies so that can describe to you the relevant actions taken by the State of Oklahoma.

37.The Safe Drinking Water Act (SDWA) requires EPA to establish and enforce standards that public drinking water systems must follow. EPA delegates primary enforcement responsibility (also called primacy) for public water systems to states and tribes if they meet certain requirements. In a letter to Oklahoma Secretary of the Environment Gary Sherrer, EPA Regional Administer Ron Curry said the State had until June 1, 2013 to fully implement the Stage 1 and Stage 2 Disinfectants and Disinfection Byproducts Rules. Please provide all information related to Oklahoma's primacy under the Public Water System Supervision Program during your tenure as Attorney General.

As your question indicates, such matters would be within the purview of Oklahoma's environmental regulators, not the Office of Attorney of General.

38.Do you concur that persistent drinking water safety problems indicate the need to strengthen, not weaken, the federal law designed to ensure the safety of Americans' drinking water? Explain why or why not.

I believe that persistent drinking water problems largely stem from a failure to comply with current laws and regulations. If confirmed, I will work to increase compliance with the law, which will require effective enforcement and oversight, technical assistance, and infrastructure improvements. It also may require changes to existing regulations to improve oversight tools and eliminate ambiguities that lead to compliance issues.

39.At the same time, deteriorated lead paint and elevated levels of lead-contaminated house dust are present in an estimated 24 million U.S. houses, according the Centers for Disease Control and Prevention. The long-term effects that lead poisoning can cause include learning disabilities, hyperactivity, impaired hearing and brain damage. Infants and young children are most susceptible to lead poisoning. EPA's Lead Renovation, Repair and Painting Rule (RRP Rule) requires that firms performing renovation, repair, and painting projects that disturb lead-based paint in homes, child care facilities and pre-schools built before 1978 have their firm certified by EPA (or an EPA authorized State), use certified renovators who are trained by EPA-approved training providers and follow lead-safe work practices. Do you believe the RRP Rule should be a voluntary standard? Explain why or why not.

No. Oklahoma is an authorized state. The Oklahoma Lead-Based Paint Management Act designates the Department of Environmental Quality as the official agency for implementing the Lead-Based Paint Management Program.

40.EPA is addressing lead contamination and resulting hazards under these laws in many ways, including by issuing and enforcing regulations. Do you find this regulatory authority appropriate for EPA, and not the States? Why or why not.

It is appropriate for EPA to faithfully enforce federal law. With respect to the RRP rule, it is my understanding that there have been issues with EPA implementation of the RRP rule in states that are not authorized due to a delays in certifying firms.

41.Title IV of the Toxic Substances Control Act (TSCA), as well as other authorities in the Residential Lead-Based Paint Hazard Reduction Act of 1992, directs EPA to regulate lead-based paint hazards. As Administrator, how would you implement Title IV of TSCA?

Congress enacted both TSCA Title IV to create a national program to achieve the national goal of eliminating lead-based paint hazards from housing as expeditiously as possible and TSCA Title V to authorize the establishment of a state grant program to provide technical assistance on EPA environmental programs for schools and to implement school environmental health programs. If confirmed, I will faithfully discharge my responsibility to protect human health and the environment for all Americans with the highest possible dedication and commitment in accordance with the legal authorities established by Congress.

42.The CWA prohibits anyone from discharging pollutants, including lead, through a point source into a water of the United States unless they have a National Pollutant Discharge Elimination System (NPDES) permit. As part of their water quality standards regulations, states and authorized tribes adopt ambient water quality criteria with sufficient coverage of parameters, such as lead, and of adequate stringency to protect the designated uses of their surface waters. What changes, if any, would you make to the NPDES permit?

I have not contemplated any changes to the NPDES permit program, if confirmed.

43.Please provide all confidential government information regarding the 2010 consent order with the Making Money Having Fun (MMHF, LLC), a coal combustion waste mine fill operator in Bokoshe, Oklahoma, that you obtained as Attorney General.

I did not become Attorney General until January 2011. The Oklahoma Department of Environmental Quality has responsibility for administering and enforcing environmental laws in Oklahoma, along with other agencies like the Water Resources Board and the Corporation Commission. Those agencies may be able to provide you information about the 2010 consent order your reference.

44.The EPA finalized the first federal coal ash disposal rules in 2015, but the rules did not include any direct mechanism to implement or enforce the rules. Now, Congress has provided the mechanism in S. 612-114th, the WINN Act, which was passed with bipartisan support. Senate Majority Leader Mitch McConnell also issued a press release stating his approval of several of the bill's provisions, including the coal ash language. As you may know, if states create a coal ash permitting program, or amend their current programs to incorporate federal standards and get EPA approval, they will be able to implement the rules themselves. If they do not, the EPA is directed either put into place a federal permitting system, or have the authority to directly enforce the requirement. Do you intend to enforce the coal ash language in S. 612-114th, the WINN Act, that received bipartisan report?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress, including the WIIN Act provisions regarding coal ash.

45.Please provide an explanation of any modification you would make to the coal ash provision in S. 612-114th, the WINN Act.

I have not had occasion to review in depth this new statutory. Congress, not the Administrator of EPA, has authority to modify statutory language such as the coal ash provision in the WIIN Act. I do not at this time have any opinion whether Congress should modify the statute in question.

46.Kentucky is already in the process of working on regulations governing coal ash disposal. The state's proposal would modify the concept of "permit-by-rule," and allow utilities to build their own coal ash landfills or ponds without prior permitting or review by regulators. The utilities could be fined by regulators or sued by individuals for violations. Energy and Environment Cabinet spokesman John Mura has said the Cabinet believes this would qualify as a "permitting program" as required by the WINN Act. As Administrator, would you allow the Kentucky Energy and Environment Cabinet's "permit by rule" program to qualify as a permitting program under the bipartisan WIIN Act? Why or why not?

I am not familiar with how Kentucky regulates coal ash disposal. It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is fully and fairly considered with input from staff and in accordance with applicable legal requirements.

47.What is the goal of your lawsuit asking to strike down EPA's "Waters of the United States" rule under the CWA? What will the states be empowered to do that they can't do with the rule in place? (be specific)

The goal of the lawsuit I brought to advance the State of Oklahoma's interest in protecting its regulatory authority is to have the courts vacate the WOTUS rule. If the WOTUS rule is vacated, we will return the status quo, and the State of Oklahoma's sovereign authority to regulate waters within its border will not be diminished.

48.The brief filed on behalf of states argues that states need to "protect" waters. Are you aware of the legal concept under the Clean Water Act that provides for states to be more protective than the Clean Water Act, not less—that the Act sets a minimum standard of protection and cleanliness?

The state brief filed in the WOTUS case argues that the WOTUS rule fails to recognize the limits on federal authority that Congress adopted when it enacted the CWA over forty years ago. Under the Act, Congress "chose to 'recognize, preserve, and protect the primary responsibilities and rights of States . . . to plan the development and use . . . of land and water resources.'" Solid Waste Agency of N. Cook Cnty. v. U.S. Army Corps of Eng'rs, 531 U.S. 159, 174 (2001) ("SWANCC") (quoting 33 U.S.C. § 1251(b)). As noted in the state brief: "The Rule likewise reaches and even exceeds the outer bounds of Congress's constitutional authority. The Rule's expansion of federal authority over intrastate waters will "impinge[] o[n] the States' traditional and primary power over land and water use," and "readjust the federal-state balance." SWANCC, 531 U.S. at 174.The Rule's coverage of intermittent waters, ephemeral waters, and isolated sometimes-wet lands "presses the envelope of constitutional validity," Rapanos, 547 U.S. at 738 (Scalia, J., plurality) (citation omitted), far more than the challenged agency actions in Rapanos and SWANCC. That is, states have exclusive, not additional, authority over all land and non-navigable, wholly intrastate waters.

49.Do you believe that states should be free to allow more pollution or fewer waters to be protected from pollution and development than described in the Waters of the United States Rule?

The litigation brought by the states was premised on a concern that EPA had exceeded its statutory authority as established by Congress. Additionally, the WOTUS rule is a jurisdictional rule, not a substantive rule as your question suggests.

50.Are there waters that you believe should not be protected under the Clean Water Act? What specifically are they? Why do you think that the rule covers those waters now? Why do you think they should not be protected?

As I stated in my testimony before the Committee, I believe that the Clean Water Act regulates more than navigable waters. But, it does not regulate all waters. How much more would best be answered by Congress. Absent Congressional action, it is the role of EPA to seek to provide clarity on the scope of federal jurisdiction. What that is has to be determined and assessed through notice and comment rulemaking. The WOTUS rule exceeded the authority granted by Congress by allowing federal regulation of land if rainwater collects on the surface and seeps into the ground or if rainwater runs over the land as ephemeral flows. It also exceeded CWA authority by regulating isolated ponds and wetlands. Such non-navigable, wholly intrastate water should be protected, as appropriate, under state, not federal, law. For example, isolated bodies of water have not been subject to federal regulation since the 2001 Supreme Court decision in SWANCC struck down earlier agency attempts to expand federal jurisdiction beyond the limits of the Act. The WOTUS rule would reverse that decision and regulate the same waters that the Supreme Court has already said are subject to exclusive state regulation.

51.In your lawsuit against the Clean Water Rule you argue against what you perceive as an undue federal intrusion on local control of decisions about water quality. You have also argued that cities in towns in Oklahoma should not be able to control their water quality by issuing local regulations for the activities of oil and gas companies. How is your stance in favor of local control under the Clean Water Act consistent with your position against local control when it comes to the water polluting activities of oil and gas companies? What legal underpinning is there for that difference?

State concerns regarding the WOTUS rule are based on the limitations on federal authority under the Clean Water Act. Oklahoma concerns over the regulation of commercial activities including oil and gas company operations by local governments are based on the limitations of local authority under state law and federal law. Respect for the rule of law underpins both concerns, and both seek to ensure that laws enacted by the relevant legislatures—Congress on one hand, the Oklahoma Legislature on the other—are followed.

52.Wetland ecosystems provide significant environmental and economic benefits to American citizens including water purification, flood and erosion control, and

habitat for wildlife and commercial fish species. In fact, over fifty percent of commercial fish and shellfish stocks in the Southeastern United States rely on coastal wetlands. Section 404 of the Clean Water Act protects wetland ecosystems by regulating the discharge of dredging and fill material. If confirmed, what is your plan to improve the biological condition of wetlands?

If confirmed, I will take care to faithfully execute all environmental laws enacted by Congress, including Section 404 of the Clean Water Act.

53.As of 2014 Oklahoma had nearly 14,000 miles of rivers and nearly 1,000 square miles of lakes that are so polluted they don't meet the state's water quality standards. That's approximately 42% of all the delineated stream miles in Oklahoma, and almost 1,600 of those were added during your time as Attorney General. Only 107 miles of rivers in Oklahoma – about a third of one percent – were classified as meeting Oklahoma's water quality standards. The other 58% are classified as having insufficient data to enable the state to say they're meeting state standards. As Oklahoma's Attorney General, what did your office do to ensure that the companies were complying with the state's clean water laws?

The Oklahoma Department of Environmental Quality and the Oklahoma Water Resources Board have primary responsibility for implementing and enforcing environmental laws in Oklahoma. Such questions should be directed to those environmental regulators.

54.How many water pollution enforcement actions did your office file, and how many of those resulted in orders to halt or reduce pollution discharges? Please provide a comprehensive list.

The Oklahoma Department of Environmental Quality and the Oklahoma Water Resources Board have primary responsibility for implementing and enforcing environmental laws in Oklahoma. Those agencies are thus best situated to provide a comprehensive list of enforcement actions take by the State of Oklahoma. The Office of Attorney General has on occasion assisted those environmental regulators by providing legal representation in cases under the CWA for pollution to groundwater, streams and other waterways. Other cases included pollution that caused fish kills and CERCLA Superfund sites that damaged Oklahoma groundwater and or streams. Those cases are EPA, States of Oklahoma & Texas v Mahard Egg Farm; EPA, State of Oklahoma v. Doe Run Mining et al.; ODWC v. Kent Feeds; ODWC v. Southern Towing; State Of Oklahoma, ODWC v Kelco Manufacturing; and State of Oklahoma & Cherokee Nation v. Sequoyah Fuels Corp.

55.President Reagan's EPA adopted the "Stream Buffer Zone" rule to protect streams, and the Obama administration has replaced that rule with the "Stream Protection Rule." Do you think Reagan's rule was a more straightforward way to

protect streams? Why or why not? What specifically about it was more "straightforward?"

The stream buffer zone rule and stream protection rule are not EPA rules. They were issued by the Office of Surface Mining Reclamation and Enforcement of the Department of the Interior.

56.The American Society of Civil Engineers states that decrepit, decades-old municipal wastewater systems are at fault for the discharge of 900 billion gallons of untreated sewage and wastewater into U.S. waterways each year, enough to cover New York City under a layer 127 feet deep. According to a New York Times report, municipal sewer systems are the nation's biggest violators of the U.S. Clean Water Act, and more than one-third of them have violated pollution laws at least once since 2006. This worn-out, faulty infrastructure requires new investments in order to protect public health and the environment. As the leader of the Agency in charge of protecting human health and US waterways, how will you help states and municipalities modernize their wastewater infrastructure?

If confirmed, I will continue support for the Clean Water State Revolving Loan Funds and the new Water Infrastructure Financing Innovation Act loan program. In addition, I would continue to implement EPA's Integrated Planning Framework to provide municipalities with flexibility to prioritize actions they take to come into compliance.

57.The American Society of Civil Engineers states that decrepit, decades-old municipal wastewater systems are at fault for the discharge of 900 billion gallons of untreated sewage and wastewater into U.S. waterways each year, enough to cover New York City under a layer 127 feet deep. According to a New York Times report, municipal sewer systems are the nation's biggest violators of the U.S. Clean Water Act, and more than one-third of them have violated pollution laws at least once since 2006. This worn-out, faulty infrastructure requires new investments in order to protect public health and the environment. As the leader of the Agency in charge of protecting human health and US waterways, how will you help states and municipalities modernize their wastewater infrastructure?

If confirmed, I will continue support for the Clean Water State Revolving Loan Funds and the new Water Infrastructure Financing Innovation Act loan program. In addition, I would continue to implement EPA's Integrated Planning Framework to provide municipalities with flexibility to prioritize actions they take to come into compliance.

58.Given the President-elect's concerns about EPA's slow and inadequate response to lead in drinking water problems and the lack of adequate testing, what specifically would you do to prevent a Flint-like disaster from happening elsewhere?

If confirmed, I will focus EPA's resources and attention on its core missions, including ensuring safe drinking water.

59.Would you commit to undertaking stronger EPA oversight and enforcement of drinking water rules, such as stronger enforcement of the lead and copper rule that wasn't enforced in Flint, MI?

Yes.

60.What specific lessons did you draw from the Flint, MI tragedy, regarding EPA's proper role in overseeing the States' administration of delegated federal programs?

I believe that EPA staff should be encouraged to notify their managers when they identify issues and managers must take those issues seriously when brought to their attention. I agree with the assessments of others that the Flint tragedy was a failure at every level of government, but I am particularly disturbed that EPA did not take action until long after they became aware of the elevated lead levels in Flint drinking water.

61.What are your views on when EPA should step in to take enforcement or emergency action where a state is authorized to administer a program under one of the federal environmental laws but is failing its duty to protect the public?

If confirmed, I will follow the process outlined in section 1414 of the Safe Drinking Water Act, as recently amended in section 2106 of the WIIN Act, to notify persons of elevated lead levels in their drinking water and will carry out the recommendations of the EPA Inspector General in his October 2016 Management Alert to update the guidance on Safe Drinking Water Act emergency authority and require training on the use of that authority.

62.Did EPA do an adequate job in the instance of the lead crisis in Flint, MI? If not, what specifically would you do differently?

No. If confirmed and faced with a similar situation, I would inform the state that EPA will take action if they fail to do so, and use EPA's emergency authority if the state fails to act.

63.How specifically would you strengthen EPA's lead and copper rule for drinking water to ensure, as Mr. Trump suggested, that water is adequately tested and treated before children are exposed to lead?

It would be inappropriate for me to prejudge the outcome of a matter that may come before me if confirmed as Administrator. If confirmed I would request a full briefing by EPA staff on potential revisions consistent with EPA legal authorities.

64.House Republican leadership said in 2016 that EPA should get new lead-in-water rules proposed as soon as possible, and criticized the agency for being too slow when it promised to get them out by 2017. By what date would you commit to get a new rule issued? How would you ensure that final improvements to this rule are issued and implemented quickly?

If confirmed, I will make issuing revisions to the Safe Drinking Water Act Lead and Copper Rule a priority. As I am not at the Agency, I do not know what is the soonest feasible date.

65.An independent advisory group of experts including state regulators and water industry representatives recommended to EPA that all old lead service lines that pump water into homes from water mains should be replaced. The water utility trade associations support this. Do you support that recommendation? In your view, what would be the best way to pay for these replacements—Congressional Appropriations, issuance of debt by cities and states, a combination, or other? Please explain.

It is my understanding that, if properly implemented, corrosion control treatment of water protects public health from exposure to lead from lead service lines. EPA's highest priority should be to ensure that this treatment is being properly employed. Replacement of lead service lines is a long term goal that municipalities should incorporate into their capital improvement plans, which are generally implemented through state and local funds. Federal assistance through the Drinking Water State Revolving Funds and the new WIFIA program can provide additional assistance.

66.Do you agree that removing lead from gasoline was an important and successful EPA rulemaking? Why or why not?

I have not evaluated this issue.

67.Lead has no safe level of human exposure, particularly for children. What actions will you take to require lead to be removed from children's environment to reduce their exposure to lead in air, water, soil, and paint?

If confirmed, I will faithfully carry out the authorities granted to EPA by Congress to reduce exposure to lead.

68.In March 2016 it was reported that 19 drinking water systems in Oklahoma had elevated lead levels. Of the 100 water systems with the highest self-reported lead levels between 2013 and 2015, seven are located in Oklahoma. One exceeded the federal action level by 1,175 parts per billion - many times greater than the amount of lead needed to cause the death of a fetus or spontaneous abortion, or

permanent severe developmental problems. As Oklahoma A.G., what specific actions did your office take to protect children against lead poisoning?

The Oklahoma Department of Environmental Quality and the Oklahoma Water Resources Board have primary responsibility for implementing and enforcing environmental laws in Oklahoma. Questions relating to actions taken by the State of Oklahoma with regard to lead in water systems should thus be directed to those environmental regulators.

69.How will you ensure that required evaluation of state drinking water primacy programs is conducted and how will you use EPA authority and resources to help states carry out their Safe Drinking Water Act primacy responsibilities?

If confirmed, I will focus on EPA's core missions, including oversight of state implementation of the Safe Drinking Water Act.

70.Will you direct EPA to continue and follow up on findings from 2016 increased oversight of state implementation of the Safe Drinking Water Act Lead and Copper Rule?

Yes.

71.What are your expectations for the 2017 Proposed Revisions to the Safe Drinking Water Act Lead and Copper Rule?

It is my understanding that EPA expects to issue that proposed rule in 2017.

72.In our conversation in my office, I asked for your thoughts on the Paris Agreement and the US commitment to the Paris Agreement. You pointed out that the Paris Agreement commitments are non-binding and when I asked you whether you thought the US should stay in the Paris Agreement you did not want to comment because you felt that the Paris Agreement is a matter handled in full by the State Department. Is that a fair characterization of your comments to me?

I believe I stated that a decision as to whether the U.S. stayed in the Paris Agreement would be a decision for the State Department.

73.Does that mean that you would advise the EPA to refrain from engaging with the State Department on US engagements with the UNFCCC and the execution process around the Paris Agreement?

Interagency cooperation is very important. Should the Administration decide to continue to participate in the Paris Agreement, and if I am confirmed as Administrator, I will collaborate with all involved agencies to ensure that commitments made on behalf of the United States are

achievable and consistent with requisite legal authorities delegated by Congress.

74.How does your position that EPA should ostensibly recuse itself from State Department responsibilities and engagements on the Paris Agreement comport with any plans that you, as the next EPA administrator, may execute to rescind or alter domestic policies that affect the US National Determined Contribution (NDC) to the Paris Agreement?

As I stated in a previous answer, should the State Department decide to continue to participate in the Paris Agreement and if I am confirmed as Administrator, I will work with all involved agencies to ensure that commitments made on behalf of the United States are achievable and consistent with requisite legal authorities delegated by Congress.

75.Recently at the World Economic Forum in Davos, Switzerland, Chinese President Xi Jinping expressed China's great interest in being the world's leader on a number of issues including action to address climate change. Do you believe it is the U.S.'s national interest to cede leadership to the Chinese on global action to address climate change?

It is the mission of the State Department to advance our national interests within the realm of foreign policy. If confirmed, I will work to advance the mission of the EPA, which is to protect human health and the environment, consistent with the State Department's strategy for international engagement on climate change.

76.Do you believe climate change is a real and serious threat to the planet?

The climate is changing and human activity impacts our changing climate in some manner. The ability to measure with precision the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue.

77.Do you accept the scientific consensus that should average global temperatures reach or exceed +2 degrees Celsius that many regions of the world will very likely experience catastrophic changes in the environment that may very likely impact the safety and prosperity of many people?

• Do you believe that uncertainty in climate science warrants greater study before the U.S. takes significant action to reduce greenhouse gas pollution?
• If so, are you aware that the portion of the scientific community that claims there is uncertainty in the science is limited to limited to about 5% of climate science communities?
• If you believe that the very small portion of the world's climate science community who hold outlier opinions on the severity of climate change justifies inaction, why wouldn't you give similar credence to other outlying opinions in the

climate science community that hold that global average temperatures may exceed 10 degrees Celsius and that catastrophic events may occur as soon as five or ten years?

The climate is changing and human activity impacts our changing climate in some manner. The ability to measure with precision the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data.

78.Our ability to predict the weather has improved dramatically over the last 20 years with the advent of supercomputers, new satellite monitoring options, and vastly superior atmospheric models. But still floods, droughts, hurricanes and similar phenomena occur and cause damage with sometimes only limited warning. What precision of prediction do you require before you are willing to accept the scientific community's overwhelming consensus that unchecked increases in greenhouse gas emissions will very likely have catastrophic effects, many of which the National Climate Assessment has described in detail every 4 years since 1990?

The ability to measure with precision the degree and extent of human activity on our changing climate, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data.

79.Do you believe that science should guide our nation's environmental policy?

Congress has made it very clear in the Clean Air Act, the Clean Water Act and other major environmental laws that the regulatory actions of the EPA should be based on the most up to date and objective scientific data. If confirmed, I will follow the directives of Congress to set science-based standards to protect the environment and human health.

80.What would have to change about our ability to predict the effect of increasing greenhouse gas emissions in Earth's atmosphere for you to consider it adequate?

If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate.

81.Would you support making those changes in sufficient time to ward off any negative effects of increasing those emissions?

The ability to measure with precision the degree and extent of human activity on our changing climate, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will make sure the agency's regulatory actions are based on the most up to date and objective scientific data.

82.What is your scientific background and what expertise do you have in environmental science?

My degrees are in communications, political science, and law. As with prior EPA Administrators who held bachelor of arts degrees, I completed science courses as a prerequisite to requiring my degree. Also, I understand that six of the 12 people who have been confirmed as EPA Administrator (including the first four individuals) had law degrees.

83.How do you square your opinion that air regulation is a matter for the states and that EPA has limited authority to mandate regulation of air pollution, with the court's overwhelming opinions that EPA has exclusive authority to regulate air pollution including greenhouse gases?

The concept of cooperative federalism is a bedrock principle of the Clean Air Act, the Clean Water Act and other EPA-administered laws. Whether working to improve air quality, water quality or other important environmental objectives, Congress made achieving these a shared responsibility between the EPA and the states. If confirmed, I will respect the intention of Congress and relative statutory framework.

84.Given that you are one of the lead attorneys challenging the clean power plan, a regulation promulgated by EPA in part due to the court's decision in landmark cases that determining EPA authority and responsibility to regulate greenhouse gases for domestic sources, in you rescind the Clean Power Plan:

It is unclear what question is being asked.

85.What policies would you promulgate to replace the Clean Power Plan, which you would have to do to ensure the EPA is in compliance with the court orders to regulate greenhouse gases?

It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is fully and fairly considered with input from staff, as part of a transparent process that seeks input from stakeholders, and that is consistent with EPA's statutory authorities.

86.What assurances will you give the public that your proposed replacement rules will withstand the tests established in the case law determining EPA's endangerment finding is adequate and legal and sufficiently regulates carbon pollution to protect public health and safety?

It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is fully and fairly considered with input from staff, as part of a transparent process that seeks input from stakeholders, and that is consistent with EPA's statutory authorities.

87.Do you trust the analysis, concerns and recommendations of security experts at the State Department, Department of Defense, Central Intelligence Agency, The Navy War College, UN Security Council, and the World Bank, who have expressed growing concerns over the threat climate change poses to national and global security?

I have no reason to disagree with the statements from the listed security experts, although I have not made any attempt to independently verify their accuracy.

88.U.S, national security experts that are working to incorporate climate modeling and climate change assessments into our national security planning apparatus rely on sound scientific analysis, modeling data, and technical assistance from the EPA in interpreting the data. Will commit to continuing EPA's engagements with the agencies and departments responsible protecting our national security and advancing our understanding and preparedness for the security risks climate change poses to the United States?

Interagency cooperation is very important. If I am confirmed as Administrator, I will collaborate with any agency or department that may require the EPA's technical expertise to strengthen their own administrative actions.

89.What assurances can you provide the public, particularly vulnerable communities at greatest risk from pollution, that you will represent their interests fairly as administrator when your personal political campaigns, as well as organizations that you have held leadership positions within - like the Republican Attorneys General Association, has received hundreds of thousands of dollars in contributions from the fossil fuel industry because of your working championing their interests by challenging laws regulating these industries?

As I explained in my testimony to the Committee, I am a firm believer in the EPA's mission to protect the environment and look forward to the opportunity lead the agency to help provide our future generations with a better and healthier environment for all Americans.

90.You have lost many of the lawsuits challenging EPA's authorities, including the Chesapeake Bay TMDL and the lawsuit challenging the endangerment finding on greenhouse gases. Given the difficulty you've had winning cases, what

assurances can you provide the committee of your sound judgment when it comes to understanding our nation's environmental statutes?

As Attorney General of Oklahoma, my focus has been on examining federal environmental statutes and relevant case law to evaluate the legality of the EPA's actions and the impact of those actions on Oklahoma. Oklahoma filed a friend of the court brief with the U.S. Court of Appeals for the Third Circuit in part to inform the court how EPA's interpretation of TMDL and other matters involved in the challenge would impact other states, including Oklahoma. If I am confirmed, I will apply those lessons which I have developed in the performance of my duties as Attorney General and would continue to do so if confirmed as Administrator.

91.Will you work with all stakeholders and the State Department on execution of the Kigali Amendment to the Montreal Protocol to phasedown hydrofluorocarbons (HFCs) and will you commit to ensuring that any actions EPA may take to modify or rescind the Safe New Alternatives Program (SNAP) rules on HFCs coincide with the U.S.'s acceptance or ratification of the Kigali Amendment?

Should the State Department decide to advance the Kigali Amendment to the Montreal Protocol and if I am confirmed as Administrator, I will work with all involved agencies and impacted stakeholders to ensure that EPA's actions related to hydrofluorocarbons (HFCs) are coordinated accordingly.

Ranking Member Carper:

1.Please list all public speeches or presentations you have made that included references to any issue related to energy or the environment since 1998, and please provide copies (written, audio, or video) of any such speeches or presentations. Please also indicate whether you received compensation for any such speech or presentation (whether stipend, travel, lodging expenses, or other form of remuneration) along with the name of the entity that provided such compensation and the amount thereof.

Please see attached list of speeches and enclosed copies of speeches in response to this request.

2. Please provide a list of the skills and experiences you bring to the EPA Administrator position and why you believe that you would be a good fit for the position.

I am a licensed attorney with significant experience in constitutional law, the Administrative Procedure Act, and Environmental Protection Agency administered statutes. This body has recognized my expertise in EPA related matters on several occasions, inviting me to testify before this and other committees on matters relating to the EPA. My legal education and profession has trained me to ask probing questions and think critically regardless of the subject.

3. Please define the Environmental Protection Agency (EPA)'s mission and the role you believe that sound science plays in fulfilling that mission.

The mission of EPA is to protect human health and the environment. Where Congress directs the EPA to act based upon scientific findings, the EPA should rely on well-reasoned, and sound, scientific findings.

4. In a 2006 article in The Oklahoman, you were described as someone that "believes in negotiating, but not compromising." Do you feel this continues to be an accurate description of you? If so, why? Do you agree with President Nixon's articulation of the principal roles and functions of the EPA? If you do not agree, please explain the aspects with which you disagree and why.

Based on the limited information provided in the question, I am uncertain about the article to which the question refers. The content and context of

the article and quote are not readily apparent. However, if confirmed as Administrator, I will take my responsibility to protect human health and the environment for all Americans with the highest possible dedication and commitment in accordance with the legal authorities established by Congress. I have a record of working on a bipartisan basis.

5. Do you think it is constitutional for Congress to direct EPA to set national standards that protect public health? Is it constitutional for Congress to do that even if the pollution only harms citizens of a single state?

The constitutionality of laws enacted by Congress depends on the particulars of the particular law, and will typically be decided by a court. Courts have generally recognized that Congress has the authority to create the EPA and vest certain powers in it.

6. Mr. Pruitt, your official biography on the website of the Oklahoma Attorney General's office says that you are "...a leading advocate against the EPA's activist agenda." The EPA, the agency you have been nominated to lead, has the critical mission "to protect human health and the environment" for all Americans. When you sued the EPA over the Good Neighbor Rule (Cross-state Rule), how did that protect human health and the environment for downwind states?

I firmly believe that the EPA plays an important role in addressing interstate water and air quality issues, but it must do so within the bounds of its legal authority. The actions undertaken by the Office of Attorney General challenging the Cross State Air Pollution Rule related to whether EPA had properly accounted for and allocated pollution from upwind states, as mandated by Congress. Regulations that are not on solid legal foundation and that cannot survive judicial review will not result in environmental protections.

7. You've been part of numerous lawsuits against the EPA – against clean air, clean water and climate regulations. However, you also have stated you are for clean air and clean water. Can you name one Clean Air Act regulation – not a voluntary or grant program – that is on the books today that you do support?

I firmly believe that the EPA plays an important role, especially as it relates to cross-state air and water pollution, but EPA must do so within the bounds of its legal authority as provided by Congress. Regulations that are not on solid legal foundation and that cannot survive judicial review will not result in environmental protections.

8. Are there any other EPA regulations that are on the books today that you do support?

I have not conducted a comprehensive review of existing EPA regulations. As Attorney General, I have brought legal challenges involving EPA regulations out of concern that EPA has exceeded its statutory authority based on the record and law in that matter.

9. President-elect Donald Trump has said repeatedly—at least half a dozen times—on the campaign trail that he would starve the EPA of funding or completely eliminate the agency. In March last year, the President-elect stated in reference to the EPA:

"We are going to get rid of it in almost every form. We're going to have little tidbits left but we're going to take a tremendous amount out,"

After the election, the President-elect didn't seem to change his tune. President-elect Trump stated two days after the election again in reference to the EPA:

"Environmental protection, what they do is a disgrace; every week they come out with new regulations,"

You also have a history attacking the agency. Please tell us why we should disregard the President-elect's statement on the EPA, disregard your actions and only believe your words that you will support clean air and clean water laws?

As I testified, I support the EPA's mission to protect human health and the environment. If confirmed, I will faithfully execute the environmental laws enacted by Congress.

10. As Administrator, will you take into account the true costs of air pollution including the adverse health and environmental impacts on states that are adversely affected by upwind pollution sources?

As I stated at the hearing, costs are important in the rulemaking process and the Courts have recognized that important factor. The Clean Air Act prescribes when costs should be considered and to what extent in a

rulemaking. If confirmed, I commit to faithfully executing the law as enacted by Congress.

11. As Administrator, will you take into account the full economic and job benefits that result from clean air protections such as the economic benefits to communities from clean air and American leading businesses that manufacture advanced technologies?

As I stated at the hearing, the EPA should consider the benefits of cleaner air for the public. The Clean Air Act prescribes certain instances where the EPA is obligated to conduct a cost-benefit analysis as part of the rulemaking process. If confirmed, I commit to faithfully execute the law as enacted by Congress.

12. If it is technologically and economically feasible to eliminate the release of a particular pollutant, do you agree that we should do so?

Environmental statutes prescribe certain instances where technological or economic feasibility is a relevant factor to consider in a rulemaking. If confirmed, I commit to faithfully execute the law as enacted by Congress.

13. I have often found that environmental regulations can and often drive innovation. We have seen that with the Acid Rain Program, CAFÉ, Clean Diesel standards, RFS and most recently with the mercury standards. Do you agree environmental regulations often drive innovation? If so, why? If not, why not?

The factors that lead to technological innovation can be complex and varied, and legal requirements may be one such factor.

14. Who serves or has served as your scientific advisor for climate change related issues during your time as attorney general? Please provide their names, their titles, and when they served as your science advisors.

The Office of Attorney General does not have a science advisor to advise on climate change related issues.

15. Mr. Pruitt, my State of Delaware is already seeing the adverse effects of climate change with sea level rise, ocean acidification, and stronger storms. While all states will be harmed by climate change, the adverse effects will vary by

state and region. Can you comment on why it is imperative that we have national standards for the reduction in carbon pollution?

If confirmed, I will fulfill the duties of the Administrator consistent with Massachusetts v. EPA and the agency's Endangerment Finding on Greenhouse Gases respective of the relative statutory framework established by Congress.

16. Pruitt, will you agree that there will be no retaliation against EPA employees who work on climate change issues?

If confirmed, yes.

17. Clean car standards save consumers money at the pump and help reduce oil imports. Automakers are complying with vehicle standards ahead of schedule. As Administrator, will you commit to support, defend and enforce EPA's current programs to address emissions from vehicles?

Congress has enacted numerous statutes directly or indirectly affecting transportation fuels, transportation fuel infrastructure, and the vehicles that consume those fuels. Congress committed many of those statutes to the EPA Administrator's responsibility. If confirmed as Administrator, I would administer each of those statutes in accordance with Congress's statutory objectives, and in light of the administrative record in each given proceeding. And I would work with Congress to ensure that its statutes continue to provide the best possible legal framework for governing American fuels, fuel infrastructure, and vehicles, and for promoting American energy independence, energy security, and environmental protection.

18. What is your definition of sound science?

Sound science is that which complies with applicable laws and federal guidance regarding scientific integrity, peer review, information quality, and transparency.

19. Prior to your nomination, how have you acquired scientific information relevant to the missions of the EPA? And since your nomination?

As Attorney General of Oklahoma, my focus has been on examining federal environmental statutes and relevant case law to evaluate the legality of the EPA's actions. Legal education is rooted in the Socratic method, which trains law students through probing questions and critical thinking and I apply those lessons and skills in the performance of my duties as Attorney General and would continue to do so if confirmed as Administrator.

20. Please list all undergraduate and postgraduate science courses that you have taken. Please describe any other science education that you have completed over the years beyond high school.

My degrees are in communications, political science, and law. As with prior EPA Administrators who held bachelor of arts degrees, I completed science courses as a prerequisite to requiring my degree.

21. President Nixon articulated that an important role for EPA is "The conduct of research on the adverse effects of pollution . . . the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes." Do you agree with President Nixon that EPA has an important role to play in researching any emerging risks from pollution as well as strengthening protections and recommending policy changes based on the science?

Yes.

22. Do you think the U.S. National Academy of Sciences is a reliable authority on scientific matters?

I have no reason to think otherwise, but I have not had occasion as Attorney General to consider this issue.

23. What degree of scientific certainty should the EPA have about a potential health or environmental threat before acting to protect people from that threat?

EPA actions are governed by statutes such as the Clean Air Act and other legal authorities and relevant case law, which establish applicable legal and scientific standards for the Administrator to act. If confirmed, I will adhere to these authorities to fulfill EPA's mission to protect human health and the environment for all Americans.

24. Do you support legislative efforts to change the independent nature of the EPA' s Science Advisory Board? If so, please explain why.

I am unfamiliar with the legislative efforts being referred to in this question. If confirmed, I expect to be briefed by EPA staff before taking any position on such matters.

25. If confirmed, do you plan to propose or advocate for budget cuts to the EPA's FY 2018 budget? If so, for which programs would you reduce funding? Would you target the EPA's research programs? Are there areas of agency action where you believe additional financial resources are needed?

I have no first-hand knowledge of EPA's development of its FY 2018 budget request. If confirmed, I look forward to working with EPA's budget staff and program offices to develop a budget and will work to ensure that the resources appropriated to EPA by Congress are managed wisely in pursuit of the Agency's important mission and in accordance with all applicable legal authorities.

26. For the most part, patients and their families only participate in scientific trials and studies once they know their privacy - and any resulting health-related information - will remain confidential and secure. If confirmed, do you commit to respecting confidentiality agreements that exist between researchers and their subjects? Will you protect the health information of the thousands of people that have participated in health studies in the past?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to improving public health and our environment. I have no first-hand knowledge of EPA's policies or practice concerning the confidentiality of health information. If confirmed, I would expect to learn more about the existing practice and I commit to follow applicable legal authorities regarding the confidentiality of health information.

27. If confirmed, how will you ensure that EPA maintains independent science, transparent decision-making, and scientific free speech?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to

devote their careers to improving public health and our environment. I also commit, if confirmed, to follow applicable laws and federal guidance on scientific integrity, information quality, and transparency.

28. Mr. Pruitt, when Congress passed our bedrock environmental laws, we directed EPA to periodically review and update the federal minimum health protection standards based on the best available scientific evidence. Do you agree that these federal minimum standards must be based on the best available science?

I agree that EPA regulatory actions must be based on the best available science in accordance with the law. If confirmed, I commit to faithfully execute the law as enacted by Congress.

29. Mr. Pruitt, conflicts of interest threaten the integrity of science and public trust in the agency's scientific determinations. Scientists are not immune from having their work and conclusions influenced by their financial interests. Allowing scientists with conflicts of interest to serve as peer reviewers is contrary to widely accepted scientific integrity practices, including those of the National Academies of Sciences, the National Institutes of Health, and other scientific bodies. Industry funded scientists who may have unique expertise can be invited to present information to peer reviewers or an advisory committee, but should not actually serve as a reviewer or member of the committee. Can you explain what steps you would take as Administrator to ensure that scientists with financial conflicts of interest do not threaten the independent peer review process at EPA?

Independent peer review is critical to ensuring the scientific integrity of EPA actions. If confirmed, it will be my privilege to work with EPA's scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to making a healthier and cleaner environment. I commit, if confirmed, to follow applicable legal authorities regarding conflicts of interests in the scientific peer review process.

30. Mr. Pruitt, do you agree that for scientific research to be credible, it must be subject to objective, independent peer review before it is published and remain subject to scrutiny after it is published?

Independent peer review is critical to ensuring the integrity of scientific research. If confirmed, it will be my privilege to work with EPA's scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to making a healthier and cleaner

environment. I commit, if confirmed, to follow applicable legal authorities regarding the peer review process for scientific research.

31. Mr. Pruitt, do you agree that for scientific research to be credible, scientists must disclose all sources of funding for their research?

Credible scientific research is critical to the EPA's mission and, if confirmed, I commit to follow applicable legal authorities regarding scientific research.

32. In the 1970 and 1990 Clean Air Act Amendments, Congress delayed older coal power plants air control requirements because Congress thought that most of the old plants would be shuttered in the decade after the legislation passed. Congress thought there was no need to invest in new technologies at these old, dying plants. Did many of these coal plants actually retire? Do you know the average age of our coal fleet?

I understand that the U.S. Energy Information Administration's Electric Power Annual 2015 report released in November 2016 indicated that between 2005 and 2015 more than one-third of U.S. coal-fired power plants retired and the remaining fleet has an average age of 38 years.

33. Do you know what the role the price of natural gas plays in industry decisions to retire coal plants and fuel switch to natural gas?

I am aware that market conditions, such as the reduced price of natural gas, and costly environmental regulations have been causing coal-fired power plants to prematurely shut-down or convert to natural gas.

34. In your cases against the EPA's Mercury and Air Toxics Rule, who served as your scientific advisor for the case?

Oklahoma's petition to review the Mercury and Air Toxics Rule was a legal challenge brought on the administrative record and argued that EPA acted contrary to law and arbitrarily and capriciously by not considering the costs of regulation in determining whether it was necessary and appropriate to regulate mercury from fossil fuel power plants within the meaning of Section 112(n). The Supreme Court ultimately agreed with Oklahoma's argument that EPA failed to act in accordance with the rule of law when it ignored costs in its determination and remanded the matter to the D.C. Circuit.

35. Mr. Pruitt, ten percent of American women have dangerous levels of mercury in their bodies. But recent data shows that since the United States started cleaning up emissions from coal power plants, not only has mercury pollution in the North Atlantic fallen dramatically, so has the concentration of mercury in Atlantic fisheries. Mercury in Atlantic bluefin tuna is down 19% in only eight years. Given this resounding confirmation that regulation works, how firmly can you assure us that if you are confirmed, EPA's recent successful crackdown on all sources of mercury emissions, including coal power plants will accelerate, rather than pulling back?

As I stated in my testimony, mercury is listed as a hazardous air pollutant under section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. If I am confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

36. As you may remember, we had three exchanges over the issue of whether EPA should regulate toxic air emissions, including mercury, from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that again addresses regulation of power plant mercury and other toxic air emissions under Section 112. Below is a direct quote from our second exchange, when I asked you directly about regulating power plant toxic air emissions:

"Senator, I actually have not stated that I believe the EPA should not move forward on regulating mercury or adopting rulemaking in that regard. Our challenge was with regard to the process that was used in that case and how it was not complicit with statutes as defined by congress. So there is not a statement or belief that I have that mercury is something that shouldn't be regulated under section 112 as a hazardous air pollution. A HAP."

These statements conflict directly with the language in the brief that you filed on June 2012 in White Stallion Energy, et al. V EPA: which says: "Finally, the record does not support EPA's findings that mercury, non-mercury HAP metals, and acid gas haps pose public health hazards."

These statements also conflict directly with language in the brief in the pending case that you filed April 25, 2016 with Murray Energy Corporation, et al v EPA: "EPA cannot properly conclude that it is "appropriate and necessary to regulate HAPs under Section 112."

These written statements quite clearly directly contradict your statements before our committee. Which statement is false, the verbal before our committee or the legal documents you filed pending in court? If confirmed, will you recuse yourself from any involvement in questions or cases related to regulating air toxic emission from power plants under Section 112(d) of the Clean Air Act?

As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. That challenge was made by Oklahoma on the specific administrative record before the court in that matter and all statements regarding the sufficiency of regulation in that case relate only to the material in the record before the Agency. If I am confirmed as Administrator, I will apply the Clean Air Act faithfully in all matters before me and will follow the advice of the EPA Ethics Counsel in determining any recusals.

37. As you may remember, we had three exchanges over the issue of whether EPA should regulate mercury (and other air toxic) emissions from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that implement regulations to regulate power plant mercury emissions under Section 112. As you may remember, I specifically asked you at the end of the hearing:

"Based on your earlier statements, that if confirmed we can have your assurances that the EPA will continue to regulate mercury emissions from power plants under Section 112 of the Clean Air Act and you will not defer to the states."

You answered:

"Mercury under Section 112 is something that EPA should deal with and regulate."

You stated this many times. I was very clear in my questioning that I was asking about mercury emissions and of course, the many other air toxic emissions, which the courts have said must be regulated under Section 112(d) from power plants. However, in this answer, you only mentioned mercury and not power plant mercury emissions, and you completely disregarded the other air toxics that are emitted by power plants, which include acid gases and carcinogenic metals like arsenic, nickel and cadmium. So please clarify, if confirmed, can we have your assurance that the EPA will continue to regulate power plants using the technology based standards required by Section 112(d) of the Clean Air Act and you will not defer to the states. Please answer in regards to all power plant air toxic emissions, not just on the question of mercury itself, and not just with respect to whether mercury should be regulated, but as to whether power plant mercury and other air toxics must be regulated.

As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. As Administrator, I will enforce the Mercury Air Toxics Rule so long as that Rule remains in force.

38. As you may remember, we had three exchanges over the issue of whether EPA should regulate mercury (and other air toxic) emissions from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that implement regulations to regulate power plant mercury emissions under Section 112. After our first exchange, you stated:

"There was no argument that we made from a state perspective that mercury is not a hazardous air pollutant under Section 112. Our argument focused upon the cost-benefit analysis that the EPA failed to do and the Michigan v EPA case the Supreme Court actually agreed. It was more about the process again that the EPA was supposed to go through in regulating mercury to provide certainty to

those in the workplace, not a statement in respect whether mercury should be regulated or not under section 112."

Mr. Pruitt, in this exchange, did you mean to avoid the question whether power plant mercury and other HAPs must be regulated under the technology based requirements of maximum achievable control, under Section 112(d)? Or do you agree the Supreme Court, which expressly declined to consider this question, leaving the MATs Rules Section 112(d) regulations in place? Please fully explain your previous statements.

Neither statement is false. As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants, and Oklahoma was not challenging mercury's status as a HAP in the case you reference. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. As Administrator, I will enforce the Mercury Air Toxics Rule so long as that Rule remains in force.

39. As you may remember, we had three exchanges over the issue of whether EPA should regulate mercury (and other air toxic) emissions from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that implement regulations to regulate power plant mercury emissions under Section 112. As you may remember, I specifically asked you at the end of the hearing:

"Based on your earlier statements, that if confirmed we can have your assurances that the EPA will continue to regulate mercury emissions from power plants under Section 112 of the Clean Air Act and you will not defer to the states."

You answered:

"Mercury under Section 112 is something that EPA should deal with and regulate."

You stated this many times during our exchanges. I was very clear in my questioning that I was asking about mercury emissions from power plants. And of course as well the many other air toxics emitted by this industry and listed by congress for regulation. However, in this answer, you only mentioned mercury and not power plant mercury emissions, or other air toxics at all. So please clarify,

- Do you agree that the EPA's recent consideration of the costs of the Mercury and Air Toxics Rule that shows that the agency has met the "necessary and appropriate" criteria Congress provided under 112(n) to direct the EPA to regulate power plant mercury (and other air toxic) emissions under Section 112, and more specifically under Section 112(d)? If not, why not?
- If you do not agree that EPA has met the "necessary and appropriate" criteria found in Section 112(n), what is your understanding of what that would mean for the Mercury and Air Toxics Rule?
- If the pending case you brought before the DC Circuit challenging EPA's cost analysis (Murray Energy Corporation, et al v EPA), is successful what is your view of what EPA would have to do to regulate mercury and other hazardous air pollutant power plant emissions under Section 112?

As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. In my capacity as Attorney General of the State of Oklahoma, on remand the petitioner group has argued that EPA's supplemental finding regarding costs is contrary to law and arbitrary and capricious for the reasons stated in that brief. If the D.C. Circuit finds against EPA, I am confirmed as Administrator and the matter comes before me at that time, I will seek and follow the advice of EPA Ethics Counsel in determining whether I may participate in that matter. If I do participate in that matter, I will apply the Clean Air Act faithfully and use my best efforts to take appropriate action in light of the administrative record before the Agency at that time.

40. In the pending case you brought before the DC Circuit challenging EPA's cost analysis (Murray Energy Corporation, et al v EPA), the following statement is included in your brief:

"EPA also claims that, even though it was able to quantify highly uncertain IAQ benefits purportedly resulting from mercury emissions, other health and

environmental benefits of reducing EGU mercury, acid gas, and non-mercury metals emissions simply could not be quantified. But these purported benefits are to speculative to support "appropriate and necessary" finding for the same reasons the Agency cannot quantify them: they are not supported by the scientific literature."

As you probably know, the health benefits of cleaning up hazardous air pollutants are many, although many are difficult to quantify and certainly difficult or impossible to monetize. There are, however, several studies on how to quantify loss of IQ from mercury exposure and some early studies on how to quantify long-term effects of exposure. If confirmed, how do you recommend the EPA calculate the health risks to the unborn that may be exposed to mercury-laden fish because of power plant mercury emissions? How would you quantify the health risks of the Oklahomans living near the forty lakes that have mercury fish consumption advisories? There are also emerging studies quantifying the health impacts of the toxic metals and acid gases emitted by power plants, although monetizing the precise health costs of each pollutant are not possible as they are emitted in the toxic soup. How would you justify not protecting people living near these emissions if it were not possible to precisely quantify the health risks of exposure to power plant emissions of hydrochloric acid, hydrofluoric acid, nickel, arsenic, chromium and other heavy metals?

If I am confirmed as Administrator, I look forward to working with EPA staff to arrive at a transparent and scientifically sound process for determining the health risks associated with any activity that is properly before me at the Agency, including those related to mercury exposure, and regulating those activities as appropriate consistent with Congress's intent in enacting the Clean Air Act.

41. What industry is the largest emitter of mercury air emissions in this country? The second? The third? Please provide peer-reviewed data and sources for this answer.

EPA's technical support document (v2) for the 2011 National Emissions Inventory indicates that the industries that are the three largest point source emitters of mercury in the U.S. are (1) utility coal boilers, (2) electric arc furnaces, and (3) industrial, commercial institutional boilers and process heaters.

42. What impacts do mercury power plant air emissions have on unborn children? Can you explain how power plant mercury emissions settle in water bodies and eventually can impact the unborn?

Some portion of mercury emitted into the air by power plants is deposited directly or indirectly into a watershed. Once present in the watershed, it can be naturally converted into methylmercury, which can then can be absorbed by aquatic organisms, such as fish, and consumed by humans. The unborn children of pregnant women can be exposed to methylmercury if their mothers consume those fish.

43. How much of our nation's mercury air emissions come from the natural environment, vs manmade emissions? Please provide peer-reviewed data and sources for this answer.

J.M.Pacynaetal.:Current and future levels of mercury atmospheric pollution on a global scale, Atmos. Chem. Phys., 16, 12495–12511, 2016, indicates that approximately 30% of worldwide mercury emissions are manmade and 70% come from primary natural mercury emissions and re-emissions.

44. Mr. Pruitt, do you understand that EPA's data show that power plants emit not only 50 percent of all US emissions of mercury, but that they also emit 82% of hydrochloric acid gas, 62% of hydrofluoric acid gas as well as many listed heavy metals, which are emitted as particulate matter, including Selenium (83% of domestic emissions), Nickel (28% of domestic emissions), Arsenic (62% of domestic emissions), Chromium (22% of domestic emissions), and others? The cite for those statistics is found in EPA's record at 76 Fed. Reg. Page 25006 Table 5. Given that Section 112(d) as interpreted by the US Courts for many years requires the regulation of all listed hazardous air pollutants from listed industries, would you not agree that power plant hazardous air pollutants must all be regulated under the technology based requirements of section 112(d)?

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. If confirmed, I will enforce the Mercury Air Toxics Rule so long as that Rule remains in force.

45. Given that the statute requires a showing that not one power plant emits hazardous air pollutants in amounts greater than required to cause a lifetime risk of cancer greater than one in a million to the most exposed persons, and for non-carcinogenic air toxics, to exceed a level which is adequate to protect public health with an ample margin of safety and no adverse environmental effects, and given that EPA's long standing record shows that the coal- and oil-fired power industry cannot make either of those showings what other regulatory mechanism do you believe is available "under section 112"?

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. If confirmed, I will enforce Mercury Air Toxics Rule so long as that Rule remains in force. If I am confirmed as Administrator and am presented with information showing that EPA has discretion to regulate power plants in a manner that is consistent with the Clean Air Act but that differs from the Mercury and Air Toxics Standard, or that power plants meet the standard for de-listing under Section 1129c)(9), I would consider that matter in due course as I would consider any other matter under my jurisdiction in due course.

46. The joint brief filed by your state and the regulated industry in the most recent round of appeals of EPA's decision making on power plant air toxics suggests that you are not aware of recent court precedent upholding EPA's evaluation of all the benefits, including so-called 'co-benefits' of EPA's rulemaking on particulate matter reductions that would be the direct result of the rule. What is your position on the importance of judicial precedent in governing the Agency's actions under the same statutes as have been previously interpreted by the courts?

If confirmed, I would faithfully comply the Clean Air Act in accordance with congressional intent. Judicial precedent is undoubtedly an important guide to congressional intent but Congress has also delegated interpretive authority to the Administrator of the Clean Air Act, consistent with judicial review. If I am confirmed as Administrator and form the judgment that a judicial decision is incorrect, I would consider seeking an appeal or petition for certiorari to the Supreme Court seeking reversal of that decision. Likewise, EPA recently promulgated regional consistency regulations that address the implication of adverse federal court decisions that result from challenges to locally or regionally applicable actions and I would exercise my discretion under those regional consistency regulations unless and until they are changed.

47. As I am sure you are aware, the US Supreme Court has expressly declined to consider whether EPA should have chosen some other mechanism "under section 112" in regulating power plant mercury and all the other HAPs emitted by the industry. What is your position on that precedent?

In the White Stallion decision, the D.C. Circuit held that EPA's interpretation of Section 112(n) that Sections 112(c) and -(d) provided the appropriate mechanism for regulating power plants under Section 112 after the appropriate and necessary determination was made was entitled to deference. As your question indicates, the Supreme Court did not grant

discretionary review of that question. So long as the White Stallion decision is not reversed by the D.C. Circuit and the underlying agency action is not vacated, it remains a valid judicial precedent on this point.

48. Given that you have been actively suing the EPA over the Mercury and Air Toxics Rule and have one pending lawsuit, will you recuse yourself from participating in any decision making that may reopen the EPA's decision regarding the fact that it is "necessary and appropriate" to regulate power plants under Section 112 of the Clean Air Act?

As I stated in my testimony to the Committee, I will follow the advice of EPA Ethics Counsel in all recusal matters.

49. If confirmed, will you continue with EPA's assertion that it is "necessary and appropriate" to regulate mercury and other hazardous air pollutants from power plants under Section 112 – specifically under the technology based maximum achievable control requirements of Section 112(d)?

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. As Administrator, I will enforce all aspects of the Mercury Air Toxics Rule so long as that Rule remains in force.

50. Do you agree with the Whitman v. American Trucking Associations, Inc., 531 U.S. 457 (2001) decision written by Justice Antonin Scalia that states that the EPA cannot consider implementation costs when setting primary and secondary National Ambient Air Quality Standards? If you do not agree, please explain.

As I stated in my testimony to Congress, there are instances where consideration of costs is not a factor. Setting the NAAQS for criteria pollutants is one such instance.

51. In 2015, you stated that in implementing the tighter ozone NAAQS, the EPA "failed to achieve the goals to protect air quality; the agency did not "articulate how the rule would further protect public health"; and was another "attempt by the administration to use executive agencies like the EPA to bypass Congress." Can you please explain what you meant by these statements?

Based on the limited information in the question, the source or context of the quote to which the questions refers is not readily apparent. Oklahoma

joined four other states in a petition for review of EPA's 2015 decision to lower the National Ambient Air Quality Standard for ozone from 75 ppb to 70 ppb. The legal question raised by the state petitioners in the case is whether EPA set the standard at a level than can be achieved by states given the background concentrations and uncontrollable sources of ozone in many parts of the country. The briefs filed by the many State petitioners to that rule fully explain the States' position and speak for themselves. The case remains pending before the U.S. Court of Appeals for the District of Columbia Circuit.

52. As many of my colleagues know, I am an avid runner. I especially love to run with my 22-year son, who is a triathlete. In Delaware during the summer, we often have code orange days warning about the high levels of ozone for that day. Can you take a minute or two to describe how high levels of ozone could damage my lungs if I were to take a long run during a code orange day? Does ozone pollution cross state boundaries? If confirmed, how would you direct states to work together to reduce ozone pollution?

As I indicated at my nomination hearing, the Cross-State Air Pollution Rule is important, as pollution does cross state boundaries. An upwind state that contributes to a downwind state's inability to meet air quality standards should take responsibility.

53. In 2013, you argued that the EPA's decision to impose a Federal Implementation Plan on Oklahoma to address Regional Haze would cost more than $1 billion over five years. It is three years later. Do you still agree with this cost assessment? If not, why not?

The cost estimates referenced in this question were developed in connection with the Oklahoma State Implementation Plan that EPA rejected and EPA's subsequent decision to implement a Federal Implementation Plan. Oklahoma and a state utility filed legal challenges against the Federal Implementation Plan decision. The 10th Circuit initially stayed the rule pending judicial review. A split panel of the 10th Circuit upheld the Federal Implementation Plan in 2013. As Attorney General, I have not had reason to revisit the specific cost estimate at issue in this case.

If I am confirmed as Administrator, I will use my best efforts to hold to the five-year NAAQS review period prescribed by the Clean Air Act.

54.If confirmed, will you continue to hold to the five-year National Ambient Air Quality Standards review time period that the Clean Air Act requires of the EPA?

If I am confirmed as Administrator, I will use my best efforts to hold to the five-year NAAQS review period prescribed by the Clean Air Act.

55. In previous hearings in this committee, we have had a few economists testify questioning EPA's science linking small particle pollution to negative health impacts. Can you just take a moment and talk about what you know about small particles and how they impact our lungs? Is the science robust in this area?

The science linking adverse health impacts and fine particulate matter pollution is well established. Accordingly, EPA has promulgated a National Ambient Air Quality Standard for particulate matter pollution that limits the concentration of small particulates, including those smaller than 2.5 microns, in the ambient air that at the level that the agency has determined is requisite to protect public health and welfare from adverse effects, while allowing an adequate margin of safety.

56. Mr. Pruitt, Section 109 of the Clean Air Act is very clear. It requires EPA to review the NAAQS for six common air pollutants including ground-level ozone, particulate matter, sulfur dioxide, nitrogen dioxide every 5 years. The Clean Air Act requires EPA to set these standards that "are requisite to protect the public health," with "an adequate margin of safety," and secondary standard necessary to protect public welfare. The science was clear that the 2008 ozone standard was not protecting public health, so EPA was required to Act. Is that not your understanding of the Clean Air Act?

Section 109 of the Clean Air Act requires EPA to set NAAQS at the level that is requisite to protect against adverse health and welfare effects, while allowing an adequate margin of safety. The Act includes a regular review cycle for criteria pollutants.

57. The EPA updated the Cross-State Air Pollution Rule in September 2016, which is within the time period for the rule to be subject to the Congressional Review Act (CRA). As Administrator, would you support the President signing a CRA resolution of disapproval that would reject these new standards?

Although I am familiar with the update to the Cross-State Air Pollution Rule and generally familiar with the Congressional Review Act, I have not

reviewed any potential legislation which may reject these new standards. If I am confirmed, I will thoroughly review any resolution of disapproval which may be filed pursuant to the Congressional Review Act on this issue.

58. Mr. Pruitt, the Clean Air Act recognizes that air pollution does not respect state boundaries and directs EPA to set minimum national standards to protect the health of the nation, including protecting downwind states.

•Do you agree that EPA should set minimum national standards?

•Do you agree that EPA must protect downwind states?

As I indicated during my nomination hearing, I believe the Cross State Air Pollution Rule is important and should be enforced by the EPA. An upwind state that contributes to a downwind state's nonattainment should take responsibility for that contribution.

59. Mr. Pruitt, my State of Delaware is a downwind state, and most of the air pollution in my state is coming from upwind states.

•Do you agree that it is EPA's role to ensure equity between where air pollution is produced and where it is received?

•Do you agree that to remedy this unfairness, the upwind states must do more to control their emissions to avoid exporting the pollution (and the costs to the health and welfare) to the downwind states?

As I indicated during my nomination hearing, I believe the Cross State Air Pollution Rule is important and should be enforced by the EPA. An upwind state that contributes to a downwind state's nonattainment should take responsibility for that contribution.

60. As you are well aware, on April 2, 2007, in Massachusetts v. EPA, 549 U.S. 497 (2007), the Supreme Court determined that sufficient information existed then for EPA to make an endangerment finding with respect to the combined emissions of six greenhouse gases from new motor vehicles and new motor vehicle engines under CAA section 202(a). On December 7, 2009, the Administrator determined that those gases/sources contribute to greenhouse gas pollution that endangers public health and welfare. How do you plan to execute your legal authority to protect the public health and welfare from greenhouse gas pollution?

The Supreme Court held that GHGs are an air pollutant under the Clean Air Act. It did not address the question of whether regulation of GHGs under the Clean Air Act is warranted. In the subsequent UARG decision, the

Supreme Court cautioned EPA that there are significant limits on EPA's authority to regulate GHGs under the Clean Air Act. The unprecedented Supreme Court stay of EPA's so-called "Clean Power Plan" was predicated upon a finding that the plaintiffs in the case were likely to prevail on the merits. In light of these holdings, I will hew closely to the text and intent of the Clean Air Act when considering further regulation of GHGs under that law if confirmed as Administrator.

61. Building off Congress's work on CAFE, the Obama Administration has updated emission standards for light and heavy-duty vehicles. These rules have had very little effect on the purchase price of new vehicles, but have saved consumers millions of dollars in fuel costs, vastly improved our energy security by slowing petroleum use and reduced a lot of pollution. If confirmed, do you support further strengthening vehicle emission standards? And with your federalism view, how do states address carbon pollution from vehicles themselves?

In making each of its decisions regarding light- and heavy-duty vehicle emission standards, the EPA has made decisions based on the administrative record at hand and Congress's statutory objectives. If confirmed, I would take care to make such decisions regarding vehicle emissions standards in furtherance of Congress's statutory objectives, based on the evidence in the administrative record. With respect to federalism, the Supreme Court stressed in Massachusetts v. EPA that States play a crucially important role in promulgating vehicle emission standards under the Clean Air Act: each "State has an interest independent of and behind the titles of its citizens, in all the earth and air within its domain." To that end, "Congress has ordered EPA to protect [the States and their people] by prescribing standards applicable to the 'emission of any air pollutant from any class or classes of new motor vehicle engines, which in [the Administrator's] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.'" Furthermore, the Clean Air Act and other federal administrative laws give each affected State "a concomitant procedural right to challenge the rejection of its rulemaking petition as arbitrary and capricious," and the Supreme Court affords States "special solicitude" to challenge the resulting standards in court. If confirmed, I would take care to ensure that States continue to play a central role in the administrative process giving rise to the EPA's vehicle emissions standards.

62. The EPA promulgated phase two of the heavy-duty vehicles greenhouse gas emissions standards in August 2016, which is within the time period for the rule to be subject to the Congressional Review Act (CRA). As Administrator, would you support the President signing into law a CRA resolution of disapproval that would

reject these new standards? What is your view of whether the EPA would be able to re-issue any heavy-duty vehicle greenhouse gas emission standards given the CRA's language that would prohibit the agency from issuing regulations that are "substantially similar?"

Although I am familiar with the regulations on heavy vehicle greenhouse gas emissions standards which were published in August 2016, I have not reviewed any potential legislation which may reject these standards. If I am confirmed, I will thoroughly review any resolution of disapproval which may be filed pursuant to the Congressional Review Act on this issue. In terms of re-issuing other heavyduty vehicle greenhouse gas emission standards, I would have to be briefed in detail on the regulations which have been published, and the provisions of the Congressional Review Act which prohibit the Agency from issuing any regulations which are substantially similar to the initial rules in order to determine what options the Agency may have in terms of proposing and finalizing additional regulations in this space.

63. As you know, the Renewable Fuels Standard, as amended by Congress in 2007, requires the blending of 36 billion gallons of renewable fuel into conventional gasoline and diesel by 2022. In order to add that many renewable fuel gallons to our fuel supply, do you agree that EPA must approve the sale of fuels blended with greater than 10-percent renewable content?

While Congress included "applicable volume" levels in the RFS statute, Congress also took care to expressly authorize the EPA Administrator to reduce volumetric requirements below the statute's default levels in light of real-world conditions from year to year. Specifically, the Administrator may waive the statute's volume requirements if he determines "that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States, or "that there is an inadequate domestic supply." The EPA already has granted such waivers based on real-world conditions in recent years and, if confirmed, I would take care to administer the statute in accordance with the statutory objectives. While no statute mandates the sale of fuels blended with greater than 10 percent renewable content, statutes do vest the Administrator with discretion to authorize a variety of fuel blends.

64. In October 2010, EPA approved the use of a 15-percent renewable fuel blend for cars built in 2007 or later. In the following January, EPA extended the use of that blend to model years 2001 to 2006. Do you support the decision by the EPA to allow 15-percent renewable fuel blends? If confirmed, would you commit to

using the discretion give to you by the Clean Air Act to evaluate even higher blends?

The EPA's 2010 and 2011 decisions to grant "partial waivers" for the use of E15 fuel for some vehicles were premised upon the EPA's conclusions (based on the administrative record) regarding E15's potential impacts on exhaust emissions (both immediate and long-term), evaporative emissions, "materials compatibility," and "drivability and operability." If confirmed, I would take care to administer the law in accordance with Congress's statutory objectives and the administrative record.

65. The Renewable Fuels Standard was designed to reduce dependence on foreign oil at a time that the U.S. was importing well more than half of its demand and concerns about energy and national security were paramount. It also was designed to reduce greenhouse gas emissions from the transportation sector.

Now that the United States supplies 76 percent of its oil domestically, do you believe the program continues to have an important role in enhancing the energy and environmental security of our country?

As Congress indicated in the Energy Independence and Security Act of 2007, domestic production of renewable fuel contributes to our nation's "greater energy independence and security."

67. As you heard in my opening statement, the EPA's record demonstrates that strong environmental policies create economic opportunities. An undeniable example of this is the impact of the Renewable Fuels Standard in rural America. According to the Renewable Fuels Association, in 2015, 14.8 billion gallons of ethanol was produced, supporting 85,967 direct jobs, while net petroleum import dependence fell to just 24 percent, and would have been 32 percent without the addition of domestically produced ethanol. In addition, the Association says the use of ethanol in gasoline in 2015 reduced greenhouse gas emissions from transportation by 41.2 million metric tons — equivalent to removing 8.7 million cars from the road for an entire year. Do you agree that the Renewable Fuels Standard has supported rural economies in America while allowing for the production of cleaner transportation fuels?

I agree that the RFS's promotion of renewable fuels contributes to economic growth in agricultural communities, and promotes the production and consumption of transportation fuels providing many environmental benefits.

68. Some of my colleagues believe removing the corn ethanol mandate, but keeping the advanced biofuel mandate in the RFS is the best way forward. Do you have concerns with this approach?

The RFS statute neither expressly mandates the blending of corn ethanol nor prohibits its blending. In enacting the RFS statute, Congress took care to expressly authorize the EPA Administrator to reduce the volumetric requirements below the statute's default levels, in light of real-world conditions. Specifically, Congress authorized the Administrator to waive the volume requirements if he or she determines "that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States, or "that there is an inadequate domestic supply." The EPA already has granted such waivers based on real-world conditions in recent years and, if I am confirmed, I would take care to administer the statute in accordance with the statutory objectives.

69. As you may know, in recent years we have seen significant swings in Renewable Identification Number (RINs) prices. RINs are used by the EPA to track and ensure refineries are in compliance with the Renewable Fuel Standard. Many small and mid-range refineries are having difficulties with the price spikes of the RIN prices because many are buying some, if not all, their RINs off the market. As a result, high and volatile RIN prices have had a financial impact on these refineries. As the RFS continues to be implemented, what do you believe the agency should do – if anything - to assist with RIN prices?

As I indicated in my testimony, the EPA's RIN framework is currently the subject of a pending comment period. If confirmed as Administrator, I would take care to administer the RFS program, including the RIN framework, in accordance with Congress's statutory objectives, and based on the evidence in the EPA's administrative record, as well as the expertise of EPA staff and the expertise of other federal agencies relevant to the RIN framework and affected markets. The EPA already has entered into a "memorandum of understanding" with the CFTC, "on the sharing of information available to EPA related to the functioning of renewable fuel and related markets."

70. Mr. Pruitt, do you agree that the burden should be on a chemical facility operator to show that the design and operation of the facility is as safe as possible to protect workers and the public from explosions, fires, and other releases of toxic chemicals?

I believe that every American should be provided safe home and work environments and people who live or work in and around chemical facilities are no exception to that.

71. Mr. Pruitt, when there are feasible measures that chemical companies can take to prevent explosions and fires that release toxic chemicals into surrounding communities that can kill people, do you agree that the companies should take such measures?

I believe that chemical companies should take actions to prevent explosions and fires as well as other safety incidents.

72. Do you support the "not net loss of wetlands" policy? George H.W. Bush initiated this critical policy in 1988 to protect our remaining wetlands habitat and all of the critical ecological and economic functions it supports. It has been U.S. Government policy ever since.

Yes.

73. A GAO report published on December 5, 2013 found that "more than 40 years after Congress passed the Clean Water Act […] EPA reported that many of the nation's waters are still impaired, and the goals of the act are not being met. Without changes to the act's approach to nonpoint source pollution, the act's goals are likely to remain unfulfilled." If confirmed, how will you work to address surface water quality impairments, including from non-point source pollutants?

Congress did not grant EPA authority to regulate non-point sources because regulation of non-point sources is the regulation of land, a traditional state authority. Instead, Congress created a planning process under section 208 of the Clean Water Act and authorized funding for state non-point source management plans under section 319. If confirmed, I will implement the authorities granted to EPA by Congress.

74. You have attacked the Obama Administration's "Waters of the United States" regulation, objecting to "the significant negative impact such a rule would inflict on states and the landowners within their borders." Oklahoma's major streams and rivers lie within two river basins, the Red and the Arkansas, both of which flow into other states. And Oklahoma receives most of its waters from upstream neighbors, particularly Texas. Without national regulation, how would you suggest that that Oklahoma's downstream neighbors - Arkansas and Louisiana -

guarantee the quality of the water that flows across their boundaries? And how would you suggest that Oklahoma protects the quality of the water that it receives from upstream neighbors like Texas? You appear to believe that the only parties with an interest in water are those within a state, not downstream neighbors. Why?

Federal jurisdiction exists over navigable water, interstate water, and tributaries that can transport pollutants to navigable waters, and jurisdiction over the interstate rivers that are the subject of your question is not in dispute.

75. Communities across the country are facing the economic and health consequences of contaminated ground water, which impacts water systems and private well owners. How will you work to ensure communities are protected from drinking contaminated ground water? How will you address and strengthen the EPA's response to groundwater contamination and ensure homeowners and water systems are taking the steps to diagnose, treat, and remediate their groundwater resources?

For drinking water wells that are public water systems, the requirements of the Safe Drinking Water Act apply and EPA has authorities to provide small systems with technical assistance through circuit rider programs. For private well owners, the WIIN Act provided authority for EPA to support a drinking water technology clearinghouse for well owners. If confirmed, I will use the authorities and resources granted by Congress to help both public water systems and well owners.

76. This question is of interest to Senator Manchin and me: We must do everything we can to ensure that every American has access to safe and clean water. West Virginia has had issues with chemicals like PFOA in our drinking water as recently as last year. In fact, the State had to ship in alternative water supplies to the city of Vienna. Martinsburg and Parkersburg also had serious challenges. And, in 2014, the Elk River Chemical Spill left 300,000 West Virginians without access to potable water, so I know Senator Manchin looks forward to working with you to promote federal clean water initiatives. He also appreciates your commitment in your meeting together to working to address these challenges. Please outline how you intend to expand efforts to promote safe drinking water and support the modernization of our nation's water infrastructure.

If confirmed, I will focus on EPA's core missions, including, as appropriate, use of EPA's emergency order authority under the Safe Drinking Water Act.

I also will implement the newly revised TSCA statute to address chemicals and will continue implementation of monitoring, review, and regulation of contaminants under the SDWA if confirmed.

77. One of the tools within the Clean Water Act that communities can use to restore the quality of polluted waters is through the development and implementation of a Total Maximum Daily Load (TMDL) plan. The GAO also found that funding for TMDLs has been insufficient in meeting national needs, with more than 50% of the nation's waters being identified as impaired. Will you advocate for funding to match the needs for the TMDL program? How do you plan to support and strengthen the Total Maximum Daily Load (TMDL) regulatory framework?

If confirmed, I will support continued funding of State programs authorized under section 106 of the Clean Water Act, which states use in part for TMDL development. I also will support flexibility for state use of 106 funds to allow states to focus on priorities such as impaired waters requiring TMDLs. If confirmed, I also will support the continued development of tools to help states develop TMDLs. Finally, I would note that neither GAO nor EPA has said that 50% of the nation's waters are identified as impaired. For example, states have assessed about 32% of rivers and streams. Of those assessed waters, states have identified about 54% as impaired. That means states have data showing that 17% of rivers and streams are impaired. You cannot extrapolate the data from assessed waters to all waters because most states target their monitoring to focus on waters they have reason to believe are impaired, so they can target their resources where they are needed the most.

78. You expressed great pride in your role in resolving the Mahard Egg Farm enforcement, indicating that it demonstrates your commitment to enforce environmental law. When was the complaint in the litigation filed, and how did that date correspond to the date of the proposed consent decree? Based on your responses to these questions, how well investigated and developed was this case when you took office? Can you explain your personal involvement in either the complaint or the consent decree?

The complaint was filed on May 23, 2011. The consent decree was entered into on August 10, 2011. There was no filed case when I took office, but the matter had been investigated by the Office of Attorney General, the Oklahoma Department of Agriculture, the EPA, and the State of Texas. I authorized the filing of the case once in office. The complaint and consent decree were handled by the attorneys in the Office of Attorney General responsible for environmental matters.

79. Mr. Pruitt, the Clean Water Act requires EPA to review and revise its national water quality standards for pollutants based on the best available science. EPA has proposed or finalized more stringent standards for ammonia, nutrients, selenium, and dental offices. Do you agree that these standards must be based on the best available science?

Under section 303(c)(1) of the Clean Water Act, states are required to, every three years "hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards." Proposed changes to state water quality standards are submitted to EPA. Under 303(c)(3), EPA is to approve the state standards if they meet the requirements of the Clean Water Act. Under section 304, EPA establishes water quality criteria that provide guidance for state water quality standards. The Clean Water Act directs EPA to review these criteria documents "from time to time" except for criteria to protect public health from pathogens in recreational coastal waters, which must be reviewed every 5 years. Unlike the Safe Drinking Water Act, the Clean Water Act does not require the use of best available science. That said, I believe it is always important to use best available science, particularly for science documents like water quality criteria documents.

80. Last Congress, our committee worked together to pass the Frank R. Lautenberg Chemical Safety for the 21st Century Act, a bill overhauling the toothless Toxic Substances Control Act, that was signed into law earlier this year. EPA is now responsible for implementing the law, which will require a significant amount of resources. If confirmed, do you commit to ensuring EPA will prioritize implementation and has sufficient resources to comply with the requirements and timelines established by Congress?

As you are likely aware, I wrote this body a letter urging passage of the Lautenberg Chemical Safety Act. If confirmed as EPA Administrator, I will take care that the Act is faithfully executed. A copy of that letter is attached.

81. Last year, the Toxic Substances Control Act was signed into law. There was little doubt that this bipartisan legislation was overdue and very necessary to protect our constituents. EPA has already announced they are fast-tracking five chemicals under the authority of the new TSCA regime. You mentioned during our meeting earlier this month that you were concerned with some of the more aggressive timelines included in this legislation. Please elaborate. Please also outline how you intend to support the Agency in ensuring they have the resources to comprehensively implement this landmark legislation.

The Lautenberg Act has a number of statutory deadlines that must be met by the Agency when carrying out the law. If confirmed I fully intend to pick up the process where the previous administration left off with completing the required rulemakings and initial chemical reviews as well as subsequent prioritizations. The updated law also allowed for updating the industry user fees used to fund the program, a process started by the previous administration, and one which I intend to quickly evaluate.

82. You have publicly supported the recent updates to the TSCA law. Since this legislation pre-empts state actions, how does that align with your views on states rights and federalism? Do you agree that federal environmental laws – such as the Mercury and Air Toxics Rule, TSCA and Clean Power Plan – also provide certainty to businesses that have to do business across the country?

Article 1, Section 8, Clause 3 of the U.S. Constitution, which gives Congress the power "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes." Unlike the Clean Water and Clean Air Acts which regulate pollutants TSCA regulates chemical substances manufactured for commerce in not only all 50 states but often globally. Federal preemption of states is appropriate when dealing with interstate commerce issues and the Lautenberg Act's preemption provisions comport to my views on states' rights and federalism for those reasons.

83. Do you think that companies that work in the U.S. and around the world should be able to hide chemical information here that they have given to governmental regulators elsewhere?

The Lautenberg Act amended Section 14 of TSCA to delineate a process by which to protect, review, and possibly make public chemical information. If confirmed I intend to implement the law as passed by Congress.

84. In a 2005 U.S. Senate Committee on Homeland Security and Governmental Affairs hearing, President-elect Trump publicly praised asbestos, calling it "the greatest fireproofing material ever made." Every major independent scientific organization, including the World Health Organization, the International Agency on Research for Cancer (IARC), and others, acknowledges asbestos as a known human carcinogen with no safe level of exposure. The US EPA spent years studying the dangers of asbestos, and ultimately attempted to ban most uses. Just last month, the EPA redoubled its stance on the dangerous nature of asbestos by designating it as a top-ten high-risk chemical for priority TSCA action. If confirmed, will you heed the decades of conclusive science about asbestos or

will you allow the President-elect's personal opinion skew the EPA's actions on asbestos?

The Lautenberg Act has extensive requirements for risk evaluations and the use of sound science in decisions throughout the chemical review and potential regulatory process. If confirmed I will implement the law following those statutory requirements.

85. You may be aware that asbestos use has drastically declined among industries that once used it heavily, including the construction and automotive sectors, as those industries began switching to safer substitutes. As a result, one industry now accounts for 90% of all asbestos consumed in the U.S. — the chlor-alkali industry, which uses asbestos diaphragms in its chlorine manufacturing process. The chlor-alkali industry has been the only point of public pushback against an asbestos ban under TSCA, and they have asked the EPA to exempt the chlor-alkali industry's use from any regulation on asbestos. Exempting the primary user from a restriction or ban, of course, would result in negligible impact. Will you commit to ensuring that any regulation or restriction on asbestos does not allow for any exemptions for the chlor-alkali industry or any other industry?

Asbestos has been identified by the EPA as a high-priority chemical that requires a risk evaluation following the process established by the Lautenberg Act to determine whether conditions of use of the chemical substance pose an unreasonable risk. Prejudging the outcome of that risk evaluation process would not be appropriate.

86. The EPA promulgated a ban on asbestos in 1989, after a decade of research, risk evaluation, and rulemaking. In 1991, the asbestos ban was overturned by the 5th Circuit Court of Appeals on the grounds that the ban fell short of EPA's requirement to impose regulations that are "least burdensome" to industry. Under the Lautenberg Act reforms to TSCA, the EPA is now empowered to ban and regulate chemicals that are "toxic, persistent, and bioaccumulative," like asbestos, without concern for industry cost or any other non-risk factor. Will you commit to ensuring that industry concerns are not considered during the risk evaluation and rule making processes regarding asbestos?

The Lautenberg Act requires notice and comment be provided at multiple stages of the chemical review process including prior to publishing a final risk evaluation and through any potential subsequent regulatory rulemaking. This notice and comment is designed to get the input of a wide range of stakeholders to ensure sound and inclusive rulemakings and not to produce or dismiss comments from one particular entity or interest.

87. On April 9, 2015, you wrote a letter in support of the Lautenberg Act reforms to TSCA. In this letter, you expressed your support for the EPA: "I believe the agency, within the boundaries of its authorities as provided by Congress, serves a valuable mission to protect human health and preserve the environment." During the writing, negotiations, and passage of the Lautenberg Act, Congress — and the sitting President — made explicitly clear their intentions that the newly empowered EPA should swiftly ban asbestos and other deadly toxins. How will you ensure the EPA is able to meet statutory TSCA deadlines set forth by Congress?

I am committed to implementing the Lautenberg Act as required by law including meeting the statutory deadlines enumerated in the law including the required rulemakings, risk evaluations, and future chemical prioritizations.

88. In your April 9, 2015 letter in support of the Lautenberg Act reforms, you specifically praised the bill's explicit protection of vulnerable populations, including workers. Asbestos is one of the leading workplace carcinogens, responsible for approximately half of all occupational cancer deaths, according to the World Health Organization (WHO). During 1999 - 2014, the CDC NIOSH National Occupational Respiratory Mortality System (NORMS) database, there were 62,956 Americans who died from mesothelioma and asbestosis. These are just two of many deadly asbestos-related diseases. Given this data and your self-expressed concern for protecting workers, will you commit now to ensuring the EPA bans the import and use of asbestos under TSCA should you be confirmed?

Asbestos has been identified by the EPA as a high-priority chemical that requires a risk evaluation following the process established by the Lautenberg Act to determine whether conditions of use of the chemical substance pose an unreasonable risk. Prejudging the outcome of that risk evaluation process would not be appropriate.

89. Your home state of Oklahoma leads the nation in pesticide-related illnesses and deaths. At a time when pesticide/herbicide usage is on the rise across the country, how would you protect American workers, consumers, and landscapes from the toxic effects of agricultural chemicals?

If confirmed as Administrator, I would faithfully execute the laws administered by EPA. I would expect to be briefed by staff before taking any action on this issue.

90. What will you do to ensure EPA is conducting a transparent process regarding pesticide regulation? Please specify how you will approach notifying the public regarding pesticides in terms of notice of actions, publication of information (including studies and data) in the dockets, or timely responses to requests under the Freedom of Information Act. If you do not believe in a transparent process, why not?

If confirmed, transparency and openness will be priorities, and I will work to ensure that the pesticide registration process complies with all public notice and transparency requirements under the law.

91. In June 2016 the White House Pollinator Health Task Force, which was co-chaired by the EPA, released the Pollinator Partnership Action Plan. Do you support this plan and EPA's role in it? If not, why not? Mr. Pruitt, do you agree that vulnerable populations, like pregnant women, infants, and children, must be specifically considered in the study of the impacts of toxic chemicals on human health? Why is this important?

I am not personally familiar with the report referenced in this question. In considering the health effects of chemicals, if confirmed as Administrator, I would expect to be briefed by EPA staff before taking action and would work to ensure EPA followed all applicable legal requirements and made its decisions based on sound science. If confirmed, I would also follow legal requirements regarding the use of science and consideration of health impacts on specific subpopulations.

92. For nearly a decade, a state-permitted coal ash disposal pit in Bokoshe, OK, operated by a company named "Making Money Having Fun," has caused severe air pollution through releases of fugitive dust, which have harmed residents of the town of Bokoshe. Encompassing 458 acres, the Making Money Having Fun pit covers 259 acres of a former coal mine with enough coal ash to fill the 70-foot-deep pit and create a miniature mountain stacked 50 feet high. The site is permitted to rise another 550 feet over the next 20 years. By 2036, the coal ash pit could hold 9.2 million tons of toxic waste. Since 1998, residents have complained about the toxic dust to state regulators. Residents of Bokoshe, particularly children, have experienced extremely high rates of asthma that are linked to high levels of fugitive dust. In addition, residents experience elevated cancer rates that may be linked to the dump site. In 2011, the CBS Nightly News covered the exposure of the community to toxic dust. See http://abcnews.go.com/US/oklahoma-town-fears-cancer-asthma-linked-dump-site/story?id=13303440. In 2014, the U.S. Environmental Protection Agency acknowledged that there was a problem with fugitive dust at the site. Ash samples

collected in Bokoshe contained elevated levels of the carcinogens hexavalent chromium and arsenic, among other toxic metals. The Making Money Having Fun pit is not the only unlined coal ash dump in a former mine in Oklahoma. Seven miles west of Bokoshe, in McCurtain, OK, coal ash protrudes like an iceberg from a water-soaked pit. McCurtain residents have complained about dust clouds, spurring two state notices alleging violations — one in 2011 and another in 2015. State records show seven similar coal ash dump sites permitted in the county where Bokoshe is located.

•Did the Oklahoma AG Office ever investigate the Making Money Having Fun pit for environmental violations?

•Did your office take any actions to require Making Money Having Fun to control fugitive emissions at the site?

•As Oklahoma AG, what did your office do to investigate coal ash dumps in Oklahoma for violation of environmental or health standards?

The matter you reference was handled by Oklahoma's environmental regulators at the Department of Environmental Quality.

93. Mr. Pruitt, do you believe that all citizens in the U.S. should be equally protected from the threats posed by the dumping of coal ash? Currently, communities near municipal solid waste landfills and abandoned mines where millions of tons of toxic coal ash are disposed are not protected by the new federal coal ash rule. Do you think these communities deserve equal protection from pollution of their air, water and communities from coal ash?

I do not question the importance of clean air, land, and water, and I believe all Americans should be treated equally under the law.

94. Mr. Pruitt, do you think it is important for communities to know what hazardous substances are stored and disposed in their neighborhoods? Do you think it is important for citizens to know what hazardous substances are in their drinking water? If so, as head of EPA, will you guarantee that all coal ash permit programs approved by EPA will be as protective as the federal coal ash rule, including requiring communities be kept informed regarding the condition of toxic dumpsites near their homes and the safety of their drinking water?

As discussed in my testimony, public participation and transparency will be among my priorities if confirmed as Administrator. I do not question the importance of clean drinking water. It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is

fully and fairly considered with input from staff, as part of a transparent process that seeks input from stakeholders, and that is consistent with EPA's statutory authorities, including the coal ash provision in the WIIN Act.

95. Mr. Pruitt, environmental justice organizations have noted that 70 percent of coal ash dumps are located in low-income, disadvantaged communities. Do you agree that these communities deserve to know if coal ash ponds are leaking toxic substances into their drinking water supplies? Do you agree that these citizens have a right to expect that their drinking water be free of pollution from coal ash impoundments?

I am not familiar with the reports referenced in the question. As my testimony indicates, if confirmed as Administrator, I will prioritize public participation and transparency. I believe all Americans should be treated equally under the law.

96. In recent years, spills, leaks and collapses of coal ash impoundments have become a greater and greater hazard to clean water. In fact, more than half of the total toxic water pollution found in America's rivers, lakes and streams comes from such impoundments. Do you believe that coal ash from power plants and other coal-burning facilities should be regulated as a hazardous pollutant, given that its chemical composition includes lead, mercury, cadmium and arsenic? What would you do as Administrator to ensure that the kinds of ash spills recently devastating Kingston, Tennessee and Dan River, North Carolina, never again occur, anywhere?

I am generally aware that EPA has recently determined that coal ash from power plants should be regulated as a non-hazardous waste under Subtitle D of the Resource Conservation and Recovery Act and supports that decision. I understand provisions of the WIIN Act recently passed by Congress and signed into law provides EPA and states additional authority concerning the regulation of coal ash through permit programs. If confirmed, I will work to ensure this new authority is implemented.

97. Mr. Pruitt, a growing body of scientific evidence has shown that people living near mountaintop removal coal mines face a number of increased health risks, including greater risk of cancer, birth defects, and premature death. If you are confirmed as EPA Administrator, how would your agency consider these health concerns?

If confirmed, I would consider human health in accordance with EPA's legal authorities.

98. Mr. Pruitt, do you believe that the people who live downstream from surface coal mining operations deserve to have their sources of drinking protected from contamination from toxic chemicals such as arsenic, selenium and lead?

I strongly believe in the importance of safe drinking water, and if confirmed as Administrator, will work to implement EPA's statutory authorities in this regard.

99. Mr. Pruitt, the Manhattan Project and the Cold War triggered a boom in uranium mining in the United States. Uranium mining was carried out under the 1872 Mining Law, which did not require mining companies to clean up the mines. Abandoned uranium and other hardrock mines litter the West. These abandoned mines leach toxic chemicals, including uranium, radium, radon, and arsenic into surface and ground waters that are sources of drinking water.

•Do you agree that there is insufficient funding to address the huge problem of abandoned uranium and other hardrock mines?

•Do you agree that the 1872 Mining Law must be reformed to provide funding for the cleanup of abandoned mines?

I have not studied the issue of whether the 1872 Mining Law should be reformed or whether there is sufficient funding to address the cleanup of abandoned mines. I am generally aware of questions about whether current environmental laws inhibit the cleanup of abandoned mines by Good Samaritans, but I would expect to be briefed by staff before considering any actions on this topic.

100. The EPA is responsible for overseeing the cleanup of some of our nation's most contaminated lands. One such site is the West Lake Landfill, a Superfund site located in Bridgeton, Missouri. This site has been contaminated since 1973 when soils were mixed with residues from the Manhattan Project and used as daily cover in the landfilling operation. Local residents are rightfully concerned and frustrated by delays at the EPA in determining a proper course of action for handling this radioactive waste. In the 114th Congress the Senate unanimously passed legislation that would transfer the remediation authority for West Lake to the Army Corps of Engineers' Formerly Utilized Sites Remedial Action Program (FUSRAP). FUSRAP is already successfully overseeing the cleanup of nuclear contamination at other sites in the St. Louis area. However, as of this moment, the authority over the West Lake site remains with the EPA. Please explain your

views on the EPA's authority and responsibility with regard to the cleanup of Superfund sites.

•If you are confirmed as the next EPA Administrator, would you support transferring the cleanup of sites like the West Lake Landfill to FUSRAP? Why or why not?

•If you support cleanup authority remaining with the EPA, what concrete steps would you pursue as Administrator to ensure that the agency is progressing toward a real solution at the site that protects both the environment and the health of area residents?

I am not familiar with this particular issue or the legislation that is referenced in the question, but I appreciate the interests that residents have in the efficient operation of the Superfund program and the clean up of contaminated sites in their community. It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is fully and fairly considered, as part of a transparent process that seeks input from all stakeholders.

101. Do you believe that if safer technologies or chemicals are available for a facility to use, that could prevent a serious chemical disaster, that the facility should be required to implement them to save lives, prevent injuries of workers, first-responders, and community members, and prevent serious economic damages from a disaster?

I believe workplace safety is very important and any potential regulatory decisions should be carefully examined through a open and transparent process to ensure facilities are not shifting to new chemicals or technologies that improve safety in one area but shift risks to create new and potentially more serious concerns.

102. Do you believe that federal agencies like the EPA have an obligation to consult Native American tribes when actions by the agencies could impact tribal sovereignty or the tribal trust relationship?

Yes, I believe that consultation is a sound practice that should occur whenever possible.

103. Indigenous communities are consistently targeted for energy extraction, nuclear waste, uranium mining and/or oil and natural gas pipelines. How will you address this moving forward?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress imposing obligations on me in this regard. Whenever possible, I will consult with Indian Tribes prior to taking actions that may affect their sovereign interests.

104. As Administrator, what steps will you take to ensure that EPA and other federal agencies are complying with Executive Order 12989 on Environmental Justice?

I am not familiar with what steps EPA has or has not taken undertaken to implement this Executive Order. If confirmed, I will work to ensure that EPA complies with all applicable Executive Orders.

105. In January 2015, EPA issued its final rule under the Resource Conservation and Recovery Act defining what is a solid waste for purposes of ensuring that the recycling of hazardous materials does not increase the risk of harm to people or the environment, known as the "Definition of Solid Waste" or "DSW" rule. As an integral part of the rulemaking on the DSW rule, EPA conducted an environmental justice analysis of the rule's protectiveness for minority and low-income populations. EPA published its detailed environmental justice analysis report on the DSW Rule with the final rule. Will you ensure that EPA conduct detailed environmental justice analysis on all significant rules that may have adverse impacts on minority and low-income populations and publish such reports along with the final rules?

I am not familiar with the environmental justice analysis referenced in this question. If confirmed, I will work to ensure EPA conducts the required analysis to support its regulatory actions in accordance with applicable statutory requirements and Executive Orders.

106. There are currently some forty pending civil enforcement actions in which EPA is discussing possible settlement terms or pursuit of litigation. In the past during a transition in power such pending actions have proceeded unimpeded. Will you follow this precedent and let them progress at their own pace or will you intervene? And, if you do opt to intervene on a case-by-case basis, what criteria will you use to determine which enforcement cases go forward and which do not?

I am unfamiliar with the specific details of the actions referenced in the question. I would expect to be briefed by staff, in consultation with the Department of Justice as appropriate, before taking any action.

107. Please provide a list of all financial contributors to your attorney general and state senate campaigns, including their total donations and affiliations.

A full list of contributors to my campaigns for the state senate and attorney general may be found at the Oklahoma Ethics Commission's websites. For state campaign committees from 2002-2014, please use this site: https://www.ok.gov/ethics/public/candidate.php. For 2015 to the present, the Commission uses this site: http://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=1F26BA5E-71EA-48E4-8D50-C1013E9FE0A7. Attached is a letter from the Oklahoma Ethics Commission regarding materials prior to 2002.

108. Why did you initially refuse a formal, independent audit of your office's finances from the Oklahoma State Auditor and Inspector as mandated by Oklahoma law? Please provide a copy of the findings of the 2016 audit.

I did not refuse an audit. I requested that an independent auditor conduct the audit, rather than the State Auditor. The State Auditor ultimately agreed to not participate in the audit, and the audit was completed. The results are publicly available.

109. Do you know Mr. Fount Holland of A.H. Strategies? If so, what is your relationship?

I am familiar with Mr. Holland. I have no relationship with him.

110. Do you know Continental Resources CEO Harold Hamm and if so, what is your relationship with him?

Yes. Harold Hamm is a friend.

111. You were a board member of the Rule of Law Defense Fund from November 2015 to November 2016. As a nonprofit, that organization doesn't have to disclose its donors. But the tax filings of the Koch brothers' Freedom Partners Foundation show that it contributed $175,000 of the group's $885,000 in 2014, nearly 20

percentage the total. Was the Koch brothers' Freedom Partner's Foundation the largest contributor to the Rule of Law Defense Fund? Did that Foundation have any say with respect to the Fund's activities?

I have no knowledge of whether the Freedom Partners' donation was the largest contributor to Rule of Law Defense Fund. I have resigned as Chairman and as a board member, and those records are kept by the staff of Rule of Law Defense Fund. RLDF's policies at the time I was a board member were that donors did not have any say with respect to the fund's activities.

112. The Rule of Law Defense Fund is an affiliate of the Republican Attorneys General Association, which has received more than $2.25 million in funding from fossil fuel interests since 2015—money that goes primarily to help elect GOP attorneys general, according to an analysis of its activities by the Center for Media and Democracy. What are the fossil fuel-related activities of the Fund? Has the Fund supported or undertaken any public interest or environmental protection activities?

To my knowledge, RLDF has facilitated policy discussion on a wide range of issues, including many public interest and environmental protection issues, some of which may have some nexus to matters involving fossil fuels.

113. The Huffington Post reported this week that two election fundraising groups, Oklahoma Strong and Liberty 2.0, both linked to you spent at least $637,034 since the start of 2015, even though you couldn't run for re-election as Oklahoma attorney general. These groups disbursed an average of roughly $26,543 per month, both of which announced plans last week to shut down. Would you describe for the Committee where these funds went? Is the Huffington Post's characterization that these funds money went to consultants and travel correct? And what were the specific activities conducted with these funds?

I do not have any knowledge of where remaining funds from Oklahoma Strong PAC or Liberty 2.0 went after the entities closed. Both entities are managed by a staff and decisions are made independently of me.

114. Has Oklahoma Strong or Liberty 2.0 taken money from the fossil fuel industry?

This question would have to be directed to those that operate those entities.

115. Has any of the special interest money gone to other Attorneys General that may or may not sue the EPA if you are confirmed?

Without additional context to help me understand your question, I cannot answer it.

116. Has any of this special interest money gone to any member of the EPW Committee that will vote on your confirmation and serve as your oversight committee in the Senate if you are confirmed?

Without additional context to help me understand your question, I cannot answer it. In any event, I have no knowledge of the fundraising activities of the members of this committee.

117. Before being confirmed, will you disclose who has contributed to the Oklahoma Strong PAC and Liberty 2.0 Super PAC?

I do not personally have records of who has contributed to Oklahoma Strong PAC or Liberty 2.0 Super PAC. That information is publicly available on campaign finance reports, and in the possession of the staff of those entities.

118. Please provide the dates and the name of every event you attended as attorney general that was hosted by energy companies, energy representatives, energy lobbyists, or political action committees (PACs) that have energy donors.

Please see attached list.

119. For each listed matter in which the State of Oklahoma has been a litigant or petitioner against the EPA, please provide any and all documents (including any and all written or electronic correspondence, audiotapes, electronic records, videotapes, photographs, telephone messages, voice mail messages, e-mails, facsimiles, daily agendas and calendars, information about meetings and/or discussions, whether in-person or over the telephone, agendas, minutes and a list of participants for those meetings and/or discussions, and transcripts and notes of any such meetings and/or discussions) from the date on which your office first began to prepare the litigation at hand, to the date of this letter, between you (or other employees of your office) and each representative of each non-

governmental entity with whom you (or your office) communicated about the litigation.

In order for you to receive a comprehensive response to a voluminous request of that nature, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act.

120. Of the total outlays from the Attorney General's office during your tenure, what percentage of your office's expenditures in Oklahoma went toward suing the federal government or challenging federal regulations?

My understanding is that less than one percent of the Office of the Attorney General's budget has been for litigation involving legal challenges to federal actions.

121. How many legal cases did your predecessor bring against industry in Oklahoma or other states for violating federal or state environmental protections? How many similar cases have you brought during your tenure? Please identify each such case brought under your tenure, the nature of the violation alleged, and the result achieved, including any penalties assessed and collected.

I do not know how many cases were brought by my predecessor. The Department of Environmental Quality is primarily responsible for implementing and enforcing environmental laws in Oklahoma. The Office of Attorney General has historically had a limited role, compared to the Department of Environmental Quality, in litigating environmental enforcement cases. Information about environmental cases attorneys in my office have litigated during my tenure is included in this response.

122. Do the Oklahoma Strong PAC and Liberty 2.0 Super PAC continue to operate from your state campaign headquarters in Tulsa? What is your connection to either of these political action committees? Do any of your former campaign employees work for either of these political action committees, if so, who and for what period of time?

It is my understanding that both entities have been wound down. I previously served as Honorary Chairman of Oklahoma Strong PAC, I have not served in any similar role with Liberty 2.0. My understanding is that there have been common vendors between Oklahoma Strong PAC and my previous campaigns, but I am not personally aware of any contracts those

vendors might have with the PACs, so your question regarding the details of any such relationships would need to be directed to the PACs or the vendors.

123. How much money have fossil fuel interests given to the Republican Attorneys Generals Association during the duration of your service in the leadership of that organization?

Other issues

Records of fundraising for that organization are kept with the staff of the Republican Attorneys General Association, and are also disclosed on campaign finance reports filed by that entity. I am not aware how much money has been donated to RAGA or from whom.

124. At a time of state budget cuts in Oklahoma, why did the attorney general's office expenditures increase from $28 million to $37.5 million under your leadership?

The budget cuts you refer to relate to reductions in the appropriations that each agency receives from the Legislature. I believe the Office of Attorney General has seen its appropriation from the Legislature cut every year since 2014, culminating in an appropriation of $0 this last fiscal year. What can lead to confusion is the fact that the appropriation from the Legislature makes up only a portion of the Office of Attorney General's budget, and the Office's budget and expenditures can fluctuate greatly year over year depending on the timing of case settlements and related distributions. For example in fiscal year 2014, the Attorney General's Office distributed higher than normal case settlement funds that inflated the budget over typical levels. Conversely, that total came down in fiscal years 2015 and 2016. Thus, fluctuations such as the one assumed by your question do not accurately reflect the size of the Office's budget. In my tenure as Attorney General, the Oklahoma Office of the Attorney General streamlined legal services for dozens of agencies, returned $29 million to the General Revenue Fund, distributed mortgage settlement restitution funds to impacted citizens, strengthened tobacco enforcement, and led the Office in such a fiscally responsible manner that the Office was able to forego all $6.4 million in state-appropriated operating funds for fiscal year 2017--that in addition to the Office having its annual appropriation cut in every prior year. The Office of Attorney General was the only state agency to voluntarily do this. During my tenure, the Office assumed the statutory duties of the Human Rights Commission through our Office of Civil Rights Enforcement, strengthened tobacco settlement enforcement efforts, and launched the Solicitor General's Unit. The Office also increased by one third the number

of agencies, commissions, or boards which it represents. This has led to a precipitous decline in state agency usage of costly private counsel. It is these and other efforts that have permitted the Office to contribute approximately $29 million to the General Revenue Fund over the last six years.

125. Do you think the upwind or upstream states of Oklahoma would be willing to impose more stringent environmental protections because of the adverse impacts certain activities in their state might have on Oklahomans? Have they ever done so on their own?

The Department of Environmental Quality has primary responsibility for implementing and enforcing environmental laws in Oklahoma. As Attorney General, I do not have responsibility or authority for setting environmental policy for the State and do not have the specific information at issue in this question.

126. Do your views on federalism expand beyond the EPA? For example, were you against the recently passed legislation that pre-empted states from labeling GMO foods? If not, why not?

I did not have an opinion on the GMO labeling legislation, however, I view that it is a similar matter to the Lautenberg Act reforms to TSCA which we supported despite its pre-empting state regulation, because it provides certainty nation-wide to regulations and often a consensus federal standard.

127. You campaigned in 2010 against a "one-size-fits-all strategy" towards environmental protection. That phrase is sometimes used to imply that whether American children should be adequately - or inadequately - protected against poisonous air, water and food should be based on the political jurisdiction in which they happen to live. Is that what you meant - that air and water health standards should vary from state to state? Do children's hearts or senior's lungs vary in their vulnerability to pollution between Oklahomans and Californians? Do you accept the premise at the heart of the Clean Air and Clean Water Acts that every American, wherever they live, should have a science based, legally guaranteed right to clean air, pure water and healthy food? Or do you think these decisions should be made by local politicians based on interest group lobbying?

I strongly believe in the importance of clean air, water, and land. Many of the environmental laws passed by Congress, including the Clean Air Act, are based on a framework of cooperative federalism by which states

administer programs authorized or delegated by EPA in order to implement these authorities. If confirmed, I will support open and transparent regulatory processes and base decisions on sound science in accordance with EPA's legal authorities.

128. How do you plan to consider costs in reviewing national ambient air quality standards? Do you agree with Justice Scalia's opinion in Whitman v. American Trucking Associations that it is "fairly clear that [the Clean Air Act] does not permit the EPA to consider costs in setting the standards."

I agree that the Supreme Court's decision in Whitman v. American Trucking Associations confirms that the Clean Air Act does not allow the Administrator to consider costs in setting the NAAQS.

129. Do you believe that economic or cost-benefit analysis should ever be used to decide how much toxic pollution children should breathe or drink; many lives EPA should save; how many children should get cancer or asthma just because they live near a polluting factory?

As I stated in my testimony, I fundamentally believe in EPA's core mission of protecting the American people. Environmental statutes, such as the Clean Air Act and the Clean Water Act, prescribe certain instances where a cost-benefit analysis may be considered in a rulemaking. If confirmed, I commit to fully carry out EPA's core mission and follow the law as provided by Congress.

130. Every year during your tenure as Oklahoma Attorney General, the American Lung Association gave Oklahoma counties a failing grade for not meeting ozone air pollution health standards. In fact, your home town of Tulsa is ranked 18th out of 228 metropolitan areas for high alert ozone days. Are you concerned about the impacts of soot and smog pollution on Oklahoma citizens? What efforts have you undertaken as Oklahoma Attorney General to protect Oklahomans from soot and smog pollution?

While I am concerned about children's health, matters of the sort you reference would be handled by Oklahoma's environmental regulators at the Department of Environmental Quality and the Oklahoma Water Resources Board.

131. If confirmed, do you commit to protecting scientific research conducted and funded by the EPA? Will you continue EPA's long-standing practice of protecting the confidentiality of health records of individual patients that participate in scientific studies?

If confirmed, it will look forward to working with EPA's scientists and the thousands of other public servants at EPA. If confirmed, I would expect to learn more about the existing practice and relevant legal authorities concerning the confidentiality of scientific data before taking action.

132. Do you agree with this statement from NASA: "97 percent or more of actively publishing climate scientists agree: Climate-warming trends over the past century are extremely likely due to human activities." If not, please explain why you do not agree.

I have no reason to disagree with NASA's statement, although I have not made any attempt to independently verify its accuracy.

133. Please provide a list of all the cases, briefs and other legal actions that your office has filed while you have served as attorney general.

Please see attached list.

134. How many legal cases have you filed, or joined others in filing, against the EPA? Please provide a full list with the outcome of each case, including those cases in which the court disagreed with your argument, agreed with your argument, and those in which the court refused to hear the matter.

Enclosed is a list of the relevant cases. The relevant court opinions, judgments, or orders are the best source of information about how these cases were disposed.

135. It is my understanding that you currently have nine cases pending against the EPA on behalf of the State of Oklahoma. Is this correct? Will you recuse yourself from participation in these cases if you are confirmed? If not, why not? Will you recuse yourself from settlement discussions? If not, why not? Will you recuse yourself from decision making on altering or revising the regulations that are impacted by these pending cases? If not, why not? What are the recusal requirements of the Oklahoma Bar Association governing similar situations?

Please see attached list of cases. Immediately upon my nomination, I was walled off from all involvement in any litigation or other matters the State of Oklahoma is pursuing involving the EPA. I have disclosed relevant matters to the Office of Government Ethics and EPA ethics officials. As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. It is my understanding that recusal obligations do not extend to regulatory rulemaking of general applicability, which does not create a conflict under applicable rules.

136. If confirmed, do you plan on proposing or advocating for budget cuts to the EPA's FY 2018 budget? If so, in which programs would you reduce funding? Would you target the EPA's research programs? Are there areas of agency action where you believe additional financial resources are needed?

I have no first-hand knowledge of EPA's development of its FY 2018 budget request. If confirmed, I will work to ensure that the limited resources appropriated to EPA by Congress are managed wisely in pursuit of that important mission and in accordance with all applicable legal authorities.

137. It is my understanding that prior to you taking office, there was an Environmental Protection Unit within the Oklahoma Attorney General's office. Is that correct?

The Oklahoma Department of Environmental Quality is the State agency responsible for implementing and enforcing environmental laws in Oklahoma.

138. It is my understanding that after you took office, the Environmental Protection Unit within the Oklahoma Attorney General's office was eliminated. Is that correct? Can you explain why the work of this unit was discontinued? Did the work continue in another section of your office? If so, who continued to do that work and for what period of time?

My office continues to employ attorneys vested with responsibilities related to environmental protection, including the attorney who served as the lead attorney on the previous attorney general's "environmental protection unit." That attorney's responsibilities remain unchanged (he has been promoted, in fact), and he pursues exactly the kind of cases that he pursued under the previous attorney general. The only thing that changed was the internal

organization of the attorneys vested with those responsibilities, because I concluded (consistent with the practices of every attorney general in the State's history but for my immediate predecessor) that it was not operationally efficient to have a separate unit for such work. Thus, I chose to house that work in the Office's Public Protection Unit and then later in the Solicitor General's Unit. As I explained in my testimony to the committee, my office continues to pursue environmental cases. I do not possess lists of cases pursued my predecessor so I cannot provide the comparative that you request. I am aware that many environmental cases take many, many years to litigate to completion, so some of the actions that my Office continues to pursue were initiated prior to my taking office. Please see attached list of cases.

139. In your cases against the EPA's Mercury and Air Toxics Rule, who served as your scientific advisor for the case?

The Office of Attorney General does not have a science advisor.

140. Please provide your definition of cooperative federalism.

Cooperative federalism occurs when the federal government works cooperatively with state and local governments to address issues of national concern. Federalism is not cooperative when the federal government mandates or coerces state and local governments into effectuating federal policies.

141. Provide examples of times the EPA has intervened and required a state to do more than the state intended and you supported the EPA's actions.

The water quality crisis in Flint is one where EPA should have acted faster in accordance with its legal authorities in consultation with the State.

142. You are quoted in an interview this past November saying "we hope there is going to be regulatory rollback...Well when you look at the EPA, and the role it's played over the last several years, there's going to be substantial change in that agency." Which EPA regulations do you believe should be rolled back? What changes do you believe should occur in the EPA? Which EPA regulations should be maintained?

Based on the limited information provided in the question, I am uncertain what interview it is referring to. However, if confirmed as Administrator, I

will take my responsibility to protect human health and the environment for all Americans with the highest possible dedication and commitment. The actions undertaken by the Office of Attorney General challenging certain EPA regulations have been because EPA exceeded it legal authorities as established by Congress and interpreted by the courts. Regulations that are not on solid legal foundation and that cannot survive judicial review will not result in environmental protections.

143. In your testimony before the Senate Environment and Public Works Committee in May 2015, you stated that the EPA "has played an important role in addressing water and air quality issues that transverse state lines." Since you became attorney general, hasn't your state sued against EPA regulations that address cross-state air and water pollution? What are the most significant sources of interstate pollution and what are the most important actions the EPA can take to address them?

As my testimony indicates, I firmly believe that the EPA plays an important role in addressing interstate water and air quality issues, but it must do so within the bounds of its legal authority. The actions undertaken by the Office of Attorney General challenging certain EPA regulations have been because EPA exceeded it legal authorities as established by Congress and interpreted by the courts.

144. Do you believe the EPA has, in your words "exceeded the constraints placed upon the agency by Congress" by issuing the Mercury and Air Toxics Rule? If so, please explain.

Based on the limited information in the question, the source or context of the quote to which the question refers is not readily apparent. Twenty one states filed a petition with the Supreme Court to review EPA's Mercury Air Toxics Standards. The Supreme Court held that the EPA was required to consider costs as part of its decision whether to regulate power plants under section 112. I agree with the Supreme Court's conclusion.

145. Do you support states taking further public health protective actions beyond those required by EPA regulations?

Yes—if authorized under the law and not preempted or displaced by federal law.

146. Do you agree with the EPA's legal interpretation of the Clean Water Act and share the view the agency has federal jurisdiction over wetlands and streams that impact the health of downstream navigable waters? If you do not agree, please explain.

The EPA takes a broader view of its jurisdiction under the Clean Water Act than the question suggests. A federal court appeals has held that the EPA's interpretation of its jurisdiction under the Clean Water Act is likely unlawful. I agree with that court's conclusion.

147. Would you explain the basis for your recent challenges to EPA's finding that it is appropriate and necessary to regulate the emissions of carbon dioxide and hazardous air pollutants from power plants?

The particular matters being asked about are unclear from the limited information in the question. As discussed in response to Questions 27 and 35, the state of Oklahoma, along with many other states, filed petitions for review challenging EPA regulations in matters where EPA has exceeded its statutory authority as established by Congress and interpreted by the courts. The standard for regulating under section 111 of the Clean Air Act is whether in the Administrator's judgment a category of sources "causes, or contributes significantly, to air pollution which may reasonably be anticipated to endanger public health or welfare." The standard for regulating under section 112(n) of the Clean Air Act is if "the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this subparagraph." The briefs filed by the state petitioners are the best statements of the legal arguments being made and speak for themselves.

148. As attorney general, what types of environmental justice cases have you pursued? Please provide a list of cases and outcomes. What is your view of EPA's mission in regard to environmental justice?

As discussed elsewhere in these responses, the Oklahoma Department of Environmental Quality is the state agency with primary responsibility for implementing and enforcing environmental laws in Oklahoma. As I testified, I believe the Administrator plays an important role regarding environmental justice. Attached is a list of environmental cases brought under my tenure.

149. In a 2013 press statement, you stated "the evidence is clear that the current ethanol fuel mandate is unworkable." Would you explain what you meant at this time?

Based on the limited information in the question, the context of the quote referenced in the question is not readily apparent. If confirmed, my duty as EPA Administrator would be to enforce the laws passed by this body.

150. In your joint brief against the Mercury and Air Toxics Standards, it stated "human exposure to methylmercury resulting from coal fired EGUs (Electric Generating Units) is exceedingly small." What is the scientific basis for this statement? Do you continue to agree with this assessment?

Based on the limited information in the question, the source or context of the quote to which the question refers is not readily apparent. Twenty one states filed a petition with the Supreme Court to review EPA's Mercury Air Toxics Standards. The legal question in that case was a narrow one focused on whether EPA was required to consider costs before it imposed regulations on power plants under section 112 of the Clean Air Act.

151. The EPA is responsible for administering two of the nation's most important infrastructure investment programs- the Clean Water and Safe Drinking Water State Revolving Loan Funds (SRFs). Unfortunately, water and sewer infrastructure in this country continues to deteriorate and investment is sorely needed. The American Society of Civil Engineers rates our wastewater and drinking water infrastructure a "D." If confirmed, what will you do to ensure that the federal government is adequately investing in our nation's wastewater and drinking water infrastructure?

If confirmed, I will continue support for the Clean Water State Revolving Loan Funds and the new Water Infrastructure Financing Innovation Act loan program. In addition, I would continue to implement EPA's Integrated Planning Framework to provide municipalities with flexibility to prioritize actions they take to come into compliance.

Senator Duckworth:

1. During your confirmation hearing, we discussed the ongoing petitions requesting EPA initiate a rulemaking to reconsider or change the regulations identifying refiners and importers of gasolines and diesel fuel as the entities responsible for complying with the annual percentage standards adopted under the Renewable Fuel Standard (RFS) program. I am specifically concerned with harmful proposals to move the point of obligation from refiners and importers to entities that blend renewable fuel into transportation fuel. Moving the point of obligation from refiners to blenders would disrupt a component of the RFS program that has worked well for the past 10 years. This harmful proposal is opposed by a broad range of stakeholders, including organizations that represent blenders, and it would undermine Congress' goal in creating the RFS program by likely decreasing the production, distribution and use of renewable fuels in the United States.

• If confirmed as EPA Administrator, will you commit to denying any petition requesting EPA change the RFS point of obligation, including requests to move the point of obligation from refiners to blenders?
• Please provide all statements you have made, whether in writing or verbally, expressing your view on the RFS point of obligation.

As I indicated in my testimony, the EPA's RIN framework is currently the subject of a pending notice-and-comment rulemaking. If confirmed as Administrator, I would take care to administer the RFS program, including the RIN framework, in accordance with Congress's statutory objectives, and based on the evidence in the EPA's administrative record, as well as the expertise of EPA staff and the expertise of other federal agencies relevant to the RIN framework and affected markets. The EPA already has entered into a "memorandum of understanding" with the CFTC, "on the sharing of information available to EPA related to the functioning of renewable fuel and related markets."

Senator Gillibrand:

1.Assuming that costs should be considered in rulemakings, do you believe that externality costs – for example costs to society from impacts of a pollutant -- should be considered in addition to the financial costs of compliance?

As I stated at the hearing, costs are important in the rulemaking process and the Courts have recognized that important factor. Environmental statutes, such as the Clean Air Act, prescribe when costs should be considered in a rulemaking. If confirmed, I commit to fully follow the law as provided by Congress.

2.New York has the toughest acid rain regulations for power plants in the nation, but the acid rain that has affected the Adirondacks is predominately caused by emissions from Midwestern coal-fired power plants. The scientific data collected as part of a long-term and robust acid rain monitoring program of Adirondack lakes and streams provides the evidence that the sulfur dioxide trading program under the Clean Air Act has been a cost effective method to reduce sulfur dioxide from the atmosphere. This regulatory strategy was implemented without a detrimental economic effect. Is the regulatory strategy outlined above: strong federal standards coupled with even stronger state standards an example of the "meaningful role" you envision for EPA and the "useful role of the states?"

As I stated at the hearing, costs are very important in the rulemaking process and the Courts have recognized that important factor. Environmental statutes, such as the Clean Air Act, prescribe when costs should be considered in a rulemaking. If confirmed, I commit to fully follow the law as provided by Congress.

3.EPA promulgated the Cross State Air Pollution Rule (CSAPR) in 2011 and an update to the rule in September 2016. How will you implement CSAPR and the update rules?

The Cross-State Air Pollution Rule is a regulation that is currently in effect and, as such, constitutes a binding regulation. So long as that rule remains in force, I will faithfully execute the law and enforce obligations under it.

4.What strategy will you pursue to ensure upwind emissions do not affect the ability of downwind states to meet air quality standards, per Section 110(a)(2)(D) of the Clean Air Act?

As I stated in my testimony before the Committee, I agree that the Clean Air Act gives EPA an important role in addressing interstate pollution issues, among many other things. If I am confirmed as Administrator, I will exercise my authority in this area consistent with Congress's intent in enacting the Act. Specifically with respect to Section 110(a)(2)(D) and the "good neighbor" obligations of Section 110, I intend to engage in a transparent process that will allow states to have a meaningful opportunity to understand their obligations with regard to reducing emissions that cause or contribute to nonattainment or interference with maintenance in other states through the SIP process and to act consistent with my authority under Section 110(c) if states fail to do so.

5.What is EPA's role in resolving disputes regarding the transport of pollutants between states?

As I stated in my testimony before the Committee, I agree that the Clean Air Act gives EPA an important role in addressing interstate pollution issues, among many other things. I strongly believe in states working collaboratively to address crossborder environmental challenges and did so when I was the Attorney General of Oklahoma, including negotiating a historic agreement with my Democratic counterpart in the State of Arkansas to reduce pollutants into the scenic Illinois River. As Administrator, I intend to provide assistance to states as they work collaboratively in these issues. Where the Act contemplates a more direct role for EPA, such as with respect to Section 110(a)(2)(D) and the "good neighbor" obligations of Section 110, I intend to engage in a transparent process that will allow states to have a meaningful opportunity to understand their obligations with regard to reducing emissions that cause or contribute to nonattainment or interference with maintenance in other states through the SIP process

6.What specific actions have you taken as Oklahoma Attorney General to protect Oklahoma's children from exposure to air pollution?

While I am also concerned about children's health, environmental regulation in Oklahoma is the responsibility of Oklahoma's environmental regulators at agencies like the Oklahoma Department of Environmental Quality. That agency would likely be better situated to answer your question by actions taken by the State with regard to air pollution.

7. Does state sovereignty includes a state's authority to combat impacts to air and water from pollution generated in other states?

Yes.

8. The EPA Clean Air Science Advisory Committee currently fills a role that The Clean Air Act requires; this role is that of an independent scientific committee to advise the Administrator regarding any possible revisions to the national standards (NAAQS). That advisory committee has stated on record that the ozone NAAQS should be more protective than the current standards. Will you follow the advice of the advisory committee as Administrator?

I agree that the Clean Air Act assigns the advisory committee a role in advising the Administrator regarding the promulgation and revision of NAAQS. If confirmed as Administrator, I will follow a transparent process that is legally and scientifically sound in all NAAQS decisions, including consideration of the views of the advisory committee.

9. What role will the opinions of that advisory committee play in any decision-making you might have to do regarding review of and revisions to the NAAQS?

I agree that the Clean Air Act assigns the advisory committee a role in advising the Administrator regarding the promulgation and revision of NAAQS. If confirmed as Administrator, I will follow a transparent process that is legally and scientifically sound in all NAAQS decisions, including consideration of the views of the advisory committee.

10. In the April 22, 2016 State Petitioners' Opening Brief that you signed seeking to vacate EPA's primary NAAQS of 70 ppm, you wrote that "that EPA must consider the burden of a NAAQS." What did you mean by the burden of a NAAQS?

The Clean Air Act requires the Administrator to establish NAAQS that protect public health and welfare from adverse effects, allowing an adequate margin of safety, and to revise those standards as appropriate. This includes establishing NAAQS at a level that is "requisite," which the Supreme Court has interpreted as being neither more nor less stringent than necessary to protect public health. The State Petitioners' Opening Brief, particularly in Section II of the Argument portion, the part of the brief to which the quotation in your question is relevant, argues that the ozone NAAQS is arbitrary and capricious because it fails to interpret the Act in a manner that ensures the standard is "requisite." As I have explained elsewhere in my testimony to the Committee and in response to the Committee's written questions, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in an advocacy

capacity. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

11.What is the burden on individuals who are exposed to, and suffer health effects from, air pollution if NAAQS are not strong enough to protect public health?

The Clean Air Act requires the Administrator to establish NAAQS that protect public health and welfare from adverse effects, allowing an adequate margin of safety, and to revise those standards as appropriate. Individuals exposed to pollutant concentrations that are above the NAAQS may suffer adverse health effects, the specifics of which vary depending on the pollutant at issue.

12.How will you take into consideration the cost of pollution on human health when taking regulatory action?

As I stated in my testimony, if confirmed, my primary goal would be to protect the American people through lawful regulations. I also indicated at the hearing that costs are very important in the rulemaking process and the Courts have recognized that important factor. I understand environmental statutes, such as the Clean Air Act and Clean Water Act, prescribe when costs should be considered in the rulemaking process. If confirmed, I commit to fully follow the law as provided by Congress.

13.New York is very concerned with the interstate transport of ozone and particulate matter, which cause death and illness in our state and damages our natural resources, but also interferes with New York's ability to meet its legal obligation to attain the national standards set by EPA. Can ground-level ozone or its precursor, nitrogen oxides, can be generated in one state and reduce air quality in another state?

Yes.

14.Can fine particulate matter or its precursors, nitrogen oxides and sulfur dioxide, be generated in one state and reduce air quality in another state?

Yes.

15.EPA's regulatory impact analysis enumerated numerous important categories of mercury benefits that the agency found couldn't be monetized, such as the impacts of mercury on non-IQ neurological impacts (including developmental

delays, effects on attention/behavior, effects on motor skills, effects on memory); cardiovascular impacts; genotoxic, immunologic, and other toxic effects.

•Do you agree that mercury has these impacts?

•Do you agree that the benefits of reducing these impacts are valuable?

•Do you think that avoided harms, like reducing childhood development delays, need to be monetized to count as part of a cost-benefit analysis?

•Do you agree that consideration of a monetized cost-benefit analysis that does not include these benefits because they cannot be monetized is an incomplete picture of the costs and benefits of reducing mercury emissions?

I agree that as Administrator, it is appropriate to consider both the monetized benefits of regulation and benefits that cannot be monetized. Likewise, where appropriate in light of Congress's intent in enacting each Clean Air Act provision, I agree that it is appropriate to consider both the monetized costs of regulation and any other negative impacts, regardless of whether those can be monetized. If I am confirmed as Administrator, I will exercise my authority consistent with Congress's intent in enacting the Act.

16.In your comments at the EPW nomination hearing, you claimed that your challenges to the mercury standards were entirely procedural in nature.

•In your brief challenging the original mercury standard, you asserted that "the record does not support EPA's findings that mercury, non-mercury HAP metals, and acid gas HAPs pose public health hazards." Explain how this is a procedural claim.

•In your brief challenging the original mercury standard, you asserted that "EPA's EGU MACT standards are unlawful under §112(n)(1)(A)." Explain how this is a procedural claim.

•In signing the original petitioners' brief, were you just advocating for a client? Or do you continue to believe all the positions argued in the original petitioners' brief are correct?

•In your brief challenging EPA's supplemental finding, you asserted that "EPA must consider costs in relation to benefits to justify its 'appropriate and necessary' determination." Explain how this is a procedural claim.

•In your brief challenging EPA's supplemental finding, you asserted that EPA's "'alternative' benefit-cost approach is also invalid because it is based on the 'Co-Benefits' of reducing pollutants other than HAPs." Explain how this is a procedural claim.

•In your brief challenging EPA's supplemental finding, you asserted that "EPA's refusal to consider alternative control strategies and all relevant costs, is contrary

to the statute and the Supreme Court's direction." Explain how this is a procedural claim.

In my testimony, when I stated that Oklahoma's challenges were procedural in nature, I was referring to whether EPA acted consistent with law and the record in following the procedure set forth for regulating electric utility steam generating units under Section 112(n) of the Act. That procedure required EPA, taking into account certain information, to determine whether regulating the sources under Section 112 is appropriate and necessary.

17.When filing briefs for Oklahoma in the Mercury and Air Toxics Standard litigation, Clean Power Plan litigation, and other litigation against EPA that you joined as Attorney General, were you just advocating for a client? Or do you continue to believe all the positions argued in your briefs are correct?

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in an advocacy capacity. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

18.The Great Lakes Restoration Initiative (GLRI) was launched in 2010 to accelerate efforts to protect and restore the largest system of fresh surface water in the world — the Great Lakes. EPA is a critical member and lead of the GLRI Task Force and Regional Working Group. This coordination in partnership with the states has produced unprecedented results, with GRLI resources funding over 2,000 projects to improve water quality, protecting and restoring native habitat and species, preventing and controlling invasive species, and addressing other Great Lakes environmental problems. Under your leadership, will the GLRI continue to be a top priority?

If confirmed, I will continue EPA's support for the Great Lakes Restoration Initiative, which was formally authorized by Congress in December 2016.

19.Will you support an annual appropriation of at least $300 million for the Great Lakes Restoration Initiative?

I note that $300 million has been the annual appropriation for the Great Lakes Restoration Initiative for the past several years, even though the prior Administration proposed to cut that funding to $250 million. Three hundred

million also is the Congressional authorized level of funding. If confirmed, I will take into account that funding history and Congressional authorization when making recommendations to the Office of Management and Budget regarding EPA's appropriations.

20.New York is suffering from infestations of invasive species such as the emerald ash borer and zebra mussel, which have large impacts in the state. EPA has been an important ally in our efforts, and has a number of programs that fight invasive species. What is your view on EPA's role in fighting invasive species, and do you believe EPA should commit more resources, fewer resources, or about the same amount of resources to this issue?

I am not aware of the state of invasive species in New York. If confirmed, I would expect to be briefed by staff on this issue before taking any action consistent with EPA's legal authorities.

21. Does climate change have an impact on the spread of invasive species, such as the emerald ash borer, in New York State?

I am not familiar with the state of invasive species in New York.

22.Should states continue to have the sovereign authority to set their own ballast water discharge standards to protect the environment from the spread of invasive species?

The issue of federal preemption of state ballast water discharge regulations is a question for Congress, not the Administrator of the EPA. If confirmed, I will carry out the authorities granted to EPA by Congress.

23.Approximately 200 miles of the Hudson River are classified by the EPA as one of the largest Superfund sites in the country when 1.3 million pounds of PCBs were discharged by two General Electric plants into the Hudson River over a 30-year period. The EPA has required targeted dredging between 2009 and 2015. Last year, the Commissioner of the New York State Department of Environmental Conservation repeatedly advised the EPA of the State's concerns that EPA's remedy for the Hudson River left in place substantial levels of PCB contamination. The EPA is slated to release its five-year review of the project this spring. Independent and objective quantitative analyses are essential in order to determine whether the remedy is protective of human health and the environment. Will you agree to work with New York State to evaluate the sufficiency of the remedy selected in the EPA's Record of Decision?

I appreciated hearing about this Superfund site in our meeting and your staff followed up with us concerning the consent decree in this situation. If confirmed, I intend for EPA to work collaboratively with New York State to assess the sufficiency of the remedy. I understand that EPA intends to provide data and analysis related to a review of the remedy to the site related to all stakeholders, including New York, federal partners, and the environmental community. I also understand the State and other stakeholders will have the opportunity to present information to EPA through that process. I confirmed, I would work to ensure that EPA's decision will be informed by such information provided through such process.

24.With regard to the Hudson River, will you thoroughly quantify the trends based on all available fish, water, and sediment data and make reasonable and conservative assumptions regarding future trends?

I believe EPA actions should be based on sound science and taken in accordance with applicable statutory requirements, including consideration such as those you identify.

25.As of 2014, New York had the third largest number of Superfund sites among all states, with 87 sites. One in four Americans lives within three miles of a contaminated disposal site that poses serious risks to human health and the environment. In recent years, EPA has allocated approximately $250 million per year for Superfund cleanup. The agency estimates that much greater amounts – from $355 million to over $600 million per year – will be needed in the future. What changes should be made to the Superfund statute to help facilitate these important clean-up projects?

If confirmed, I would expect to prioritize the cleanup of contaminated land. Prior to suggesting any legislative proposals, I would expect to be briefed by staff and to receive the views of relevant stakeholders on ways to improve the operation of the Superfund program, including any changes to its statutory authority, if confirmed.

26.Do you support restoring the tax on petroleum products that funded the Superfund trust fund, but was discontinued in 1995?

This is a matter for Congress to decide.

27.What would you do, if confirmed, to facilitate and improve Superfund clean-ups in the absence of new legislation?

If confirmed, I would expect to prioritize the cleanup of contaminated land. I would also expect to be briefed by staff and to receive the views of relevant

stakeholders on ways to improve the operation of the Superfund program, absent new statutory authority, if confirmed. I also understand the Government Accountability Office and the EPA Inspector General also regularly review the operation and activities of the Superfund program, and I would expect to look to their recommendations for additional areas for improvement, if confirmed.

28.The EPA's Brownfields Program provides grants and technical assistance to assess, clean up, and reuse contaminated properties. Cleaning up and reinvesting in brownfields protects human health and the environment, reduces blight, and takes development pressures off agricultural and other working lands. Through fiscal year 2013, on average, $17.79 was leveraged for each EPA Brownfields dollar and 7.3 jobs leveraged per $100,000 of EPA brownfields funds expended on assessment, cleanup, and revolving loan fund cooperative agreements. Unfortunately, only about 1/3 of all applicants to the program are successful. Do you support expanding the resources for the Brownfields Program to adequately support these communities in need?

I am aware EPA's Brownfields program has enjoyed bipartisan support in Congress. If confirmed as Administrator, I expect cleanup of contaminated land to be among my priorities and to be briefed by staff about the Brownfields programs activities and resources before taking any action.

29.In 2005, New York State, Connecticut, and the EPA and Army Corps reached an agreement to eliminate or reduce the amount of dredged sediment dumped in the open waters of Long Island Sound. The New York State Department of Environmental Conservation and Department of State have repeatedly urged the EPA and Army Corps not to move forward with the permanent designation of an open water dumping site in Eastern Long Island Sound, raising concerns that the sediment has not been properly tested and could negatively impact the economic and environmental state of Long Island Sound, which was designated in 1987 by Congress as an Estuary Of National Significance. Will you work to enforce NYS's right to protect Long Island Sound from additional open water dumping of dredged material?

The designation by EPA of an area as a site for dredged material disposal must follow the rigorous process set forth in the Marine Protection, Research, and Sanctuaries Act to ensure protection of the environment. As I stated in my testimony before the Committee, I support following the administrative processes set forth in law, including the National Environmental Policy Act, to ensure that EPA's statutory responsibilities are fully carried out.

30.Will you commit to assisting the states with determining upland alternatives to the open water disposal of dredged material?

Disposal of dredged material is not an EPA mission or responsibility. That lies with the Corps of Engineers.

31.Will you continue the Long Island Sound Study office and ensure it receives the necessary resources from EPA?

As I noted in my testimony before the Committee, I support collaborative efforts to achieve environmental protection. The Long Island Sound Study is a collaborative effort among EPA, New York, and Connecticut.
EPA's Long Island Sound Study office was authorized by Congress in 1990 under section 119 of the Clean Water Act. If confirmed, I will carry out all responsibilities given to EPA by Congress.

32.Will you support annual appropriations of at least $10 million for the EPA's Long Island Sound geographic program?

If confirmed, I will seek budgetary resources to carry out all responsibilities given to EPA by Congress. I note that the most recent appropriation for the Long Island Sound program was about $3.9 million and the most recent budget request was about $2.9 million.

33.How do you intend to handle existing EPA enforcement actions initiated prior to January 20, 2017?

I am unfamiliar with the specific details of the actions referenced in the question. I would expect to be briefed by staff, in consultation with the Department of Justice as appropriate, before taking any action.

34.Municipal landfills that are non-compliant with the Resource Conservation and Recovery Act (RCRA) have created public health and environmental problems on the island of Puerto Rico, contributing to water, ground and air contamination. How will you address non-compliant landfills in Puerto Rico?

I am not familiar with the details of this specific issues but, if confirmed as Administrator, I would expect to be briefed by staff about EPA's ongoing involvement and role at these sites. If confirmed, I expect to make cleanup of contaminated land one of my priorities. I also believe in the importance of hearing the views of all stakeholders and would welcome the opportunity to discuss this further.

35.I have been working with EPA Region 2 to address the significant environment and public health crisis in the Caño Martin Peña in San Juan, Puerto Rico. As we discussed during our meeting in my office, EPA must take aggressive action to work with the Army Corps of Engineers to clean up hazardous waste, which is threatening the lives of children and families, who do not have full representation in the Congress. Will you continue EPA's aggressive push to clean up the Caño?

As discussed, I am not familiar with the details of this specific matter but, if confirmed as Administrator, I would expect to be briefed by staff about EPA's ongoing involvement and role at this site. If confirmed, I expect to make cleanup of contaminated land one of my priorities.

36.If confirmed, will you visit San Juan and tour Caño Martin Peña during your first year as Administrator?

As we discussed in your office, I would be pleased to accompany you on this trip at a mutually convenient time if I am confirmed as Administrator.

37.What is the scientific basis for sea level rise, which we have experienced along the coast of New York State?

If confirmed as Administrator, I will work to ensure EPA regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the changes in our climate and sea level rise.

38.Do you agree with the National Climate Assessment that human-induced climate change has already increased the number and strength of extreme weather events?

I am aware of the broad range of views within the scientific community regarding the relationship between human activity on changes in the climate and any resulting impact on extreme weather events. If confirmed as Administrator, I will work to ensure EPA regulatory actions are based on the most up to date and objective scientific data.

39.Why did you eliminate the environmental protection unit of the Oklahoma Attorney General's office?

My office continues to employ attorneys vested with responsibilities related to environmental protection, including the attorney who served as the lead attorney on the previous attorney general's "environmental protection unit." That attorney's responsibilities remain unchanged (he has been promoted, in fact), and he pursues exactly the kind of cases that he pursued under the

previous attorney general. The only thing that changed was the internal organization of those vested with those responsibilities, because I concluded (consistent with the practices of every attorney general in the State's history but for my immediate predecessor) that it was not operationally efficient to have a separate unit for such work. Thus, I chose to house that work in the Office's Public Protection Unit and then later in the Solicitor General's Unit.

40.How may staff does the Oklahoma Attorney General's office have dedicated, full time, to enforcing federal environmental laws in Oklahoma? Do not include in that number staff working on lawsuits against the EPA.

The Office of the Attorney General's employs seven attorneys who responsibilities include environmental-related matters, with a primary focus on enforcing Oklahoma law, rather than the federal law that your question presumes. These duties substantially include representing the environmental agencies of the State of Oklahoma or providing counsel to those environmental agencies in actions they determine to pursue.

41.Perfluorooctanoic acid (PFOA) is listed as an unregulated contaminant under the Safe Drinking Water Act. PFOA was discovered in the municipal water supply and private wells in the Village of Hoosick Falls and Towns of Hoosick and Petersburgh, NY and in North Bennington, Pownal, Vermont. Perfluorooctane sulfonate (PFOS) was found in Newburgh New York.

In 2014, PFOA and PFOS were found in public drinking water wells in Horsham, Warminster, and Warrington, Pennsylvania. They were found by the federal Environmental Protection Agency, as part of the Unregulated Contaminant Monitoring Rule. The amounts of PFOA and PFOS found in the public wells in the area were among the 10 highest samples anywhere in the country based on the provisional health advisory level set by EPA in 2009.

In 2009, EPA set a provisional health advisory level of .4 parts per billion. In May, 2016, EPA set a Lifetime Health Advisory level for PFOA at 70 parts per trillion. How will you work to ensure that drinking water sources are monitored for PFOA and PFOS, particularly in small communities under 10,000 people?

If confirmed, I will carry out the authorities and responsibilities given to EPA by Congress. Congress did not make monitoring eligible for Safe Drinking Water Act State Revolving Loan Fund assistance because it is considered operation and maintenance that is local responsibility. However, Congress recently authorized a grant program to assist small and disadvantaged communities provide safe drinking water. Testing of unregulated

contaminants is eligible for assistance under this authority. If funding is provided by Congress, I will carry out that program.

42.How will EPA continue to evaluate the health effects of PFOA on all communities that were exposed, in particular vulnerable populations including infants and fetuses during pregnancy?

As I stated at my confirmation hearing, PFOA is a chemical substance that the Agency should address quickly and I will look to continue evaluating the health effects of PFOA through TSCA and the Safe Drinking Water Act.

43.Will you work collaboratively with other agencies, including the Centers for Disease Control and Prevention, the National Institutes of Health, and the Department of Defense, to ensure that the public is informed about the health effects of contamination?

As I stated at my confirmation hearing I believe collaboration between federal agencies to protect and better inform the public.

44.Will you work collaboratively with states and local governments to ensure that information on PFOA and PFOS are communicated in a transparent and timely manner to the public?

Cooperative federalism and collaboration between EPA and officials at the state and local level is something I feel very strongly about and if I am confirmed I will work collaboratively with state and local governments.

45.In the absence of federal drinking water standards, what role should EPA play in assisting communities whose drinking water supplies have become contaminated by PFCs or other emerging contaminants?

Congress recently authorized a grant program to assist small and disadvantaged communities provide safe drinking water. Testing of unregulated contaminants is eligible for assistance under this authority. If confirmed and if funding is provided by Congress, I will carry out that program.

46.The latest EPA survey of capital improvement needs indicates that public water systems need to invest $384.2 billion on infrastructure improvements over 20 years to ensure the provision of safe tap water. The needs estimate generally excludes costs associated with addressing unregulated contaminants or the costs of replacing lead service lines. What funding level do you view as effective for the

EPA Drinking Water State Revolving Fund (DWSRF) capitalization grant program?

The federal government offers some financial assistance but the vast majority of the Investments in public water systems will be made by the public and private entities that own and operate those systems. The Safe Drinking Water Act State Revolving Loan Funds leverage federal investment at about 1.76 to 1. That is, a federal dollar leverages about 1.76 dollars in loan assistance. The new WIFIA program can leverage federal investment at a level of up to 60 to 1. I fully support the Drinking Water SRF and would not support any cuts to that program. However, if Congress provides additional funds I am excited by the opportunities the new WIFIA program presents.

47. How would you use the "precautionary principle" to bring to bear cutting edge science on emerging contaminants to ensure decisions are technically valid, while also not delaying regulatory decisions to wait for every potential detail to be addressed when health impacts may be occurring during the delay?

If confirmed agency decisions will be based on sound science and I will work to protect health and the environment as expeditiously as possible.

48.What is your view on EPA's role in overseeing response actions undertaken by DOD at U.S. military facilities, including where PFOA, PFOS, or other PFCs may have been released?

EPA's role is governed by the statutory and regulatory authorities, including section 120 of the Comprehensive Environmental Response, Compensation and Liability Act and the National Contingency Plan.

49. As you know, Congress passed a provision in law that exempts hydraulic fracturing from the Safe Drinking Water Act. Do you think that hydraulic fracturing chemicals should be exempt or do you believe that this law has merit?

Article 1 Section 8 of the Constitution vests in Congress the authority to make our nation's laws and, if confirmed, as a member of the Executive Branch I will faithfully execute my duty to implement and enforce the laws written by Congress.

50.How will you address the disproportionate effect of environmental contamination on low-income communities of color?

If confirmed, I will expect to be briefed by staff about EPA's programs and statutory authorities in this area.

Senator Markey:

1. There is tremendous diversity across states in this country, and occasionally states have differences of opinion on how to approach a problem. One of the roles of the federal government is to be an arbiter among states.
• What is your philosophy on how interstate pollution conflicts should be handled?
• Should a state be able to pollute a river for which another state relies on for drinking water?
• What is the EPA's role in resolving interstate pollution conflicts?
• How would you determine when EPA should be involved in interstate pollution disputes?

As I testified in the hearing, I have pursued opportunities to address interstate environmental quality matters. One of the examples I have highlighted is the work that Arkansas Attorney General Dustin McDaniel and I took to address an enforceable water quality standard between Arkansas and Oklahoma. I have also discussed how Texas should be responsible when air quality issues affect Oklahoma and my experience with that. When negotiations among and between states breakdown EPA has a role to set environmental standards. However, that is should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA.

2. During the hearing, you repeatedly underscored the need to make regulation "regular" for regulated entities.
• How do you reconcile that goal with the mission of EPA, which is "to protect human health and the environment"?
• If confirmed as EPA Administrator will your highest priorities be to protect human health and the environment?

As I testified, I believe in the rule of law and that process matters. I do not view these as being contrary to EPA's mission to protect human health and the environment.

3. Please list any deductible or nondeductible charitable donations you made in the last three years, including, for each contribution, the name of the recipient and the amount.

I have complied with the reporting obligations from the Office of Government Ethics and the EPW Committee.

4. As attorney general, you made Freedom of Information Act (FOIA) requests, and expected a fast response. Do you commit to respond to FOIAs as quickly as possible, if you are confirmed?

If confirmed, I will commit to tasking my staff with responding to FOIA requests in a timely manner.

5. During Mr. Trump's campaign, there were reports that even volunteers were required to sign non-disclosure agreements. After his election, President-elect Trump's team demanded lists of career officials who worked on climate science issues at the Energy Department and women's and gender issues at the State Department. It is against the law to retaliate against career officials for following lawful policy directives. It is also against the law to interfere with career employees communicating with Congress. I have included a summary of these laws below.

Any suggestion that the incoming administration is targeting career officials for retaliation simply because they worked on policies that the new President disagrees with threatens to create a chilling effect on employees who are simply trying to do their jobs.

5 U.S.C. § 7211, provides that: The right of employees, individually or collectively, to petition Congress or a Member of Congress. or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied. Pursuant to 5 U.S.C. § 2302(b)(8), it is a violation of federal law to retaliate against whistleblowers. That law states: Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority ... take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of. ... (A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences- (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation... " In addition, pursuant to 18 U.S.C. § 1505, it is against federal law to interfere with a

Congressional inquiry: Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress.
• If you are confirmed, will you commit to protect the rights of all career employees of the EPA, including their right to speak with Congress?
• Will you commit to communicate employees' whistleblower rights via email to all EPA employees within a week of being sworn in?

If confirmed, I commit to protecting the rights of all EPA employees and will follow the law.

6. The President-elect appears to be planning to ignore the advice he was given by bipartisan ethics experts to divest himself from his business interests. In the United States, he has hundreds of business interests, which include everything from vineyards, golf courses, hotels and casinos. Some of these interests could be impacted by EPA regulations or enforcement actions – for example, Donald Trump's New Jersey casino flunked air pollution tests, his hotel in Chicago has had a Clean Water Act violation and his New Jersey Golf Club violated the Safe Drinking Water Act.
• Do you commit to ensure that no employee of the EPA is pressured to take - or not take - any regulatory or enforcement action or decision because that action or decision would adversely affect business interests associated with the president-elect or his family?
• Considering that the president-elect has stated he will not release his tax returns anytime soon, how will you know exactly what all of the Trump family interests are without his tax returns?

If confirmed as Administrator, I will take care that all environmental laws enacted by Congress are faithfully executed without regard to identity of the owners of any regulated business that might be affected by such execution of the laws.

7. The following series of questions relate to Title 74 Section 20i of the Oklahoma Statutes. As Attorney General of Oklahoma, you were responsible for complying with this law. For your ease of reference, Section 20i is provided below:

74 Okl. St. § 20i (2016)
§ 20i. Legal Representation of Agency or Official of Executive Branch--Contracts

A. An agency or official of the executive branch may obtain legal representation by one or more attorneys by means of one of the following:

1. Employing an attorney as such if otherwise authorized by law;

2. Contracting with the Office of the Attorney General; or

3. If the Attorney General is unable to represent the agency, or official due to a conflict of interest, or the Office of the Attorney General is unable or lacks the personnel or expertise to provide the specific representation required by such agency or official, contracting with a private attorney or attorneys pursuant to this section.

B. When entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall select an attorney or attorneys from a list of attorneys maintained by the Attorney General. An agency may contract for legal representation with one or more attorneys who are not on the list only when there is no attorney on the list capable of providing the specific representation and only with the approval of the Attorney General. The list shall include any attorney who desires to furnish services to an agency or official of the executive branch and who has filed a schedule of fees for services with and on a form approved by the Attorney General. An agency or official may agree to deviate from the schedule of fees only with the approval of the Attorney General.

C. Before entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall furnish a copy of the proposed contract to the Attorney General and, if not fully described in the contract, notify the Attorney General of the following:

1. The nature and scope of the representation including, but not limited to, a description of any pending or anticipated litigation or of the transaction requiring representation;

2. The reason or reasons for not obtaining the representation from an attorney employed by the agency or official, if an attorney is employed by the agency or official;

3. The reason or reasons for not obtaining the representation from the Attorney General by contract;

4. The anticipated cost of the representation including the following:

a. the basis for or method of calculation of the fee including, when applicable, the hourly rate for each attorney, paralegal, legal assistant, or other person who will perform services under the contract, and

b. the basis for and method of calculation of any expenses which will be reimbursed by the agency or official under the contract; and

5. An estimate of the anticipated duration of the contract.

D. Before entering into a contract for legal representation by one or more private attorneys where the agency has reason to believe that the case, transaction or matter will equal or exceed Twenty Thousand Dollars ($ 20,000.00) or after employment when it becomes apparent that the case, transaction or matter will equal or exceeds Twenty Thousand Dollars ($ 20,000.00), an agency or official of the executive branch shall obtain the approval of the Attorney General when the total cost, including fees and expenses, of all contracts relating to the same case, transaction, or matter will equal or exceed Twenty Thousand Dollars ($ 20,000.00). Any amendment, modification, or extension of a contract which, had it been a part of the original contract would have required approval by the Attorney General, shall also require approval by the Attorney General.

E. When an agency or official of the executive branch enters into a contract for professional legal services pursuant to this section, the agency shall also comply with the applicable provisions of *Section 85.41 of Title 74 of the Oklahoma Statutes.*

F. The provisions of this section shall not apply to the Oklahoma Indigent Defense System created pursuant to *Section 1355 et seq. of Title 22 of the Oklahoma Statutes.*

G. The Attorney General shall, on or before February 1 of each year, make a written report on legal representation obtained pursuant to paragraphs 2 and 3 of subsection A of this section. The report shall include a brief description of each contract, the circumstances necessitating each contract, and the amount paid or to be paid under each contract. The report shall be filed with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chair of the Appropriations and Budget Committee of the House of Representatives, and the Chair of the Appropriations Committee of the Senate.

•The Oklahoma Governor considers the Office of Attorney General a state agency, and includes the Attorney General on a comprehensive list of Oklahoma state agencies available at https://www.ok.gov/portal/agency.php. Do you agree that the Office of Attorney General is an agency under Oklahoma state law? If not, please explain.

Generally speaking, the Office of Attorney General is a state agency. Whether it is an "agency" for purposes of any particular statute requires an analysis of that statute.

•Subsection G of Title 74 Section 20i of the Oklahoma Statutes requires the Attorney General to report annually on any contracts for legal representation that state agencies have entered into with private attorneys over the course of the prior year. For the avoidance of doubt, no exception is provided under Section 20i for contracts for legal representation entered into by the Attorney General with private attorneys. Do you agree that Subsection G of Title 74 Section 20i required

you, as Attorney General, to report contracts for legal representation that you entered into with private attorneys over the course of the prior year? If not, please explain.

No. The purpose of Section 20i, as demonstrated by its text, is to place the Office of Attorney General in the role of approving contracts for outside counsel that other agencies wish to enter into rather than utilizing the services of the Office of Attorney General. Subsection G requires a report be made of contracts entered into "pursuant to this section," as Subsection A(3) makes clear. Because the Office of Attorney General is not required to seek permission from itself "pursuant to" that section of law, it has no applicable contracts to report pursuant to Subsection G. The Office of Attorney General has, however, routinely disclosed contracts it has entered into with outside counsel, when requests for such contracts are made.

•The last fiscal year in which payments from the Office of Attorney General to private attorneys were recorded in the report submitted pursuant to Subsection G of Title 74 Section 20i of the Oklahoma Statutes was FY 2011. No payments from the Office of Attorney General to private attorneys were recorded in the reports you filed for FY 2012, FY 2013, FY 2014, or FY 2015. As Oklahoma Attorney General, did you enter into any verbal or written contracts with private attorneys for legal representation (whether or not such contracts provided compensation to private attorneys) other than those listed in the reports you submitted for fiscal years 2011 through 2015? Please provide a brief description of each such contract you entered into, the date you entered into the contract, the circumstances necessitating the contract, and the amount—if any—paid under the contract (including details of any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).

Yes. Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act.

•Subsection B of Title 74 Section 20i of the Oklahoma Statutes requires that—when entering into a contract for legal representation by one or more private attorneys—an agency or official of the executive branch must select an attorney or attorneys from a list maintained by the Attorney General. If there are no listed attorneys capable of providing the specific representation, then the agency must obtain the approval of the Attorney General in order to enter into the contract.

○Please describe your process, as Attorney General, for evaluating a request submitted by a state agency to enter into a contract for legal representation by a private attorney not on the approved list. Please provide any documents detailing this process (which you or your staff relied on in making such evaluations) or indicate if this process was undocumented.

- Please provide any documents submitted to you by state agencies requesting approval to enter into a contract for legal representation by a private attorney not on the approved list, as well as your written responses to such requests.
- Please provide any papers documenting decisions made by you or the Office of Attorney General to enter into contracts for legal representation by private attorneys that did not originate with requests submitted to you by state agencies.
- Do you agree that Subsection B of Title 74 Section 20i required you, as Attorney General, to enter into contracts for legal representation only with private attorneys included on the list referred to in that subsection unless there were no listed attorneys capable of providing the specific representation? If not, please explain.

Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act. With regard to your question, because the Office of Attorney General maintains the referenced list, and is authorized to allow representation from attorneys not on the list, the Office of Attorney General plainly has the discretion to allow representation from attorneys not on the list.

Did you—at any time during your term as Attorney General—enter into a written or verbal contract for legal representation (whether compensated or pro bono) by one or more private attorneys not included on the list referenced in Subsection B of Title 74 Section 20i of the Oklahoma Statutes? If so, for each such contract:

- Please provide a brief description of the contract, the circumstances necessitating the contract, and the amount—if any—paid under the contract (including details on any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).
- Please indicate if you entered into the contract with a private attorney not on the approved list because there were no attorneys on the approved list capable of providing the specific representation or for another reason. Please describe the process you followed in reaching a decision to enter into a contract with a private attorney not on the approved list. Please list the attorneys on the approved list that you considered hiring (and deemed incapable of providing the specific representation) before deciding to enter into a contract with a private attorney not on the approved list. For each attorney on the approved list that you considered and rejected, please describe the deficiencies in their capabilities that led you to reject them in favor of a private attorney not on the approved list.

Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act.

•As of January 18, 2017, neither David Rivkin, Jr. (nor any other attorney employed by Baker Hostetler) appeared on the "Approved Attorney List | 20i" accessible on your website at https://www.oag.ok.gov/litigation/1917atty.nsf/wfindatty.html?OpenView.

○Did David Rivkin Jr. represent the State of Oklahoma in its Clean Power Plan case against EPA?

○To the best of your knowledge, did David Rivkin Jr. or Baker Hostetler receive any compensation or funds from any third party in conjunction with this or any other litigation in which it represented the State of Oklahoma on your behalf? If so, please provide the names of any such third parties.

○Did you enter into a written or verbal contract for legal representation (whether compensated or pro bono) with David Rivkin, Jr. of the Washington, D.C.-based law firm Baker Hostetler? If so, please provide:
□a brief description of the contract;
□the date you entered into the contract;
□the circumstances necessitating the contract;
□the deficiencies in the capabilities of attorneys on your approved list that led you to reject them in favor of David Rivkin Jr.—an attorney not on your approved list; and
□the amount—if any—paid under the contract (including details on any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).
○Please list any contributions made by David Rivkin Jr. or any employee of Baker Hostetler to you, your campaign, or any organizations or entities for which you engaged in fundraising, along with the dates of such contributions.

Yes. No. Yes. Information relating to the contract can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act. A full list of contributors to my campaigns for the state senate and attorney general may be found at the Oklahoma Ethics Commission's websites. For state campaign committees from 2002-2014, please use this site: https://www.ok.gov/ethics/public/candidate.php. For 2015 to the present, the Commission uses this site: http://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=1F26BA5E-71EA-48E4-8D50-C1013E9FE0A7. Attached is a letter from the Oklahoma Ethics Commission regarding materials prior to 2002.

•During your term as Attorney General, did you ever enter into an arrangement whereby a private attorney or attorneys represented the State of Oklahoma on your behalf on a pro bono basis while being compensated by a third party? If so, please list the legal matters in which you entered into such arrangements, and, for each matter, the third party or parties that compensated the private attorneys, the amounts paid, and any monetary or non-monetary benefits that you may have

obtained in connection with the arrangement. During your term as Attorney General, did you have a process in place for ensuring that any private attorneys that represented the State of Oklahoma on a pro bono basis did not receive compensation from a third party for the legal services they provided to the state? If so, please describe this process.

No. Our Office would not enter into any such agreement for representation if it believed that the attorney was not truly working pro bono, and the Office would seek assurances from the attorney that they were.

8.The Online Lenders Alliance is "a trade group for online payday and short-term lenders and the companies that steer customers to them," according to a recent Los Angeles Times article describing actions by the Consumer Financial Protection Bureau to protect consumers from misleading advertising claims made by certain members of the payday lending industry.
•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any company making payday, title, installment, or short-term loans to consumers? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any principal, senior executive, officer, or director of a company making payday, title, installment, or short-term loans? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any member of the Board of Directors of the Online Lenders Alliance? For your convenience, the members

of the Board of Directors of the Online Lenders Alliance, along with their business affiliations, are listed below. For each of these individuals, please provide the amounts and dates of their donations, or, if you unsuccessfully solicited donations from them, the dates of such solicitations.

- Kim Anderson, Strategic Link Consulting
- Samantha Bentson, Cashland Online
- Kirk Chartier, Enova Financial
- Doug Clark, Axcess Financial
- Mark Curry, MacFarlane Group
- John Dalton, LeadFlash
- Steve Hotz, The Lead Group
- Clive Kinross, MoneyKey
- Glenn McKay, Selling Source, LLC.
- Bart Miller, Centrinex
- Greg Rable, FactorTrust, INC.
- Ken Rees, Elevate
- Walt Wojciechowski, MicroBilt

I am not aware of any such solicitations or donations.

•On June 16, 2015, you, as Attorney General, sent a letter to Richard Cordray, Director of the Consumer Financial Protection Bureau (hereinafter, "CFPB"), expressing concerns about certain rules the CFPB proposed to regulate payday, vehicle title, and installment lending.

- Was the text of this letter partially or substantially drafted by the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers?
- Did the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers participate in the drafting of this letter in any other way? If so, please explain.
- Did you ask the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any records related to your outreach.
- Did the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term

loans to consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any communications between you or your office and any such group regarding this letter.

As far as I am aware, no as to all.

9.The Consumer Federation of America is an association of non-profit consumer organizations devoted to advancing the consumer interest through research, advocacy, and education.
•Did you ask the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any records related to your outreach.

•Did the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any communications between you or your office and any such group regarding this letter.

As far as I am aware, no as to all.

10.As you may know, Oklahoma has one of the highest usage rates for payday loans in the country and allows payday lenders to charge consumers interest rates of up to 390 percent on annual basis for a 14-day term loan. In November 2016, the CFPB reported that consumers in Oklahoma submitted debt collection complaints at a rate of 36 percent (higher than the 27 percent national average). In addition, the CFPB found that average monthly complaints from Oklahomans increased 17 percent from August through October 2015 (higher than the national rate of 13 percent).

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers? If so, please list the amounts and dates of such donations or solicitations.

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any member of the Board of Directors of the Consumer Federation of America? If so, please provide the amounts and dates of their donations, or, if you unsuccessfully solicited donations from them, the dates of such solicitations.

I am not aware of any such solicitations or donations.

11. You have pursued at least twenty legal actions against the EPA on clean water, clean air and climate change related regulations, including multiple lawsuits that are ongoing. You have additionally criticized the EPA and its scientists on a range of scientific facts and regulations that aim to protect public health.
• Please identify EPA regulations or standards that you do support in their current form.
• In many of your legal actions and activities as Oklahoma AG, you have endorsed positions or signed letters that were drafted by oil and gas industry paid lobbyists. Please identify areas in which your views differ significantly from those of the oil and gas industry?

When negotiations among and between states breakdown EPA has a role to set environmental standards. However, that should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA. As I also testified at the hearing, when it was appropriate to pursue legal actions or settlement negotiations specifically with the oil and natural gas industry I have done so. When considering new regulations on oil and natural gas production and practices, I have joined other co-regulators in Oklahoma advocating those changes.

12.Your Ethics Agreement states that for a one-year period, you "***will*** seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party."

•Why does this language assume that you "will" seek authorizations for all such instances?

•Why is your recusal limited to a one-year period, when in some cases the "particular matters" will not be resolved within that timeframe?

•Will you commit to recusing yourself from participating in all such particular matters, without requesting or receiving a waiver, until the matter is fully resolved? If not, why not?

•These 'particular matters' are all litigation in which your Ethics Agreement contemplates you switching from plaintiff in your capacity as Attorney General of Oklahoma (in which you were a principal decision-maker on the part of those litigating against EPA), to defendant as EPA Administrator (in which you would be the principal decision-maker on the response to the lawsuit you filed). Why do

you not believe this creates an unresolvable conflict of interests that makes it impossible for you to properly, lawfully and ethically represent the interests of the EPA, while simultaneously upholding your professional duty to your former client, the State of Oklahoma?

My Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure that I seek authorization before participating in any matter involving specific parties in which I know the State of Oklahoma is a party or represents a party for one year after my resignation as Oklahoma Attorney General. I believe you may be misreading the language in my Ethics Agreement regarding prior authorization. If, during the relevant time period, I would like to consider participating in a particular matter involving specific parties in which I know the State of Oklahoma is a party or represents a party, I will seek advance authorization to do so. With respect to my professional obligations as a member of the bar, I am not permitted to "switch sides" as counsel in any matter in which I participated as a lawyer. The standards that would apply to me as EPA Administrator are different, however, as I will not be representing the EPA as a lawyer if I am confirmed.

13. During the hearing, you refused to unequivocally recuse yourself from litigation that you brought against the EPA, repeatedly stating that you would follow the direction of agency ethics officials' guidance in this area on a case-by-case basis. Isn't it true that if you are confirmed, the agency ethics officials that you are referring to will report to you, and this reporting relationship could be perceived to have the potential to influence the guidance they provide you with? In light of this, will you commit to the modification of your Ethics Agreement, using your own discretion and authority to do so and prior to any vote on your confirmation, in order to provide more clarity about your intentions for recusal related to each matter involving specific parties in which the State of Oklahoma is a party? If not, why not?

My Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure I comply with all applicable federal ethics rules. I will abide by the commitment I made in that letter. I am confident in the former staff of the EPA and have no reason to believe they will give me anything other than their best advice on ethics matters. Moreover, not all officials who may consider a request for authorization to participate in a matter will necessarily report to me. Before participating in matters involving specific parties in which I am concerned where there may be a question regarding my impartiality, I would expect, where they deem it appropriate, that EPA ethics officials may consult with ethics experts at OGE before making a recommendation.

14.I am attaching a January 17, 2017 letter from Citizens for Responsibility and Ethics in Washington (CREW) and a January 18, 2017 letter from The Campaign Legal Center (CLC), both sent to the EPA Designated Agency Ethics Official, for the record and for your review. The CREW letter references several factors related to your refusal to unequivocally recuse yourself from participating in any of these matters as EPA Administrator that would cause a reasonable person with knowledge of the relevant facts "to question his [your] impartiality in these matters" and "to question the integrity of the agency's programs and operations." The CLC letter states that "the plan described in his [your] ethics agreement is insufficient to avoid actual or apparent conflicts of interest, and would cause members of the public to question his impartiality in the conduct of his [your] duties, contrary to his [your] obligation to "ensure that every citizen can have complete confidence in the integrity of the Federal Government.""

•The CREW letter states that ethics regulations demand your recusal from participating personally and substantially as Administrator in particular matters involving specific parties in which the State of Oklahoma is a party, even if the State of Oklahoma withdraws from the matter. Do you agree to make such a recusal for each such matter, even if the State of Oklahoma withdraws from the matter? If not, why not?

•The CREW letter states that "there would be serious and apparent conflicts leading to reasonable doubts about Mr. Pruitt's impartiality if he were to participate in these lawsuits as EPA Administrator *at any point* in their lifetime. It is therefore essential that Mr. Pruitt's recusals last through the full course of each matter." Do you agree to recuse yourself for the full course of each matter involving specific parties in which the State of Oklahoma is a party? If not, why not?

•The CREW letter states that any waiver request you might make from recusal from any of these matters "should be denied based on consideration of the relevant factors listed under" 5 C.F.R. 2635.502(d). Do you agree not to request a waiver from recusal from any such matter? If not, why don't you agree with the analysis of the factors listed in the regulations as they apply to your past litigation history against the Agency that CREW described in the letter should result in a denial of the waiver request?

As discussed above, my Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure I comply with all applicable federal ethics rules. If confirmed, I will ask relevant federal ethics officials to fully review the issues raised in the CREW letter and, if appropriate, take them into account in determining the proper legal course of action in particular instances.

15.Some of the legal cases that you brought against the agency remain open, and there may be legal decisions that require EPA regulatory action as they are resolved; for example, a court could uphold the EPA regulation and require it to be enforced, or a court could direct such a regulation's revision. Since such regulatory actions would be a direct consequence of the litigation, any conflict of interests associated with your participating in the legal matter should extend to any EPA regulatory or enforcement action taken as a result of court action on the litigation. Do you agree to recuse yourself without waiver and for the entirety of your tenure at the EPA from all such regulatory or enforcement actions that are taken as a result of court action on a specific legal matter from which you were recused? If not, why not?

As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. It is my understanding that recusal obligations do not extend to regulatory rulemaking of general applicability, which does not create a conflict under applicable rules.

16.If you are confirmed, you will also have the ability to accomplish through *regulation* as EPA Administrator what you have been seeking to accomplish through *litigation* as Attorney General. For example, instead of waiting for a court to decide whether to grant your lawsuit's request to overturn EPA's smog standard, you could start to write a regulation to do just that on your very first day on the job. Will you commit to recuse yourself from working on the revision or elimination of any *regulation* regarding issues on which you have sued the EPA? If not, why not?

It is my understanding under federal ethics rules that regulatory rulemaking of general applicability does not create a conflict.

17. I am also attaching, for the record and for your review, the Ethics Agreement signed by Carol Browner, former EPA Administrator during the Clinton Administration. In her Ethics Agreement, she agreed to recuse herself from participating "personally and substantially in any EPA matter which involves the State of Florida as a specific party and in which I was personally and substantially involved as Secretary, Department of Environmental Regulations, State of Florida". I note that this agreement was not limited to one year in duration and not subject to waivers. I am also attaching, for the record and for your review, the Obama Administration Ethics Pledge that each nominee agreed to uphold, which states, in part, "I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts." If the response to any part of questions 2, 3 or 4 is no, please

also explain why in light of the stronger Ethics Agreements and pledges made by past EPA Administrators?

I am not familiar with the facts and circumstances surrounding Ms. Browner's Ethics Agreement. In my Ethics Agreement, which was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, I agreed to abide by federal regulations that require my recusal from particular matters involving specific parties in which the State of Oklahoma is a party for a period of one year after my resignation as Attorney General, unless I receive a waiver. I will abide by the commitment in that letter, in addition to any other obligations imposed by the Trump Administration as well as my obligations as a member of the bar.

18. In addition to your participation in specific litigation and regulatory matters that raise conflicts of interests, there may be pending enforcement matters at EPA in which donors to you or your political action committees are the subjects. For example, records indicate that Tyson Foods has been the subject of an EPA Clean Air Act enforcement action[3] and reportedly "faces an ongoing criminal investigation by the EPA for its release of toxic pollutants into waterways".[4] Do you commit to recusing yourself from participation in any enforcement matter in which the subject is an entity that has previously made a donation to you or any of your political action committees? If not, why not?

I will consult with relevant federal ethics officials to determine whether to participate in a particular matter.

19. *Miss. Comm'n on Envtl. Quality v. EPA*, 790 F.3d 138 (D.C. Cir. 2015) stated that "Decisionmakers violate the Due Process Clause and must be disqualified . . . when they act with an 'unalterably closed mind.'" One of your filings stated that the agency's record "does not support EPA's findings that mercury, non-mercury HAP metals, and acid gas HAPs pose public health hazards." Do you have an "unalterably closed mind" on the question of whether mercury and acid gas HAPs pose public health hazards? If not, please explain your current view on this question.

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed as Administrator, I will consider all

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[3] https://www.epa.gov/enforcement/tyson-foods-inc

[4] http://www.meatpoultry.com/articles/news_home/Business/2016/08/Tyson_investors_call_for_envir.aspx?ID=%7B4E28BCD7-045D-489C-8A41-48A6DDDBE99F%7D&cck=1

matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

20. Section 301(a) of the Clean Air Act prohibits the Administrator from delegating authority over many regulatory proceedings. To the extent that you are recused from participating in such decisions, who could lawfully make them?

If I am recused from participating in a matter, the Federal Vacancies Reform Act and other federal law provide a mechanism for another EPA official to perform such functions in an acting capacity. Under current policy, the EPA Deputy Administrator would typically serve this function.

21.Each case in which you litigated on behalf of your former client requested that the court compel EPA to take a specific action; for example, one pending suit asks a court to compel EPA to maintain the ozone standard at 75 ppb instead of lowering it to 70 ppb. A court may direct EPA to take specific actions as these cases are resolved, which will require changes to EPA regulations. Moreover, as EPA Administrator, you could simply direct the Agency to amend its regulations to do the very thing your lawsuit asked a court to do in the first place. This also creates an unresolvable conflict of interests.

• Will you recuse yourself, without waiver and for the entirety of your tenure as EPA Administrator, from any agency proceedings that a) directly result from the resolution of or b) are related to the "particular matters" that your Ethics Agreement agrees you should be recused from? If not, why not, and why do you not believe that such agency proceedings would be covered by your recusal under the applicable Standards of Ethical Conduct for Employees of the Executive Branch?

As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. I understand that this does not extend to regulatory rulemaking of general applicability, which would not create a conflict under applicable rules.

22. Our oceans are essential for life, and much of what happens on land ultimately ends up in our oceans. There are many ways in which our actions on land can both positively and negatively affect marine life and the marine environment. Under the Marine Protection, Research and Sanctuaries Act (MPRSA), the EPA ensures that harmful substances are not dumped into the

marine environment. Additionally, reducing ocean pollution is a global goal in which the U.S. is an active participant.
• In your opinion, what role does the EPA have in protecting our oceans and the marine life within?
• How specifically will the EPA, under your administration, ensure that harmful manmade substances do not end up in our oceans?
• How will the EPA continue to ensure the U.S. is a leader in reducing ocean pollution, and assisting other countries in reducing pollution that makes it into our oceans?

If confirmed, I will carry out the authorities and responsibilities given to EPA by Congress. These include responsibilities under the Marine Protection, Research and Sanctuaries Act.

23.The greenhouse gas effect traps outgoing longwave radiation causing a radiative imbalance of Earth, ultimately leading to the warming of the globe. The fundamental physics of climate change are well settled.
•Are you aware of the theory of radiative balance of the Earth? Can you briefly describe it?
•Do you understand Planck's law and the difference between shortwave vs. longwave radiation, and how that relates to Earth's energy balance?
•Do you agree that disturbances to this equilibrium can warm or cool the Earth?
•Are you aware of the atmospheric circulation and oceanic currents that transport heat from the Equator to the poles?
•Due to the complexity of the climate system, there are lag times between changes in certain conditions, such as the amount of carbon dioxide in the atmosphere, and other observable changes, such as the temperature of the deep ocean. If an action by the United States or world today, could positively or negative benefit the future, say 50 to 100 years down the road, is that an important consideration?
•Are you aware that there is less ice on land in such places as Antarctica and Greenland than in previous years since the Industrial Revolution? What do you believe is causing this decrease in mass of ice on land?
•To where do you believe the water from ice melt on land goes, and do you believe that could cause global sea levels to rise?
•Do you disagree that additional greenhouse gases in Earth's atmosphere, such as carbon dioxide, will cause a smaller magnitude outgoing longwave radiation to escape to space? Please explain.
•Do you disagree that the burning of fossil fuels, such as oil or natural gas, cause carbon dioxide to be released into the atmosphere? Please explain.
•Do you disagree that if fossil fuels were not extracted and burned, less carbon dioxide would be released into the atmosphere? Please explain.
•Therefore, is it possible, if not probable, that humans releasing greenhouse gases into the atmosphere could cause more heat to be trapped by the atmosphere? Please explain.

•Do you understand that the concept address is the previous question is the basis of human-caused climate change? Please explain.
•If not human burning of fossil fuels, how do you explain the observed increase in carbon dioxide in atmosphere?
•What is a safe level of carbon dioxide in the atmosphere? Please provide this number in parts per million. Please explain.
•If states want to individually take measures to curb greenhouse gas emissions will you allow them to do so? If yes, how will you support them? If not, why does the EPA have the authority to stop a state from implementing measures to curb greenhouse gases?

If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate. I will also adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment consistent with the process and rule of law established by congress. I also believe the Administrator has an important role when it comes to the regulation of carbon dioxide, which I will fulfill consistent with *Massachusetts v. EPA* and the agency's Endangerment Finding on Greenhouse Gases respective of the applicable statutory framework established by Congress. I believe the most effective path towards achieving these objectives is through close partnership with the states granting them regulatory leeway as ascribed by the rule of law.

24. If states want to individually take measures to curb greenhouse gas emissions will you allow them to do so? If yes, how will you support them? If not, why does the EPA have the authority to stop a state from implementing measures to curb greenhouse gases?

Yes, states are free to pursue regulatory measures to address greenhouse gas emissions under state legal authority.

25.A recently released report by *Solar Power Rocks* gave Oklahoma a grade of "F" and found that the "solar industry has been stymied at every turn."
•The length of return for a 5-kilowatt solar array installation is 16 years in Oklahoma, compared to the just 4 years in Massachusetts. Why do you believe that is the case?
•In 2014, the Oklahoma legislature passed legislation putting a surcharge on rooftop solar. Do you support this? Why or why not?

I am not familiar with "lengths of return" or the potential differences in such lengths of return between states, and thus have no opinion as to the cause

of any such differences. I am not familiar with the legislation you reference, and have formulated no opinion with regard to the wisdom of it as a matter of Oklahoma policy.

26. Last week, in his nomination hearing, Rex Tillerson dismissed the importance of America being energy independent. If you are confirmed as EPA Administrator, you will oversee tailpipe standards for cars and SUVs and the renewable fuel standard, two important polices that support energy independence by reducing oil consumption in America. In your view, should achieving energy independence be a priority for America?

As Congress indicated in the Energy Independence and Security Act of 2007, domestic production of renewable fuel contributes to our nation's "greater energy independence and security." Our energy independence will best be achieved by an "all-of-the-above" strategy without the government picking winners and losers. Setting motor vehicle emissions standards is a complex task that requires careful balancing of several competing factors. Setting such standards also requires coordination with NHTSA, which continues to administer the CAFE program. I will consider the relevant factors carefully and will coordinate closely with NHTSA on any motor vehicle emissions standards that will be addressed during my tenure if I am confirmed as Administrator.

27.A cornerstone of science is impartiality and following the facts. This is what has allowed the United States to be a world leader in science.

•Do you commit to allowing EPA scientists to do their jobs and not interfere with their science?
•How will you ensure that scientists, such as those employed by EPA, are allowed to continue their work unimpeded by potential challenges due to their topic of research?
•Do you agree that only scientists and technical experts, not impeded by political influence, should edit scientific work? If not, why?
•In your opinion, what is the role that a public affairs office has in editing any potential publically available statement or information?
•Do you pledge that your all of your work as EPA Administrator will be guided by the best available science?
•Do you commit to maintaining EPA's Scientific Integrity Policy regardless of research area?

If confirmed, it will be a privilege to work with EPA scientists and the thousands of other public servants at EPA. I have no first-hand knowledge of the role of the public affairs office as referenced in the question and, if confirmed, I expect to learn more about the office. Indeed, I fully believe, as former EPA administrators have stated, that sound, objective science must

serve as "the backbone" of EPA actions. I have no first-hand knowledge of the specific scientific integrity policy referenced in the question and, if confirmed, I commit to thoroughly reviewing the policy and to follow applicable laws and federal guidance regarding scientific integrity, information quality, and transparency.

28.It has been reported by *Wired* that President-elect Trump plans to undo President Obama's June 2013 Climate Action Plan, and remove materials from EPA websites. While we understand revising policies from administration to administration, the reports of removing environmental data from EPA websites is troubling. Will you commit to keeping environmental records, data, and records provided as part of previous rulemakings publically available on the EPA's website?
•Will you commit to ensuring that any current publically available dataset remains available and easy to access? If not, please explain.
•Will you ensure that all data interpretation tools available on the EPA website remain publically available and easy to access? If not, please explain.

I have not been briefed on any changes to the EPA website following the transfer of power from the Obama Administration to the Trump Administration. That being said, I commit to reviewing the materials that are included on the EPA site if I am confirmed.

*29.*I have heard that EPA's Fiscal Year 2018 budget request may include a 17% budget cut. . I am troubled by this reported planned cut to EPA budget and urge you to reconsider this drastic move. Will you maintain robust funding for scientific research at EPA, and to ensure that environmental data continues to be collected?

I have no first-hand knowledge of EPA's development of its FY 2018 budget request. If confirmed, I will work to ensure that the limited resources appropriated to EPA by Congress are managed wisely in pursuit of that important mission and in accordance with all applicable legal authorities.

30.Hydraulic fracturing (fracking) now provides more than half of the United States oil output. In 2000, fracking provided less than 2% of America oil. This has dramatically changed the energy landscape of the United States.
•Do you believe that hydraulic fracturing (or fracking) is the cause of the increased frequency and strength of earthquakes in Oklahoma? Please explain.
•As Attorney General have you taken any actions related to earthquakes caused by fracking?
•In May 2016, you testified that the decline in the coal industry was due to the price drop of natural gas and not EPA regulation. Do you stand by this statement? If not, why have your views changed?

•Do you believe that fracking can contaminate drinking water supplies? Please explain.

Scientists from the state level up to the National Research Council have found that the act of hydraulic fracturing itself poses very little risk of creating seismic events. Seismicity concerns related to the oil and natural gas industries are more commonly tied to the underground injection of wastewater which is regulated by the Safe Drinking Water Act. As I stated in my testimony, in Oklahoma the Corporation Commission has jurisdiction over this matter and I have been in contact with that agency that has taken very meaningful steps to address seismic concerns. I believe that there is not one single factor that has precipitated the decline in the coal industry alone. Finally, I agree with EPA's Dr. Thomas Burke who, following the release of EPA's final hydraulic fracturing water study, reiterated that the Agency only found a small number of confirmed cases of contamination. With well over one million wells that have been hydraulically fractured in the United States the evidence found by EPA suggests a very low likelihood of drinking water contamination from hydraulic fracturing or its associated activates.

31.This past December, the EPA released a report entitled, "Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States." The EPA found scientific evidence that fracking activities can affect drinking water supplies.
•Have you read this report?
•What steps will you take as Administrator to reduce the possibility of drinking water contamination due to hydraulic fracturing activities?
•Of those chemicals used in hydraulic fracturing activities, the EPA found that nearly 200 might pose a public health risk. Will you commit to continuing to study these identified chemicals and the potential health risks, as well as identify other potential harmful chemicals used in hydraulic fracturing activities?

I am familiar with the report and if confirmed as EPA Administrator I will faithfully execute my legal duties to administer laws as authorized by Congress including the Safe Drinking Water Act. Understanding and studying risks to local communities is something central to the role as Administrator and I will continue to study potential risk using the Agencies many tools.

32.Do you agree the Clean Air Act health benefits significantly outweigh costs? For example, a peer-reviewed study found that in 2010 alone the Clean Air Act Amendments of 1990, which reduced fine particulate pollution and ozone, avoided more than 160,000 premature deaths, 130,000 heart attacks, prevented 13 million missed workdays, and avoided 3.2 million missed school days by children.

Based on the limited information provided, it is unclear as to the specific study referenced. However, as I indicated in my testimony, I am incredibly proud of the progress the U.S. has made to provide public health protections and improve our environmental stewardship while also growing our economy. If confirmed, I commit to continue this progress and protect the American people through commonsense and lawful regulations.

33.According to the Consumer Reports National Research Center survey completed in June 2016, 84 percent of Americans feel that automakers should continue to improve fuel economy for all vehicle types. About three-quarters of survey respondents specifically indicated that the U.S. government should require vehicle manufacturers to improve the fuel economy of their vehicles over time. As you may know, when the government stopped increasing fuel economy standards for two decades in the mid-1980s, vehicle fuel economy stopped improving. Now that we are once again making progress, what will you do to make sure that vehicle fuel economy continues to improve as Americans expect?

While the EPA regulates emissions under the Clean Air Act, it is true that Congress vested authority to regulate fuel economy through the Corporate Average Fuel Economy (CAFE) standards" framework set forth originally in the Energy Policy and Conservation Act. Congress vested responsibility for the CAFE program in the Department of Transportation, not the EPA; accordingly, I take no position on Congress's policy decision on this subject, or on the Department of Transportation's administration of the CAFE program. If confirmed as EPA Administration, I would administer the Clean Air Act in accordance with the terms of the Act, including Congress's statutory policy objectives, and would do so on the basis of the factual record in any given proceeding.

34.After conducting its Midterm Evaluation of fuel economy standards for model years 2022 through 2025, the EPA determined that automakers were well-positioned to meet the standards at lower costs than previously estimated. In fact, the EPA chose to retain the current standards to provide regulatory certainty for the auto industry despite a technical record suggesting that standards could be made more stringent.

Among the technologies that the EPA considered in reaching its determination that fuel economy standards could be readily achieved were so-called “off-cycle technologies.” Off-cycle technologies are innovations such as more efficient air conditioning through enhanced window glass that reduces solar load, stop-start systems, solar panels, active aerodynamics, and adaptive cruise control. By reducing the energy demands placed on the engine, these technologies serve to improve fuel economy and reduce tailpipe emissions of carbon pollution. Vehicle manufacturers may claim “off-cycle credits” for these carbon pollution-reducing technologies which may have benefits not adequately captured as part the

standard fuel economy testing procedures.

Americans in Massachusetts, Ohio, Tennessee, North Carolina, Michigan, Indiana and across the country have good-paying jobs that depend on vehicle manufacturers continuing to demand these innovative technologies.

In your hearing, you explained how important it is for the EPA to consider jobs and economic impacts as part of its analysis and decision-making. If confirmed, would you support the “off-cycle credit” mechanism included that the EPA included in its fuel economy standards—a mechanism that drives American innovation and job growth? If not, please explain your position.

If confirmed, my job as Administrator would be to administer the statutes that Congress has enacted, including the statutory objectives that Congress incorporates into those statutes. If Congress chooses to enact legislation to promote certain technologies, such as "off-cycle" vehicle technologies, then those statutory priorities would fall within the EPA Administrator's responsibility. If confirmed, I would look forward to working with Congress on any such statutory proposals that it legislates.

35.Is the carbon dioxide that comes out of car tailpipes physically or chemically different from the carbon dioxide that comes out of power plant smokestacks? If so, how?

As a matter of law, Congress elected to enact different statutory frameworks for regulating emissions from stationary sources and mobile sources: Title I of the Clean Air Act for the former, Title II for the latter. As the Supreme Court recognized in Utility Air Regulatory Group v. EPA (2013), these two frameworks have significant differences.

36.Would the impact on the climate system of carbon dioxide from power plants be any different from that of carbon dioxide from tailpipe emissions? If so, in what way?

As noted above, Congress elected to enact different statutory frameworks for regulating emissions from stationary sources and mobile sources: Title I of the Clean Air Act for the former, Title II for the latter. As the Supreme Court recognized in Utility Air Regulatory Group v. EPA (2013), these two frameworks have significant differences.

37.Do you agree that the power sector and the transportation sectors each contribute at least a quarter of U.S. carbon dioxide emissions?

According to the EPA (https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions), in 2014 electricity generation accounted for 30% of total greenhouse gas emissions (quantified in terms of metric tons of CO2 equivalent), and transportation accounted for 26%.

38.Congress established protections for the air in national parks and wilderness areas in the Clean Air Act amendments of 1977. The quality of the air in New England parks like Cape Cod national seashore and Acadia national park suffers from pollution blown in from elsewhere. Last summer you joined other Attorneys General in comments objecting to the EPA's amendments to the Regional Haze Rule. Given your previous objection, if confirmed as EPA administrator, what will you do to fulfill the 40-year directive from Congress to protect and restore the air quality of national parks like Cape Cod and Acadia even if it requires states from outside the region to reduce their air pollution?

As I stated in my testimony before the Committee, I agree that the Clean Air Act gives EPA an important role in addressing interstate pollution issues, among many other things. All legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

39.The 1977 Clean Air Act amendments also provide a role for federal land managers in protecting the air quality of national parks and wilderness areas. If confirmed as EPA Administrator, how will you make sure that EPA honors the obligations federal land managers have under the Clean Air Act and that their expertise is incorporated into the policies necessary to achieve the goal of natural air quality?

I am confirmed, I will exercise my authority consistent with Congress's intent in enacting the Act. This includes acting transparently in a manner that takes into account the views of the federal land managers where the Act calls for their views, such as in assessing visibility impacts from new major sources in the preconstruction permitting process.

40.When Congress passed the original Renewable Fuels Standard (RFS) in 2005, "inadequate domestic supply" and "severe harm" to the economy were the only conditions under which the general waiver authority allowing the EPA to waive the RFS could be invoked. Despite this clear direction from Congress, in its 2014-2015-2016 final Renewable Volume Obligation (RVO), EPA used "available refueling infrastructure" as a condition to waive the standard even though Congress expressly rejected it. Do you believe that EPA's use of this reason for

granting a waiver in the 2014-2015-2016 RVO is consistent with Congressional intent and the law?

As I stated at my hearing, I believe the EPA Administrator should use its waiver authority judiciously and not to undermine or question the commitments made by Congress when enacting the RFS.

41.The Renewable Fuels Standard (RFS) is one of our country's most important tools to reduce carbon pollution from the transportation sector. The 2007 amendments to the RFS included increasing volumes of cellulosic and advanced biofuels. If confirmed, will you increase the blending targets for cellulosic and advanced biofuels, including biodiesel, given Congressional intent? What role can EPA play to facilitate the expansion of cellulosic and advanced biofuels, including biodiesel?

Section 211(0) of the Clean Air Act contains enumerated tables of applicable target volumes of renewable fuel, specifically cellulosic and advanced, for calendar years 2006 through 2022. As I indicated in my nomination hearing, it is not the job of the Administrator of the EPA to do anything other than administer the program according to the intent of Congress. If confirmed, I will work to administer this program in accordance with statute and Congressional intent.

42.In response to an Inspector General report, the EPA announced in August that it would update the estimates of carbon pollution reduction from renewable fuels. If confirmed as Administrator, will you commit to completing this update and using the best available commercial and scientific information, including a recent USDA report on the emissions profile of renewable fuels?

I have not had an opportunity to review the referenced report, but, if confirmed, I will review it.

43.In a response to a Renewable Fuels Standard question, you stated during the hearing that "we have less consumption today." Please provide the annual U.S. consumption of gasoline since 2005 as well as forecasts for 2017 and 2018. Is U.S. consumption of gasoline declining or increasing?

In the course of my nomination hearing, I referenced market conditions that have changed since 2005, when the initial RFS program was enacted. When the program was updated in 2007, Congress could not predict how the

market conditions would further change, from decreased consumption to more fuel-efficient vehicles, and therefore provided the Administrator with the ability to waive certain provisions contained in the Act. As I stated at my hearing, I do not believe the EPA Administrator should use this waiver authority to undermine the commitments made by Congress when enacting the RFS.

44.EPA set out to reduce mercury, arsenic, and other toxic chemicals from coal and oil-fired power plans through a rule that you sued to block. Power plants account for half of the mercury emissions in the United States and EPA's Mercury and Air Toxins Standards rule could save up to 11,000 lives and save $90 billion on health costs each and every year across the United States.

•The World Health Organization states that mercury has a toxic effect on humans, and in particular poses a significant threat to child development. Do you agree that mercury is a toxic substance and exposure to it should be limited? Please explain.

•Most people are exposed to mercury from eating fish and shellfish. Do you agree that we should take appropriate steps that reduce the amount of mercury in fish and shellfish? Please explain.

As I stated in my testimony before the Committee, mercury is appropriately regulated as a hazardous air pollutant under Section 112 of the Clean Air Act. If I am confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

45.Donald Trump recently bemoaned "you're not allowed to use hair spray anymore because it affects the ozone." Hairspray is still available for sale, just without the chemical responsible for the ozone hole.

The ozone hole was first discovered in the mid-1980s. The world quickly came together to address the ozone hole through the Montreal Protocol. Actions were taken prior to confirmation of the hypothesis that chlorofluorocarbons (CFCs) due to human emissions, that chemical Donald Trump alluded to in his statement, to address the ozone hole. The treaties to address the ozone hole were the first universally ratified treaties in the history of the United Nations.
•Do you agree with the overwhelming scientific evidence that CFCs are the cause of the historic depletion of the ozone layer? If not, why not?

•Do you consider the "Montreal Protocol on Substances that Deplete the Ozone Layer" to be a success? If not, why not?
•Considering the success of the world coming together to solve an environmental problem in that instance, do you believe that such a framework could be used as an example to solve other global environmental problems? If not, why not?

I consider the Montreal Protocol to be a successful example of the world coming together to solve an important environmental problem and that the Montreal Protocol could serve as an example to the President as he exercises his foreign affairs powers and to the Senate as it considers ratification of any treaty that may come before it.

46.Mr. Pruitt, you have repeatedly sued EPA to overturn regulations that seek to protect Americans from the effects of soot, ozone, greenhouse gases, mercury, arsenic and other air pollutants. These toxic air pollutants are often blown east from large industrial and energy sources in the Midwest, particularly impacting air quality and public health from Maine and Massachusetts to the Smoky Mountains.

•EPA's Clean Air Scientific Advisory Committee, which provides independent scientific advice to EPA on its air pollution standards, said that ozone causes a "decrease in lung function, increase in respiratory symptoms, and increase in airway inflammation." Do you agree with this scientific conclusion? Please explain.

•EPA projected that its final Cross State Air Pollution Rule would avoid up to 34,000 premature deaths, 15,000 non-fatal heart attacks and 400,000 asthma attacks – every year. Do you agree with this conclusion? Please explain.

•The EPA concluded that the health effects associated with fine soot particles include premature death, more ER visits and increased frequency of chronic respiratory disease. Do you agree with this conclusion? Please explain.

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

47.Lead is not just a problem in Flint, Michigan, but all over the United States including Oklahoma. In your capacity as Attorney General of Oklahoma, what did you and your office do to prevent childhood lead exposure?

While I am concerned about children's health, matters of the sort you reference would be handled by Oklahoma's environmental regulators at the

Department of Environmental Quality and the Oklahoma Water Resources Board.

48.During your confirmation hearing before the Environment and Public Works Committee, in response to a question, you indicated that you did not know if there is a safe level of lead. Scientific experts at the Centers for Disease Control and Prevention (CDC) and the World Health Organization, among other leading scientific bodies have repeatedly warned of the dangers of lead, specifically to children, concluding that there is no level of lead exposure that is safe.

•Do you agree that exposure to lead is dangerous and that no level of exposure should be considered safe?

•If confirmed, will you commit to making reducing childhood lead exposure a priority?
•What specific strategies will you implement to reduce lead exposure?
•Will you advocate for more funding for the programs that reduce lead exposure risk, especially in children?

I have not myself reviewed the scientific studies correlating blood lead levels to impacts in children. However, it is my understanding that neither EPA nor CDC have identified a "safe" level of exposure, but instead have adopted levels appropriate for action under their specific statutory authorities. If confirmed I will carry out EPA's authorities to reduce exposure to lead, including exposures by children.

49.The EPA is tasked with implemented the Safe Drinking Water Act (SDWA), and ensuring that the drinking water supply for many Americans is safe. Given the Flint, Michigan drinking water crisis, many Americans that took clean water for granted are now being faced with questions about a basic necessity.
•The Water Infrastructure Improvement for the Nation (WIIN) Act of 2016, or WIIN Act, passed Congress was signed by the President, and became public law on December 12, 2016. Will you commit to, as expedient as practicable, implementing the changes to the Safe Drinking Water Act?
•The human-caused drinking water crisis in Flint, Michigan has highlighted the widespread concern of lead in drinking water pipes across the nation. Additionally, nearly 4 million Americans may be unknowingly drinking unsafe water. Are you aware of how many public water systems in the United States have issues with lead in drinking water above safe levels?
•If a public official knowingly exposes their community to dangerous levels of contaminants, such as lead, should that official be held accountable for such actions? What do you think are acceptable punishments for such an action?
•If confirmed as EPA Administrator, what will you do to ensure that communicates across America have safe drinking water that is not contaminated with lead?

If confirmed I will fully implement the changes to the Safe Drinking Water regulatory requirements made by the WIIN Act, including the changes to the notification requirements relating to lead levels in drinking water. If funding is provided, I will also implement the assistance programs authorized in that Act. I also will fully implement the existing authorities under the SDWA, including, as appropriate, EPA's authority to take emergency action. If confirmed I will seek a briefing from EPA staff on the number of public water systems that are not in compliance with the SDWA Lead and Copper Rule. I am unaware of EPA authorities to punish individuals other than to seek the resignation of responsible EPA officials, such as the resignation of the former Regional Administrator of EPA Region 5 who resigned after her failure to act upon information regarding the lead levels in the Flint water system became public.

50.The updated Toxic Substances Control Act (TSCA) requires that EPA evaluate the risks to "potentially exposed or susceptible subpopulations" and take action to protect these subpopulations from all identified risks. Do you commit to follow this statutory requirement?

Yes.

51.As Oklahoma Attorney General, you have consistently advocated for the rights of states in the area of environmental protections. Will you apply the preemption provisions in TSCA in a manner that is consistent with the statute and your pre-stated philosophy when it comes to state leadership on environmental protection matters?

As I stated in my letter to Senators Inhofe and Boxer from April 9, 2016, I believe the Lautenberg Act ensures states have an important voice at the table and I will apply the law as enacted by Congress.

52.The new law greatly increases transparency and provides EPA with an obligation to protect against unjustified claims of confidentiality by industry. Do you commit to uphold the bill's statutory requirements in this area?

As I stated in my letter to Senators Inhofe and Boxer from April 9, 2016, I believe public dissemination of information about chemicals is critical to ensure public health and safety is upheld. In my view the Lautenberg Act struck a common sense balance between protecting confidential business information and informing the public and I intend to apply the law as enacted by Congress.

53.Do you agree that transparency is important to meaningful public participation in EPA's work on chemicals under TSCA? Do you commit to increasing transparency by fully implementing the provisions in the new law to prevent unjustified claims of confidentiality by industry?

As I have previously stated I believe the Lautenberg Act struck an appropriate balance between protecting confidential business information and informing the public and I intend to apply the law as enacted by Congress.

54.One of the reasons Congress was able to agree on a major re-write of TSCA was because of the fundamental agreement we made to clarify the law to ensure that costs could not be considered when EPA decided whether a chemical was safe or what level of a chemical was safe. Costs could only be a factor when deciding what type of regulation to require to meet that safe standard. Do you continue to support this approach? Would you oppose any effort to change this reformed approach to regulation?

If confirmed I intend to faithfully execute all provisions of the Lautenberg Act as enacted by Congress.

55.Nearly three decades ago, President George H. W. Bush attempted unsuccessfully to ban asbestos. Asbestos is banned in 55 countries across the globe and the World Health Organization says, quote, "all forms of asbestos are carcinogenic to humans". More than 30 Americans die each day from diseases like asbestosis and cancer caused by asbestos. Yet, in his 1997 book, *The Art of the Comeback*, President-elect Trump stated, that asbestos is, quote, "100 percent safe, once applied" and that he, quote, "believe[s] that the movement against asbestos was led by the mob." Do you agree with Mr. Trump that asbestos is 100 percent safe once applied or that the movement against asbestos was led by the mob?

Asbestos has been identified by the EPA as a high-priority chemical that requires a risk evaluation following the process established by the Lautenberg Act to determine whether conditions of use of the chemical substance pose an unreasonable risk. Prejudging the outcome of that risk evaluation process would not be appropriate.

56.In 2015, I released a reported entitled, "Failing the Grade: Asbestos in America's Schools."[5] Asbestos is still found in schools across America, and the true scope of the problem is still hard to ascertain. More than 53 million American children and six million American adults spend large portions of their days in school buildings that may contain dangerous environmental hazards. My report laid out recommendations on how to address the findings of the report.

•Millions of students attend schools that may have asbestos and this is clearly a widespread problem. How would the EPA under your direction, if confirmed, begin to assess the true scope of the problem?

•Will you commit to raising awareness among students, parents, teachers, and other employees about persistent asbestos hazards in school buildings? If not, why not?

•Do you support periodic reporting requirements for schools to report their progress related to the management and abatement of asbestos? If not, why not?

•Do you support additional funding for enforcement actions for schools that do not follow the law and may be exposing children to asbestos? If not, why not?

•Do you support public access to information about where asbestos can be found in products, school buildings, and elsewhere to empower the public to avoid preventable asbestos exposures? If not, why not?

•Do you support providing consumers with access to current information about asbestos-containing products? If not, why not?

•Do you support schools that are known to have asbestos updating their reports of where asbestos is located within a school? If not, why not?

•Do you support states communicating information to the EPA on their progress with implementation of asbestos response plans? If not, why not?

•Do you support continued research and outreach to improve public awareness of the danger of asbestos exposure? If not, why not?

If confirmed I will take the responsibility of protecting human health and the environment very seriously and in accordance with the legal authorities established by Congress. EPA has identified asbestos as a high-priority chemical and is now required to set the scope of review as well as conduct a risk evaluation of the conditions of use of the substance. Without prejudging that review process any conditions of use of asbestos or any other chemical substance that pose an unreasonable risk are required to be addressed under the law and appropriate communication of chemical reviews as well as transparency in the process is an important aspect of the law as passed by Congress. In addition to the Lautenberg Act, in 1986, Congress enacted the Asbestos Hazard Emergency Response Act (AHERA) and then later amended the act in 1990 to modify EPA's school asbestos remediation program. While I have not assessed the appropriateness of periodic reporting requirements, if confirmed I intend to use the authorities granted to the Agency by Congress under TSCA and other statutes to

[5] http://www.markey.senate.gov/imo/media/doc/2015-12-Markey-Asbestos-Report-Final.pdf

assess potential dangers as well as inform and protect the public as appropriate.

57.Last year entitled, "The ABCs of PCBs: A Toxic Threat to America's Schools."[6] Although Congress and the EPA banned the production and most uses of PCBs in 1979, the toxic chemical is still found in many schools across this country. In addition, my report laid out six recommendations.

•Since up 30% of students may be exposed to PCBs, this is a widespread problem. How would the EPA under your direction, if confirmed, begin to assess the true scope of the problem?

•PCBs are found within caulk and fluorescent light ballast in American schools. How would you encourage the removal of PCB-containing materials? Since these ballast are nearing the end of their useful life, EPA has said that it "recommends all PCB-containing FLBs be removed from lighting fixtures". Would you support the promulgation of a regulation under section 6(e) of TSCA that updates EPA's current regulations for PCBs and includes a requirement that all PCB-containing ballast be removed from schools and daycare facilities? If not, why not?

•There are multiple local education agencies and schools that have been seeking the advice and assistance of the EPA in dealing with PCB issues. Will you commit to assisting these agencies and schools and ensuring that the guidance EPA provides across all Regions of EPA is consistently and proactively provided? If not, why not?

•Do you support a requirement that each each school that was built or retrofitted between 1950 and 1979 (and therefor may contain PCBs) undergo a survey (to be administered by the local educational agency) in order to determine whether and where PCBs may be located within a school? If not, why not?

•Do you support a requirement for recordkeeping by state and local educational agencies of testing for, response to, and remediation of PCB hazards in schools? If not, why not?

•Do you support the EPA updating its testing guidance to encourage inspections of all schools built or retrofitted between 1950 and 1979, and improve its efforts to proactively and consistently communicate testing guidance to states, local education agencies, and schools with potential PCB hazards? If not, why not?

•Do you support the EPA developing guidance regarding the means by which parents, teachers, and employees should be notified of potential PCB hazards by schools and daycare facilities, including the manner in which such hazards should be described? If not, why not?

•Do you support the development and provision of updated guidance on the proper remediation of PCBs by EPA for schools, daycare facilities and other entities to use? If not, why not?

•Do you support the EPA proactively and regularly sharing best practices and other information outreach to states and school districts, and enforcement

[6] https://www.markey.senate.gov/imo/media/doc/2016-10-05-Markey-PCB-Report-ABCsofPCBs.pdf

activities, related to PCB hazards in schools and daycare facilities across all EPA regions? If not, why not?
•Do you support EPA regional offices increasing their outreach to states and local education agencies to make them aware of available EPA's PCB regulations, guidance and resources? If not, why not?
•Do you support the EPA updating its current guidance on PCB hazards in schools to incorporate lessons learned from previous remediation projects and best available science? If not, why not?
•Do you support schools having detailed plans on how a school specifically plans to ensure the proper removal of PCBs before starting a PCB remediation project? Please explain.
•Do you support the authorization and appropriations of money for the testing for, response to, and remediation of PCB hazards and other environment hazards in schools? Please explain.

Addressing the issues of possible harmful exposures to chemicals in schools is an issue I would take very seriously if confirmed as EPA Administrator. While protecting children from exposure to chemical substances of concern it is important to have all the facts and ensure that an action does not create unintended consequences or put children at potentially greater peril via risk shifting or the possibility of remedial actions resulting in greater exposure to a substance. While I would not prejudge a regulatory outcome under the TSCA or any other law, I will work collaboratively with state and local governments and citizens to address issues and ensuring EPA regions are consistent and performing their legally required duties will be a priority if confirmed.

58.The Environmental Working Group reported that Oklahoma led the nation in pesticide-related illness and deaths between 2000 and 2010 based on data from the Center for Disease Control and Prevention.[7]
•Are you aware that your state, Oklahoma, leads the United States in pesticide-related illness and deaths? Why do you think this is the case?
•Recent reports have suggested that the increased use of pesticides is linked to the rapid decline in the bee population. What is your understanding of the science explaining the cause of the decline in bees in the United States?

I am not personally familiar with the report referenced in this question or generally the rate of pesticide usage in Oklahoma. I am generally aware of the important role bees play as pollinators, but it is unclear from the information provided in the question what specific reports are being discussed. If confirmed as Administrator, I would expect to be briefed by EPA staff before taking action on this issue and would work to ensure EPA

[7] http://www.ewg.org/agmag/2016/12/pruitt-s-home-state-leads-nation-pesticide-illnesses-and-deaths

followed all applicable legal requirements and made its decisions based on sound science.

59.Racial minorities and low-income communities are disproportionately affected by environmental pollution, siting of waste disposal facilities, and other industrial pollution causing activities. In many instances, the combination of poverty and race as well as lax enforcement and oversight of industrial activities results in worsened health outcomes by these communities.
•How will you address environmental justice and equity for minority and poor communities through EPA programs?
•What will you do to improve health equity as administrator of the EPA?
•What are your plans on reducing toxic pollution and disproportional burden of pollutants in communities of color?
•What will you do to increase enforcement and oversight in communities that are bearing the burden of environmental hazards?

•In your confirmation hearing, you committed to making environmental justice a top priority. If confirmed, will you commit to dedicating funding to assist minority and poor communities with resources and technical assistance to better engage with the EPA and industry about pollution activities and concerns occurring in their communities?

•What will you do to improve the EPA's office of Civil Rights to ensure that the EPA is in compliance with the Civil Rights Act of 1964?
•Will you uphold and make a top priority throughout the agency's work, Executive order 12898, which requires federal agencies to make "achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."
•Do you vow to ensure that environmental justice activities throughout the agency remains focused on poor and minority communities?
•EPA recently developed the agency's EJ2020 action Agenda to better deliver on its historical promises of reducing disparities in environmental protection. Will you utilize and uphold this guidance and procedures outlined in this document throughout the work of the agency? Please explain.

As I testified, the Administrator plays an important role regarding environmental justice. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress, including the Civil Rights Act. I am personally unfamiliar with the operations of EPA's Office of Civil Rights and details of current indicatives regarding environmental justice referenced in the question, but I would expect, if confirmed, I would be briefed by staff about ongoing programs and activities before taking any action.

60.If you are confirmed, do you commit not to direct the cessation of or otherwise impede the investigations or actions of the EPA Office of Enforcement and Compliance Assurance? If not, why not?

I am unfamiliar with the specific details of the actions referenced in the question. I would expect to be briefed by staff, in consultation with the Department of Justice as appropriate, before taking any action.

61.For each year since 1995, please provide information regarding the State of Oklahoma's environmental enforcement efforts. Specifically, for each year, please provide a list that includes:

•A brief description of each environmental enforcement action (including investigations and enforcement proceedings) initiated by the AG's office, including the date the action was initiated, the name of the subject of the action, and the nature of the action and environmental violation that led thereto.

•The annual budget of the Office of Environmental Enforcement, both in dollar terms and as a percentage of the AG's annual budget.

•The number of employees in the Office of Environmental Enforcement and in the AG's office writ large.

•A description of each environment enforcement action (including investigations and enforcement proceedings) that was closed, including a description of the resolution of the matter, whether a fine or penalty was levied (and if so the amount of such fine or penalty), whether non-monetary remedies were required (and if so, what), and whether a criminal prosecution was initiated in the matter (and if so what the resolution of the prosecution was).

In order for you to receive a comprehensive response to a voluminous request of that nature, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act.

Senator Merkley:

1. In an interview with The Oklahoman in 2015, you were talking about Oklahoma's environmental lawsuit against poultry producers who were polluting the Illinois River basin, and you said that in your view, regulation through litigation is the wrong approach. However, you have been highly active in bringing lawsuits against the EPA, whose regulations typically incorporate information gathered as a result of the kind of extensive stakeholder outreach that you seem to value. What have your experiences in suing the EPA taught you about how to lead the agency?

My experiences suing the EPA have taught me the value of ensuring that the EPA acts lawfully so that the regulations it promulgates are actually put to work protecting the environment, rather than being invalidated by courts.

2. The legal actions that you have brought against the EPA suggest that you feel the agency does not have the expertise or skill to make adequate assessments about how to maintain environmental standards. How do you propose to improve the EPA's capabilities so that the agency can achieve its goals in the proper manner?

The legal challenges I have brought have been to protect the interests of Oklahoma. If confirmed, I expect to learn more about EPA's workforce needs and ensure that the Agency is working towards achieving its goals in a proper manner.

3. You have said that the "American people are tired of seeing billions of dollars drained from our economy due to unnecessary EPA regulations". In a poll taken in December 2016 of 2,000 supporters of President-elect Trump, 64% of Trump voters support maintaining or increasing the federal budget for environmental protection and conservation. 78% of the Trump voters said they supported air pollution regulations generally, and 61% said companies should be required to reduce their carbon emissions. These are the people who supported Donald Trump, the man who nominated you for this position. Do you share the view of the majority of Trump voters and support maintaining or increasing the federal budget for environmental protection and conservation? Do you share the view of the majority of the President-elect's supporters that companies should be required to reduce their carbon emissions?

If confirmed as Administrator, I look forward to working with President Trump to achieve his environmental priorities using the tools authorized by Congress and respectful of the rule of law.

4. Several states, including Oregon, Washington, and California, have taken steps to regulate and reduce greenhouse gas emissions. Would you, as the leader of the EPA, attempt to undermine state-led attempts to combat climate change?

I respect and believe the states have a very important role in setting and implementing environmental standards that reflect the needs, challenges and expectations of their local communities. Congress established a clear process by which states may set more stringent standards subject to the approval of the Administrator and based on the specific request made and the corresponding record submitted. If confirmed and if I receive any such requests, I will consider them consistent with applicable statutory framework established by Congress.

5. The EPA produces a wide range of scientific documents. Are you committed to allowing EPA scientists the right of last review of all reports, executive summaries, press releases and websites related to purely science-based documents?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to improving public health and our environment. Scientific documents are critical to EPA's decision-making and I commit, if confirmed, to ensure EPA scientific documents follow applicable laws and federal guidance on scientific integrity, information quality, and transparency.

6. Are you committed to transparency at EPA? If so, will you commit to making sure that EPA data is proactive made available to the public, consistent with privacy and confidential business information laws? Will you ensure that all data and data interpretation tools that are currently on EPA websites continue to be publicly available, and, if they become out of date, are archived in an accessible manner?

Yes, I am committed to transparency at EPA. I commit to making sure that EPA data is made available to the public consistent with privacy and confidentiality laws, and I will ensure that all EPA tools currently available to the public will remain accessible to the public and will be archived appropriately.

7. How would you incorporate independent science in your decision making?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to improving public health and our environment. I believe EPA decision-making should be based on sound, independent science, and if confirmed, my decision-making will follow applicable laws and federal guidance on scientific integrity, information quality, and transparency.

8. Are you familiar with the scientific integrity policies of the EPA? Can you commit to adhering to EPA's scientific integrity policies?

If confirmed, I expect to learn more about EPA's scientific integrity policies and I commit to follow applicable laws regarding scientific integrity.

9. How will you work with the White House Office of Science and Technology Policy to ensure that the work of scientists at the EPA, and scientists that provide input to the EPA, is free from political and financial influence?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to improving public health and our environment. I have no first-hand knowledge of the EPA's consultation with the White House Office of Science and Technology Policy and, if confirmed, I would expect to learn more about EPA's work with the office. Indeed, EPA actions must be based on sound, objective science. I commit, if confirmed, to follow applicable laws and federal guidance on scientific integrity, information quality, and transparency.

10. Pacific coast shellfish aquaculture is estimated to be a $278 million industry, but over the last decade, oyster growers have struggled to maintain yields because the water in the hatcheries is becoming too acidic for oysters to survive. The oceans are becoming more acidic because they are absorbing more and more CO2 from the atmosphere. The impact of this acidification on oyster farming has been documented in the scientific literature. On numerous occasions, you've expressed skepticism about climate change, but there is no doubt in the minds of these shellfish growers about the reality that increased CO2 levels are threatening their livelihoods. As EPA Administrator, how would you address this issue?

If confirmed, I will implement the laws that EPA is charged to administer. Under section 304 of the CWA EPA establishes water quality criteria to protect aquatic life, including shellfish. Certain EPA programs also include authorities that can support projects that may benefit the shellfish industry, including the National Estuary Program under section 320 of the CWA, the Long Island Sound programs under section 119 of the CWA, and the Chesapeake Bay program under section 117 of the CWA. Finally, section 319 of the CWA can support programs and projects to reduce runoff that may impact oyster beds..

11. There are many groups within the Christian community -- and groups from other faiths -- in the United States who agree with the overwhelming scientific consensus that climate change is a danger to our country, and who strongly support taking action to mitigate the causes and impacts of climate change. For example, the Southern Baptist Convention made a statement in 2007 saying that Christians are responsible for caring for creation, and emphasized the importance of acting to prevent climate change. The President of the Southern Baptist Theological Seminary, has also issued a statement echoing these views. As EPA Administrator, would you share the view that, in the interest of caring for creation, that action should be taken to prevent climate change?

I believe we can grow our economy, harvest the resources God has blessed us with, while also being good stewards of the air, land, and water by which we have been favored. If confirmed, I will work to advance the mission of EPA to protect human health and the environment within the framework established by Congress.

12. The EPA is required to follow the best available science in its rule-making process. Given that every major scientific institution in the United States agrees with the position that the warming trend over the past century is due to human activity, do you have any reason to disagree with the position of every major scientific institution in the United States? Please explain.

I agree EPA's rulemaking process must be based on the best available science. However, I have no first-hand knowledge of the specific institutions or findings referenced in the question. If confirmed, I commit EPA's rulemaking process will be based on the best available science and will follow applicable laws and federal guidance on scientific integrity, information, and transparency.

13. 97% of publishing climate scientists support the idea the climate change is real and man-made. You are an attorney, but have questioned the reality of climate change. Do you currently agree that climate change is real and man-made? If not do you believe the 97% of climate scientists that do hold that view are wrong, or lying?

The ability to measure with precision the degree and extent of human activity on our changing climate, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will make sure the agency's regulatory actions are based on the most up to date and objective scientific data.

14. What scientific organizations do you personally trust when it comes to the science of climate change? Please explain why you trust any organization(s) you list.

If confirmed as EPA Administrator, I will adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment and will base my decisions on sound science, including advice provided by agency experts and advisory personnel.

15. Below is a list of statements from the Intergovernmental Panel on Climate Change's Fifth Assessment Report. For each statement, please indicate your agreement or disagreement and explain your reasoning: • "Warming of the climate system is unequivocal."
• "The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, sea level has risen, and the concentrations of greenhouse gases have increased."
• "The atmospheric concentrations of carbon dioxide, methane, and nitrous oxide have increased to levels unprecedented in at least the last 800,000 years."
• "Carbon dioxide concentrations have increased by 40% since pre-industrial times, primarily from fossil fuel emissions and secondarily from net land use change emissions."
• "The ocean has absorbed about 30% of the emitted anthropogenic carbon dioxide, causing ocean acidification."
• "The largest contribution to total radiative forcing is caused by the increase in the atmospheric concentration of CO2 since 1750."
• "It is extremely likely that human influence has been the dominant cause of the observed warming since the mid-20th century."
• "Continued emissions of greenhouse gases will cause further warming and changes in all components of the climate system."
• "It is very likely that the Arctic sea ice cover will continue to shrink and thin and that Northern Hemisphere spring snow cover will decrease during the 21st century

as global mean surface temperature rises. Global glacier volume will further decrease."
• "Global mean sea level will continue to rise during the 21st century.... [T]he rate of sea level rise will very likely exceed that observed during 1971 to 2010 due to increased ocean warming and increased loss of mass from glaciers and ice sheets."
• "Limiting climate change will require substantial and sustained reductions of greenhouse gas emissions."

There is a diverse range of views regarding the key drivers of our changing climate among scientists. I believe that these differences should be the subject of robust and open debate free from intimidation. If confirmed, I will continue to encourage an honest debate on our changing climate, the role of human activity, our ability to measure the degree and extent of human activity, and what to do about it. If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data. I will also adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment consistent with the process and rule of law established by congress.

16. Are you aware that each of the past three decades has been warmer than the one before, and warmer than all the previous decades since record keeping began in the 1880s? This trend is based on actual temperature measurements. Do you believe that there is uncertainty in this warming trend that has been directly measured? If so, please explain.

I am aware of a diverse range of conclusions regarding global temperatures, including that over the past two decades satellite data indicates there has been a leveling off of warming, which some scientists refer to as the "hiatus." I am also aware that the discrepancy between land-based temperature stations and satellite temperature stations can be attributed to expansive urbanization within in our country where artificial substances such as asphalt can interfere with the accuracy of land-based temperature stations and that the agencies charged with keeping the data do not accurately account for this type of interference. I am also aware that 'warmest year ever' claims from NASA and NOAA are based on minimal temperature differences that fall within the margin of error. Finally, I am aware that temperatures have been changing for millions of years that predate the relatively short modern record keeping efforts that began in 1880.

17. Is there a scientific basis, based on the best available science and the weight of scientific evidence, for revoking or revising the finding that greenhouse gases endanger public health and welfare?

To my knowledge, there is nothing currently pending before the EPA that would require I take any additional actions on the Endangerment Finding on Greenhouse Gases and if there were, it would not be wise to prejudge the outcome.

18. Last year, Oklahoma's Department of Environmental Quality added eight lakes to what is now a list of 40 lakes where people should limit their fish consumption due to the dangerous levels of mercury. Do you believe that coal fired power plants contributed to the mercury contamination in those 8 lakes? Do you believe coal fired power plants contribute to mercury contamination in the environment?

I agree with the Oklahoma Department of Environmental Quality's determinations regarding fish advisories. As discussed elsewhere in my written responses to the Committee, coal fired power plants are the largest point source emitters of mercury into the air in the United States. I do not have direct knowledge of whether these fish advisories were caused by coal fired power plants or other sources, and if so whether those sources are located in the United States or elsewhere.

19. Do you agree that fish consumption is a leading source of mercury exposure and that the source of mercury in fish comes largely from the burning of fossil fuels? If you disagree, please explain why, including citations of the authoritative bodies that support your position.

I agree that fish consumption is a leading source of mercury exposure, particularly in certain subpopulations, such as unborn children.

20. Do you agree with the American Academy of Pediatrics' finding on the importance of minimizing mercury exposures for child health? If you disagree, please explain why, including citations of the authoritative bodies that support your position.

I agree with the American Academy of Pediatrics' finding. As I stated in my testimony before the Committee, mercury is appropriately regulated as a hazardous air pollutant under Section 112 of the Clean Air Act. If I am

confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act

21. You are currently representing Oklahoma in challenging the EPA's supplemental finding that it is necessary and appropriate to regulate emissions of mercury and other hazardous air pollutants from power plants. Do you agree that nearly all covered facilities are already in compliance with EPA's Mercury and Air Toxics Standard? If not, explain why not.

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. I do not have personal knowledge of whether any facilities are out of compliance with the Mercury and Air Toxics Standard. If I am confirmed as Administrator, I will exercise my authorities as Administrator to enforce all laws administered and regulations promulgated by the Administrator, including the Mercury and Air Toxics Standard, against sources that are out of compliance.

22. Do you agree that ground-level ozone is a dangerous pollutant that causes respiratory and cardiovascular harm? If no, on what basis do you disagree? If you disagree, please explain why, including citations of the authoritative bodies that support your position.

I agree that ground-level ozone is a dangerous pollutant that can cause respiratory and cardiovascular harm,

23. You are currently pursuing a lawsuit against the EPA over the agency's new ozone limits, which the EPA is required to review at least every five years. The new limit is 70 parts per billion; the previous limit, set in 2008, was 75 parts per billion. Prior to the announcement of the new limit, officials at the Oklahoma Department of Environmental Quality said that the state would be able to meet the 70 ppb level, however you have taken the position that EPA's standard is unachievable, and you have criticized the agency's data collection and its scientific processes. Could you please describe why you feel the EPA is unqualified to assess the safety and necessity of the new ozone levels? Could

you please also describe why your state's Department of Environmental Quality was wrong to say that they could meet the new ozone safety levels?

Oklahoma joined four other states in a petition for review of EPA's 2015 decision to lower the National Ambient Air Quality Standard for ozone from 75 ppb to 70 ppb. The legal question raised by the state petitioners in the case is whether EPA set the standard at a level than can be achieved by states given the background concentrations and uncontrollable sources of ozone in many parts of the country. The briefs filed by the many State petitioners to that rule fully explain the States' position and speak for themselves. The case remains pending before the U.S. Court of Appeals for the District of Columbia Circuit.

24. In a 2013 interview, you said: "The evidence is clear that the current ethanol fuel mandate is unworkable. The decision by the EPA to lower that standard is good news for Oklahoma consumers. It's good the Administration finally recognized the concerns of consumers and a variety of industries and took steps to correct this flawed program." Please explain what you meant by "unworkable" and "flawed program". Do you still hold this view? If not, what caused you to change your view?

As I indicated during my nomination hearing, the Administrator and the EPA routinely missed the statutory targets in publishing the Renewable Volume Obligations each year, creating great uncertainty in the marketplace. In fact, in some years they missed the timeline, as far as submitting those targets, by over a year; in some cases over two years. The EPA failed to adhere to statutory requirements, resulting in a flawed and unworkable program.

25. In December 2015, the President-elect said of Senator Ted Cruz' opposition to the RFS, "…oil pays him a lot of money, he's got to be for oil, right? The oil companies give him a lot of money. So, but I'm with you. I'm with everybody. I'm with everybody. Look, I'm self-funding. I have no oil company. I have no special interest." In contrast, you have received over $300,000 from the fossil fuel industry, and have sent at least one letter to EPA on your own letter head that was drafted by the oil industry. If you are confirmed as EPA Administrator, will you commit to ensuring that your previous donors will not exert undue influence over the regulatory process and your decision-making at EPA with regard to the Renewable Fuels Standard?

If confirmed, I will work to administer the RFS in accordance with statute and Congressional intent.

26. If the Sixth Circuit and the Supreme Court approve EPA's "Waters of the United States" rule defining the jurisdictional extent of the Clean Water Act, would you direct the EPA to amend that rule? If so, how? If the courts invalidate EPA's "Waters of the United States" rule, how would you direct the EPA to define which waterways and wetlands are protected by the Clean Water Act?

If I am confirmed, I will seek to make changes to the WOTUS rule following all appropriate administrative procedures, including the requirements of notice and comment under the Administrative Procedure Act.

27. In your opinion, under what circumstances should the Clean Water Act apply to pollution being discharged into groundwater? If the Ninth Circuit's forthcoming decision in Hawai'i Wildlife Fund v. County of Maui conflicts with your view, would you direct the EPA to write a new regulation overruling the 9th Circuit?

I believe that the Clean Water Act applies only to discharges to surface water, not groundwater. In contrast, the Safe Drinking Water Act requires permits for underground injection into certain aquifers. I cannot speculate on a judicial decision that has not been issued.

28. You've taken money from Monsanto, one the world's largest sellers of pesticides, in your previous electoral campaigns. How will you ensure that the safety of pesticides is vetted and regulated by the EPA according to the best science on risk and potential harm, rather than the profit-making interests of your campaign financiers? In your role as EPA administrator, how will ensure the agency is not unduly influenced by the political power of these large corporations?

If confirmed as Administrator, I would expect EPA's regulatory process relating to pesticides to be open and transparent and based on sound science in accordance with EPA's legal authorities.

29. What will you do to ensure EPA is conducting a transparent process regarding pesticide regulation? Please specify how you will approach notifying the public regarding pesticides in terms of notice of actions, publication of information (including studies and data) in the dockets, or timely responses to requests under the Freedom of Information Act. If you do not believe in a transparent process, why not?

I am committed to transparency at EPA. I commit to making sure that EPA data is made available to the public consistent with applicable privacy and

confidentiality laws, and I will work to ensure that EPA uses a variety of tools and methods to keep the public informed about EPA activities as they relate to pesticide regulation if I am confirmed.

30. What will you do to work with pesticide manufacturers, distributors, conservation organizations, farmers, and beekeepers to ensure pesticide labels are clear and enforceable? Will you commit to enforcing these labels? If you will not work on this issue, why not?

If confirmed as Administrator, I would expect EPA's regulatory process relating to pesticides to be open and transparent and based on sound science in accordance with EPA's legal authorities.

31. EPA defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." Would you as EPA administrator advance the goal of environmental justice and if so, how?

If confirmed, I would work to faithfully execute the laws EPA is responsible for administering in order to protect human health and the environment for all Americans. As I testified, the Administrator plays an important role in regarding environmental justice.

32. Exposure to air toxicity, water pollution, lead, and hazardous waste sites results in disproportionate levels of disease, disability, and mortality amongst communities of color. As Administrator, what will you do to protect America's most vulnerable and underrepresented communities from environmental hazards and reduce the burden of toxicity shouldered by these communities?

As I testified, the Administrator plays an important role in regarding environmental justice. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress

33. President-Elect Trump has stated that the drinking water crisis in Flint, Michigan, would never have happened if he was president. If appointed, what

measures do you plan to take to protect drinking water across the country and particularly for the most vulnerable populations?

If confirmed, I will return EPA's focus to carrying out its core missions, including, as appropriate, use of EPA's emergency order authority under the Safe Drinking Water Act.

34. Oklahoma has seen a massive increase in earthquakes recently (907 (>magnitude 3.0) in 2016 and 585 in 2015 - which is more than the previous 35 years combined). The Oklahoma Geological Survey released a report in 2015 linking the disposal of fracking wastewater with earthquakes in Oklahoma. As recently as November 2016, a 5.0 magnitude earthquake struck Cushing, Oklahoma. Forty to fifty buildings were reported to have been damaged; Governor Mary Fallin felt the damage was substantial enough to declare a state of emergency for Payne County, where Cushing is located (a first step towards being granted federal aid). • What was the incidence of earthquakes in Oklahoma prior to widespread use of hydraulic fracturing in the past decade?
• What has been the incidence of earthquakes in Oklahoma in the past 10 years, since widespread use of hydraulic fracturing?
• What have been the economic and health impacts of earthquakes in Oklahoma in the past 10 years?
• What was your rationale for not using the office of the Attorney General to change the disposal practices of wastewater from hydraulic fracturing to protect the citizens of Oklahoma?

As I discussed at my confirmation hearing, the State of Oklahoma has taken seismicity issues very seriously and has taken proactive and aggressive actions. Oklahoma, as have other states, been successfully regulating hydraulic fracturing since the 40's and 50's. State and federal geologists have largely confirmed that the while the act of hydraulic fracturing itself poses little seismicity risk, the underground injection of wastewater at certain pressures and volumes can result in some seismic activity. While earthquakes have increased in frequency in recent years, the State has taken aggressive actions and reports have indicated the rate of seismic events has recently declined. Seismic activity can of course have significant impacts on communities and the activities linked to seismicity concerns in Oklahoma are regulated under state law by other agencies that my office works with as appropriate under Oklahoma law.

35. The EPA is the front line agency serving or assisting Indian Country with environmental protection and recognition of treaty rights. As EPA Administrator, would the you commit to the protection of tribal treaty rights in agency decision making processes in situations where rights may be affected by EPA actions

including federal approval of: • state water quality standards (CWA)
• state 401 water quality certifications
• state distribution and use of pesticides (FIFRA)
• oil spill program countermeasures (SPCC)?

If confirmed, I will commit to ensuring that the United States meets all treaty obligations that it has pursuant to treaties with Indian Tribes.

36. Will you support current efforts to establish federal baseline water quality standards for Indian Reservations that do not currently have Clean Water Act standards in place? Please explain why or why not. An advanced notice of proposed rulemaking on this initiative was published in the Federal Register on September 29, 2016.

Because an advance notice of proposed rulemaking has been published, this matter will come before me for decision if I am confirmed as Administrator. Thus, I will not prejudge the outcome, but rather will commit to fairly evaluating the matter and reaching a sound decision.

37. The 2016 Frank R. Lautenberg Chemical Safety for the 21st Century Act (TSCA) requires the EPA Administrator to identify “potentially exposed or susceptible subpopulations” in chemical assessments to ensure their protection. Tribal and local populations in the Pacific Northwest consume high quantities of fish that can result in greater exposure to chemical contaminants. How will the new Administration implement TSCA reform to ensure that tribes and vulnerable populations unique to individual states are protected by federal rules on toxic substances?

The Lautenberg Act defined the term "potentially exposed or susceptible subpopulations" as "a group of individuals within the general population identified by the Administrator 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." Protecting citizens that are either more susceptible or who have greater exposure to a substance is an important aspect of the law and I will take great care to ensure the Act is faithfully executed if I am confirmed.

38. Will you commit to continue EPA's Treaty Rights Guidance and that initiative's implementation? Will you commit to continue EPA's Policy on Consultation and Coordination with Tribes?

If confirmed as Administrator, I will evaluate all guidance documents and policies to ensure that they represent faithful execution of the duties imposed on me, and powers granted to me, by Congress. If the guidance and policy you referenced, I will keep them in place.

39. The 2014 U.S. National Climate Assessment concludes that climate change will impact every community in the United States, and that low-income communities and communities of color will be the hardest hit. These vulnerable communities will feel the impacts of climate change more severely due to lower quality housing, which is often less equipped to safely weather severe storms, severe heat, and freezing temperatures. How will you work to reduce climate change risks in low-income communities and communities of color?

I believe environmental justice for low-income and minority communities is an important role of the EPA Administrator. If confirmed, I will adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment for all of our nation's citizens.

40. I understand that there are two political action committees affiliated with you. A spokesperson has made the statement that both PACs will be closed by the end of the month. Can you confirm that that both PACs will be closed by then?

I do not control either of the political action committees to which you refer, and thus cannot confirm their intentions. As you have heard, however, I have also heard that both entities have announced that they will wind down their activities.

41. It has also been reported that a 501(c)(4) organization called Protecting America Now has been created to raise funds to support your confirmation. If you are confirmed, will you make sure that Protecting American Now is disbanded? Please provide a list of Protecting America Now's donors.

I am not affiliated in any way with "Protecting America Now," and thus have no ability to disband the organization. For the same reason, I have no knowledge of the group's donors.

42. When is it appropriate for the Federal government to regulate pollution rather than states?

Many federal environmental statutes were designed with the idea that the states would be the principal implementer. I believe it is essential to begin with that model. There are instances where the federal government approves or disapproves state programs or issues implementation plans in lieu of the state involved. However, this should be the vast exception to the rule. Some environmental statutes like CERCLA place the principal responsibility with the federal government for the important remediation activities under that statute. However, even with statutes like CERCLA, EPA still have an obligation with work with states and localities in designating sites which need remediation and most importantly in developing remediation plans.

43. Do you personally disagree with any existing Federal environmental law, or any provisions of any existing Federal environmental laws? If so, please explain which and why.

If confirmed, I will faithfully execute the laws as enacted by Congress.

44. Which EPA regulations do you believe should instead be left to states to implement, and why?

I believe federal environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA.

45. When states or local governments regulate pollution with different sets of standards, various industry groups have raised the concern that it creates a patchwork of regulatory policies that make compliance difficult. Do you share this concern, and why?

As I testified in the hearing, I have pursued opportunities to address interstate environmental quality matters. One of the examples I have highlighted is the work that Arkansas Attorney General Dustin McDaniel and I took to address an enforceable water quality standard between Arkansas and Oklahoma. I have also discussed how Texas should be responsible when air quality issues affect Oklahoma and my experience with that. When

negotiations among and between states breakdown EPA has a role to set environmental standards. However, that is should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA.

46. Do you believe that the Renewable Fuel Standard is an appropriate regulatory role for the EPA versus states?

Section 211(o) of the Clean Air Act provides the Administrator of the EPA with the authority and responsibility to administer the RFS program. If confirmed, I will work to administer the RFS in accordance with statute and Congressional intent.

47. Do you agree that there should be national fuel economy standards to reduce tailpipe pollution from cars and make vehicles more fuel efficient? Please explain.

While the EPA regulates emissions under the Clean Air Act, it is true that Congress vested authority to regulate fuel economy through the Corporate Average Fuel Economy (CAFE) standards" framework set forth originally in the Energy Policy and Conservation Act. Congress vested responsibility for the CAFE program in the Department of Transportation, not the EPA; accordingly, I take no position on Congress's policy decision on this subject.

48. Do you support California's authority under the Clean Air Act to receive a waiver from the EPA to set emissions standards for vehicles that are stronger than EPA standards?

In the Clean Air Act, Congress provided that the EPA Administrator may waive the Clean Air Act's preemptive effect over some of California's state air quality standards for mobile sources, when certain specific statutory criteria are met. If confirmed as EPA Administrator, I will administer this program in accordance with Congress's objectives, on a case-by-case basis in accordance with the law and with the administrative record in any given case, upon proper petition by California.

49. You are currently representing Oklahoma as one of 13 petitioners challenging EPA's standards limiting conventional, toxic, and greenhouse gas pollutants from new oil and gas facilities. Please describe how Oklahoma would prefer to handle these pollutants in the absence of EPA regulation. If your proposed pollution standards are more lax than the EPA's standards, please provide information supporting the why your standards are preferable from a public health standpoint.

As Attorney General, I sought to ensure that the Oklahoma Legislature retained its power to make policy for Oklahoma. Policymaking is the province of the legislature. Thus, I have no opinion with regard to what environmental policy might be appropriate.

50. Please also describe, and provide the same information, for what Oklahoma's policies would be should Oklahoma and its fellow petitioners be successful in challenging the EPA's implementation of the Cross-State Air Pollution Rule.

As my testimony indicates, I firmly believe that the EPA plays an important role in addressing interstate air quality issues, but it must do so within the bounds of its legal authority and justified by a record of support. The actions undertaken by the Office of Attorney General challenging certain EPA regulations have been because EPA exceeded it legal authorities as established by Congress and interpreted by the courts. The Department of Environmental Quality is responsible for implementing and enforcing environmental laws in Oklahoma.

51. You also represent Oklahoma as a petitioner in ongoing litigation against the EPA's 111(b) standards for CO2 emissions for new, modified, and reconstructed power plants. Should you win your suit, will Oklahoma take any steps to regulate power plant CO2 emissions, or does the state plan to continue not regulating CO2 emissions?

I will not prejudge the outcome of any rule that is the subject of ongoing litigation if I am confirmed.

52. As Attorney General, your role was also to prosecute environmental cases within Oklahoma. Please list all environmental cases you have originated as Oklahoma's Attorney General, and provide all documents related to those cases and a summary of the outcomes of those cases.

Please see the list of cases attached to this response.

53. The Environmental Protection Unit was eliminated as a group within the Attorney General's office once you became Attorney General. This appears to indicate a decrease in support, or at least priority, for pursuing environmental cases within your office compared to your predecessor. To clarify if you have continued to pursue environmental cases as Oklahoma Attorney General, please provide description and documentation of all the environmental cases that were handled by your office versus the AG's office during Drew Edmondson's tenure. Please also describe the work your office did on any environmental cases that were begun during your predecessor's tenure but were continued or completed by your office.

My office continues to employ attorneys vested with responsibilities related to environmental protection, including the attorney who served as the lead attorney on the previous attorney general's "environmental protection unit." That attorney's responsibilities remain unchanged (he has been promoted, in fact), and he pursues exactly the kind of cases that he pursued under the previous attorney general. The only thing that changed was the internal organization of the attorneys vested with those responsibilities, because I concluded (consistent with the practices of every attorney general in the State's history but for my immediate predecessor) that it was not operationally efficient to have a separate unit for such work. Thus, I chose to house that work in the Office's Public Protection Unit and then later in the Solicitor General's Unit. As I explained in my testimony to the committee, my office continues to pursue environmental cases. I do not possess lists of cases pursued my predecessor so I cannot provide the comparative that you request. I am aware that many environmental cases take many, many years to litigate to completion, so some of the actions that my Office continues to pursue were initiated prior to my taking office. Please see attached list of cases.

54. As part of the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016, Congress passed the Columbia River Restoration Act, a program which gives the EPA authority to create a competitive grant program to address environmental cleanup and restoration in the Columbia River Basin. This program empowers states and local communities to better coordinate and implement local cleanup and restoration efforts. Will you, as EPA administrator, work to advance and implement this bipartisan effort to empower local entities and states?

While I am not familiar with the Columbia River Basin restoration program, I support collaborative efforts and neighborhood solutions. I also respect

Congressional authorizations. If confirmed, I will ask the EPA staff to brief me on this program and the new authority granted by Congress.

55. In January, 2017, the EPA announced $17 million in credit assistance for the Water Infrastructure Finance and Innovation Act (WIFIA). This program, initially passed into law as part of the 2014 WRDA bill, now has the funding needed to allow EPA to make approximately $1 billion in loans and leverage a total $2 billion in total water-infrastructure investment. As you mentioned in your hearing, water infrastructure is critically needed, but often overlooked. Will you, as EPA administrator, work to ensure adequate resources to implement the WIFIA loan program, and seek further funding and assistance for other water infrastructure programs and initiatives, such as the Drinking Water State Revolving Fund?

Yes, if confirmed.

56. The Federal Government has a long history of activities within Portland Harbor, which in 2000 was designated a Superfund site and is now one of the largest and most complex Superfund sites in the country. The history of Federal activities within the Superfund site includes ship building, repairing, and dismantling, as well as a variety other activities that likely led to some amount of contamination of the river. Today, the Willamette river sediment within the Portland Harbor Superfund site is contaminated with compounds associated with the activities carried out by the Federal government over the course of many decades. Now that the Environmental Protection Agency has issued its final Record of Decision for this Superfund site, there will be a process to divide up cleanup responsibilities among parties responsible for the contamination. Can you commit to work with the appropriate Federal agencies, such as the Department of Defense and Department of Justice, to ensure that the Federal government engages proactively with relevant stakeholders during the allocation process, takes ownership for its share of the contamination, and pays its fair share of the cleanup?

I am not familiar with the details of the remedy that has been selected for the Portland Harbor Superfund site. If confirmed, I expect to make clean up of contaminated sites one of my priorities and would be interested in hearing the views of the Congressional Delegation and other stakeholders on the issues raised by this cleanup plan.

Senator Sanders:

The Environmental Protection Agency (EPA) has approximately 15,000 employees. The following questions ask how you, as Administrator, would treat civil servants and make human resource decisions.

1. Do you support--and promise to uphold--the merit system principles set forth in Chapter 23 Title 5 U.S. Code, which prohibit factors other than merit from consideration in civil service employment decisions?

If confirmed, I commit to implementing the law as enacted by Congress.

2. As Administrator, do you support use of the Holman Rule, which allows any member of Congress to propose amending an appropriations bill to single out a government employee or cut a specific program? Will you support Congress in passing an amendment under the Holman Rule?

If confirmed as Administrator, I would implement the law and work with the Agency in accordance with the laws passed by Congress.

3. Is retention and recruitment of a high quality scientific workforce at EPA a priority for you?

Yes.

4. As Administrator, do you believe that you will be better able to recruit and retain top talent at the EPA under conditions where Congress is able to individually target employees based on political considerations?

If confirmed as Administrator, I would implement the law and work with the Agency in accordance with the laws passed by Congress.

5. As Administrator, do you support Congress targeting and altering the salaries of individuals within the EPA?

If confirmed as Administrator, I would implement the law and work with the Agency in accordance with the laws passed by Congress.

6.As Administrator, how will you generally view the division of responsibility and authority between Congress and your Department on personnel issues?

In my view, Congress passes the laws governing executive branch personnel.

On June 14 2016, EPA Administrator Gina McCarthy signed an order on "Transgender and Gender Non-Conforming Employees" (http://src.bna.com/f0T) and said at the time that it "reinforces that discrimination of any kind in the EPA workplace is unacceptable, including discrimination on the basis of gender identity, expression or perceived non-conformity." Among other things, the order states that an "employee should be permitted to use the [sanitary and related] facilities that correspond with their gender identity." This is in stark contrast to the suit you filed with 10 other attorneys general challenging the guidance issued under President Obama on accommodating transgender students in public schools.

7. Will you as EPA Administrator ensure that Administrator McCarthy's order is vigorously implemented, and continue to ensure that transgender and gender non-conforming employees are not discriminated against on the basis of their gender-identities?

If confirmed, I commit to protecting the rights of all EPA employees and will follow the law.

As Attorney General, you disbanded your office's Environmental Protection Unit and reduced your office's funding for environmental law to zero.

8. In your personal opinion, what are the most pressing air and water quality challenges that deserve the attention of the EPA? What would you do at the EPA to better address these challenges, if anything?

As discussed, the Oklahoma Department of Environmental Quality -- not the Office of Attorney General -- has primary responsibility for implementing and enforcing environmental laws in Oklahoma. Consistent with the practice of every Attorney General save one, I determined that a standalone unit was operationally inefficient. I opted to combine the Environmental Protection Unit and the Consumer Protection Unit into a single unit called the "Public Protection Unit." The Public Protection Unit continued the work of the Environmental Protection Unit, and that work continues to this day, headed by the very same attorney who worked in the Environmental Protection Unit under the prior Attorney General. As discussed, I believe EPA plays an

important role in addressing cross-state pollution, and if confirmed, I would expect to work cooperatively with states to address the problems of environmental pollution.

The Keystone Sanitary Landfill (KSL) is an existing 714-acre landfill located in the boroughs of Dunmore and Throop, Pennsylvania. KSL has submitted an application to the Pennsylvania Department of Environmental Protection (DEP) for a permit modification to expand the facility's disposal capacity by approximately 145 million cubic yards. The permitting and approval of this process is strictly under the jurisdiction of the Pennsylvania DEP.

Under Subtitle D of the Resource Conservation and Recovery Act of 1976, states play a lead role in ensuring the federal criteria for operating municipal solid waste and industrial waste landfills regulations are met, and they may set more stringent requirements. Under the Hazardous and Solid Waste Amendments of 1984, EPA was authorized to determine the adequacy of the state permit programs. In the absence of an approved state program, the federal requirements must be met by waste facilities.

9.Are you committed to maintaining the process to determine the adequacy of a state's municipal solid waste management plan as required under the Hazardous and Solid Waste Amendments of 1984?

If confirmed, I commit to faithfully executing the laws I would be responsible for administering as EPA Administrator.

10.Further, if a state does not have an approved state program, are you committed to inspecting and enforcing federal requirements including the prohibition on open dumping?

If confirmed, I commit to faithfully executing the laws I would be responsible for administering as EPA Administrator.

11.Constituents have expressed concerns regarding the potential impact on the environment, quality of life, health and traffic congestion as a result of the Keystone Sanitary Landfill. How do you intend to work collaboratively with states in the event that a state violates the federal Clean Water Act or the Safe Drinking Water Act or a state requests assistance from EPA?

I believe states play an important role in administering environmental laws such as the Clean Water Act, and if confirmed, I would expect to work cooperatively with states toward our shared goal of protecting human health and the environment consistent with EPA's legal authorities.

During your hearing, you stated that climate change was not a hoax, but you also were reluctant to discuss your views on the causes of climate change. You stated that your personal views were not relevant. However, as Attorney General, you challenged EPA's 2009 finding that greenhouse gases, including those from fossil fuels, endanger public health and welfare, due to anthropogenic climate change. The EPA went through an exhaustive scientific review and public comment process prior to issuing the Endangerment Finding, but in the lawsuit you labeled it "arbitrary and capricious." The Endangerment Finding references more than 100 published scientific studies and reports by the U.S. Climate Change Science Program/U.S. Global Change Research Program, the Intergovernmental Panel on Climate Change (IPCC), and the National Research Council of the U.S. National Academy of Sciences.

12.As Administrator, will you recognize the findings of the U.S. Climate Change Science Program/U.S. Global Change Research Program and the National Research Council of the U.S. National Academy of Sciences on the science of climate change, including its anthropogenic causes?

If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate.

In 2014, the Gund Institute for Ecological Economics and the University of Vermont released the Vermont Climate Assessment report. The report found that many of our state's communities have already been highly impacted by climatic changes and are engaged in processes to respond to these transitions. Some populations and regions of the state are particularly vulnerable, including rural areas and those increasingly exposed to extreme weather events. Flooding, such as experienced under Tropical Storm Irene, has been devastating to some of our state's communities. EPA partnered with Vermont in incorporating smart growth policies to increase flood resilience after the tropical storm. Under direction from Executive Order 13653, Preparing the United States for the Impacts of Climate Change, EPA and New England's EPA Region 1 both have developed climate adaptation plans that assist our region in preparing for these changes.

13.Will you support EPA's continued climate adaptation planning and implementation in accordance with Executive Order 13653?

If confirmed, I will work to ensure the agency complies with and operates according to all applicable Executive Orders.

14.Do you support the Paris Climate Agreement?

The role of the United States in the Paris Agreement is a State Department matter. If confirmed, I will work to advance the mission of the EPA, which is to protect human health and the environment, consistent with the State Department's strategy for international engagement on climate change.

15.What are your plans for implementing the Paris Climate Agreement?

Should the government decide to continue to participate in the Paris Agreement and if I am confirmed as Administrator, I will collaborate with all involved agencies to ensure that commitments made on behalf of the United States are achievable and consistent with requisite legal authorities delegated by Congress.

You have written that the climate change "... debate is far from settled. Scientists continue to disagree about the degree and extent of global warming and its connection to the actions of mankind."

16.What would it take for you to admit that all three of these allegations are incorrect?

If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate.

17.Which scientists, saying what, would change your mind?

If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving

understanding of the impact increasing greenhouse gases have on our changing climate.

18.If Harold Hamm told you he was no longer a climate change denier, would you believe him?

I do not believe he is a climate change "denier."

19.President Elect Trump's Secretary of State nominee, Rex Tillerson, is no longer a climate change denier. Why do you disagree with Tillerson?

There is a diverse range of views regarding the key drivers of our changing climate among scientists, policy-makers and President Trump's nominees. I believe that these differences should be the subject of robust and open debate free from intimidation. If confirmed, I will continue to encourage an honest debate on our changing climate, the role of human activity, our ability to measure the degree and extent of human activity, and what to do about it.

The Clean Air Act, and its amendments, sets limits on harmful pollutants like mercury and sulfur dioxide. As Oklahoma's Attorney General, you have repeatedly brought lawsuits against the EPA for their enforcement of the Clean Air Act, stating that the federal government has overstepped its authority to regulate and that these decisions are best left to the states. Pollution, like mercury and sulfur dioxide, from Midwest coal-fired power plants is blown right into New England. Mercury is a potent neurotoxin that bio-accumulates in the fish in our streams and lakes, and places our pregnant women and young children at particular health risk. Sulfur dioxide contributes to acid rain that that harms the forests and waters of New England.

20.If you do not believe that the EPA should have the regulatory authority that would protect states such as Vermont from interstate pollution, that leaves these science and public health decisions to the courts. Can you explain why federal courts should be in the position of determining safe levels of pollution to protect the health and welfare of Vermonters, as opposed to the federal agency who mission it is to protect human health and the environment -- air, water, and land?

As I stated in my testimony before the Committee, I agree that the Clean Air Act gives EPA an important role in addressing interstate pollution issues, among many other things. If I am confirmed as Administrator, I will exercise

my authority in this area consistent with Congress's intent in enacting the Act.

Data shows that mercury pollution in the North Atlantic and mercury concentrations in our fisheries have fallen dramatically since the United States started requiring stronger emission controls from coal power plants.

21.Given this scientific confirmation of these regulations working how can you assure us that if you are confirmed to lead the EPA you will continue to accelerate the clean-up of all sources of mercury emissions, including coal power plants?

I agree that there has been a consistent downward trend in mercury concentrations, but note that this trend began well before EPA promulgated the Mercury and Air Toxics Standards. As I stated in my testimony before the Committee, mercury is appropriately regulated as a hazardous air pollutant under Section 112 of the Clean Air Act. If I am confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

It is widely reported that EPA's Clean Power Plan (CPP) will be one of the first policies to be dropped under the new administration.

22.Do you envision that you will seek to replace the CPP with some other program that also would promote the reduction of greenhouse gas emissions nationally?

While I will not prejudge the outcome of any Rule that is the subject of ongoing litigation, if confirmed, I will work to achieve the objectives of EPA-administered laws consistent with the process and rule of law set out by Congress.

23.According to the EPA, "The Clean Power Plan will lead to climate and health benefits worth an estimated $55 billion to $93 billion in 2030, including avoiding 2,700 to 6,600 premature deaths and 140,000 to 150,000 asthma attacks in

children." What do you say to parents who have children with asthma who are worried that the dismantling of the CPP?

If confirmed, I will administer environmental laws that protect human health and the environment within the framework established by Congress. I will follow explicit cost-benefit obligations to ensure the benefits are associated with the pollutant being regulated and the costs are reflective of market realities.

President-elect Trump has stated that the water poisoning that happened in Flint Michigan "would never have happened if I were president." More than 1,000 communities have lead poisoning levels higher than those found in Flint Michigan.

24.If you were head of EPA what actions would you take to ensure that every community has clean water to drink?

If confirmed, I will focus on EPA's core missions, including, as appropriate, use of EPA's emergency order authority under the Safe Drinking Water Act. I also will implement the newly revised TSCA statute to address chemicals and will continue implementation of monitoring, review, and regulation of contaminants under the SDWA.

25. What federal financial commitments would you need and what changes in environmental laws, policies and regulations would you need to ensure that a Flint-like situation never happens again?

It is my understanding that some requirements in the Safe Drinking Water Act Lead and Copper Rule relating to monitoring and when corrosion control treatment is mandated are ambiguous and need to be clarified to make both compliance and enforcement easier and prevent a Flint-like situation from happening again. If confirmed, I will ensure that the revisions to that rule proceed expeditiously. As to resources, I will return EPA's focus, including resources, to carrying out its core missions. In addition, I believe that the new WIFIA program offers significant opportunities to leverage additional infrastructure investments.

Lake Champlain is one of Vermont's most treasured environmental features. Tourism and property values are tied to the health of the lake—keeping its waters swimmable, fishable and drinkable. Run-off—including from lawns, paved roads and parking lots, and farmlands—contributes to high levels of phosphorus that spur algae growth. The algae turns the lake green and can be toxic. In 2016, EPA released new phosphorus limits for the lake by establishing a TMDL (Total

Maximum Daily Load). We are concerned that you, as Attorney General, have opposed other clean-ups similar to that of Lake Champlain. You signed an amicus brief opposing EPA's clean-up of the Chesapeake Bay under the Clean Water Act.

26.As Administrator, will you continue the agency's support for the clean-up of Lake Champlain through these new TMDLs?

A TMDL under section 303(d) of the Clean Water Act does not establish a water quality standard. It is a tool for achieving a water quality standard by determining how much of a particular pollutant, like phosphorus, that a body of water can assimilate and achieve the water quality standard. EPA recently issued new phosphorus TMDLs for Lake Champlain to implement Vermont's water quality standards. These replace a prior TMDL that EPA had approved in 2002 and then disapproved 9 years later after being sued by the Conservation Law Foundation. I am not familiar with the details of either the original Vermont TMDL that EPA approved or the new TMDLs that EPA developed after being sued. I believe TMDLs can only be successful if developed in a collaborative fashion. It is my hope that the new Lake Champlain TMDLs were developed in such a fashion and in accordance with the law. If so, I am not aware of any reason that I would not support their implementation, if confirmed as EPA's administrator.

27.Specifically, should Vermont fail to make satisfactory progress toward meeting the TMDL, would you support EPA's prior pledge to ramp up federal oversight of Vermont programs and crack down on pollution from wastewater treatment facilities? If not, how will you ensure Clean Water Act obligations are satisfied?

Under Clean Water Act regulations (40 CFR 122.44), limits in a NPDES permit for a point source must be consistent with any waste load allocation for the discharge set forth in a TMDL and once these limits are part of a permit, they are federally enforceable. Vermont is authorized to carry out its own permitting program in lieu of the federal permitting program. If confirmed, I will work with the State of Vermont to see that the requirements of the Clean Water Act are met.

The EPA works with other state and federal agencies in developing contingency plans in the event of an oil spill. These plans identify and coordinate the activities of the different government agencies and private organizations involved in the response. Vermonters are concerned about the potential for oil spills, particularly from rail accidents, that might adversely affect the state's waters. We view the EPA as a critical partner in developing plans for, and responding to, the case of an oil spill with potential impacts to a water body or other area subject to the

jurisdiction of the Environmental Protection Agency under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

28.Do you as Administrator commit to the EPA's partnership with the states in developing plans for, and responding to, the case of an oil spill that affects waters under its jurisdiction, such as Lake Champlain?

EPA, in partnership with other federal agencies on the National Response Team, has a significant role in carrying out the National Oil and Hazardous Substances Pollution Contingency Plan. EPA is the lead agency for responses under the Oil Pollution Act to spills into inland waters (other than the Great Lakes) and the Coast Guard is the lead agency for coastal waters and the Great Lakes). If confirmed, I will support EPA's continued implementation of the oil spill response authorities given to it by Congress.

At EPA, science provides the foundation for Agency policies, actions, and decisions made on behalf of the American people.

29.What should be the role of science in the development of EPA policies, rules, and regulations?

I fully believe, as former EPA administrators have stated, that science must serve as "the backbone" of EPA actions.

U.S. Secretary of the Interior Sally Jewell has observed that "consumer spending for outdoor recreation is greater than household utilities and pharmaceuticals combined — and yet the federal government has never fully recognized or quantified these benefits." Outdoor recreation is not just an issue of concern to the Department of the Interior, it depends on clean air and water, which are under the purview of the EPA. The health and welfare of Americans is dependent on their ability to be actively engaged outdoors, breathing clean air and drinking clean water.

30.If under your watch, the EPA seeks to reduce regulations, will you take into account the economic losses from recreation to places like Vermont before doing so?

As I indicated in my testimony, if confirmed, my primary goal would be to protect the American people through lawful regulations. I understand environmental statutes, such as the Clean Air Act and the Clean Water Act,

prescribe in certain instances that the EPA consider economic impacts in the rulemaking process. If confirmed, I commit to fully follow the law as provided by Congress.

Much of the nation's and the world's attention has been focused in recent months on the Dakota Access Pipeline, the construction of which crosses multiple states. Many pipelines on Indian lands are located entirely within a single state, however. Here EPA is not always the primary regulator, and state laws do not always apply. The health and environmental consequences of pipeline failures, however, can be enormous.

31.Will you commit to work with this Committee and other agencies to address the environmental and public health and safety issues associated with the operation of pipelines on Indian lands, including purely intrastate pipeline facilities?

If confirmed, I will faithfully execute all applicable laws as Administrator. As was discussed at my confirmation hearing I have worked successfully with Oklahoma Tribes and I would use my role to address environmental and public health and safety issues on state, federal, and tribal lands.

Yesterday, the Obama Administration took the final step in laying out a process for the next administration to provide a full environmental review for the Dakota Access pipeline.

32.Will you commit to fully supporting the Army Corps of Engineers as it conducts reviews of alternative routes and to meaningful consultation with Native American tribes when a project could affect their tribal treaty rights?

I cannot speak to the actions of the Army Corps of Engineers but if confirmed I will carry out any legal duties required by the Administrator of the EPA.

Oil and natural gas extraction by way of hydraulic fracturing, or "fracking," has expanded rapidly in the United States, including in your state of Oklahoma. As you know, there are increasing concerns about water and air contamination, including the seismic activity associated with wastewater disposal. EPA conducted a study of hydraulic fracturing's drinking water impacts and released a final report in December 2016. The agency found "hydraulic fracturing activities can impact drinking water resources under some circumstances." The report identifies certain conditions under which impacts from hydraulic fracturing activities can be more frequent or severe. Both Vermont and New York have

banned hydraulic fracturing out of concerns for its public health and environmental effects.

33.Do you concur with the conclusions of the EPA's final report on hydraulic fracturing and drinking water?

As I discussed at my confirmation hearing, states like my home state of Oklahoma have been successfully regulating hydraulic fracturing for decades. As EPA officials have indicated the number of identified cases of drinking water contamination related to hydraulic fracturing activities is small particularly compared to the large number of hydraulically fractured wells and I agree with that assessment.

34.Are there gaps in available data that make it difficult for the EPA to fully assess hydraulic fracturing effects on drinking water as well as air quality?

Hydraulic fracturing has been extensively studied by state, federal, and non-governmental bodies.

35.What further studies—if any—do you believe would be appropriate for EPA to conduct on the effects of hydraulic fracturing on air and water quality?

I am not aware of any urgent need for new studies of hydraulic fracturing but if confirmed I commit to review any new information on the subject.

36.Do you agree, as EPA scientists found, that of the 1,606 chemicals injected for hydraulic fracturing, 173 chemicals are a proven risk to public health?

Risk encompasses both hazard as well as a likelihood of exposure. EPA found that 173 of the chemicals listed can be hazardous but did not speak to their risk likely because of their very low probability of exposure.

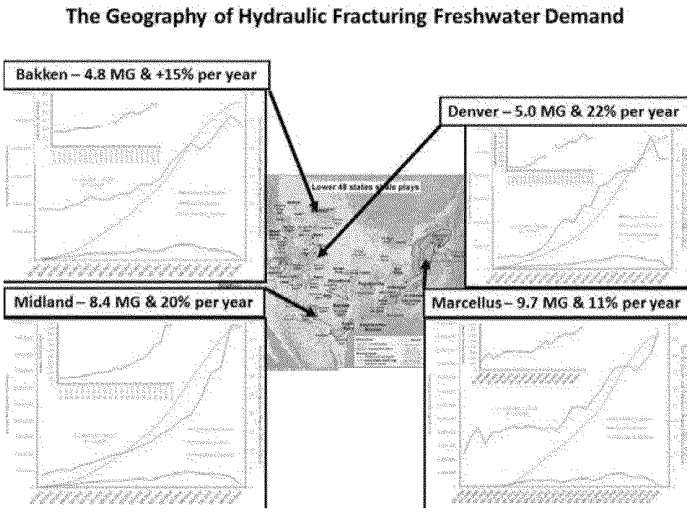
To date communities have been absorbing the costs of damage from oil and gas operations, whether that is in terms of health impacts, contaminated soils and water, which depress property values and destroy businesses, residential neighborhoods turned into industrial zones, earthquakes caused by injection wells (which are increasingly being excluded from homeowner insurance policies) and more.

37.What would be your approach as Attorney General to ensuring that communities do not to absorb these costs, and operators become responsible for the full costs of their operations, including damages?

As discussed at my confirmation hearing as Attorney General I have taken on oil and natural gas companies who violated Oklahoma laws and regulations. If confirmed, I will uphold and execute the laws as established by Congress.

38.Given that High Volume Hydraulic Fracturing (HVHF), or fracking gas wells, currently require an average of 4.8-9.7 million gallons of fresh water to fracture a single well (Note: This demand is growing by 11-20% per year), and only 4.5-7.5% of this water is being recycled, would you consider modern-day oil and gas drilling to be a long-term, sustainable solution to our country's energy needs?"

EPA's final report on hydraulic fracturing and drinking water found that in most cases hydraulic fracturing constituted "generally less than 1% of total water use" in counties and stated that their findings suggested "that hydraulic fracturing operations represented a relatively small user of water in most counties." I agree with these specific EPA conclusions.



39.When did you first find out that fracking could cause earthquakes in Oklahoma under certain geological conditions? Did you publicly call on industry to alter their practices?

As I stated at my confirmation hearing the Oklahoma Corporation Commission is vested with the jurisdiction of regulating oil and gas activities, they have acted to address seismicity concerns in the state and I have worked with and supported the Commission and other state agencies as required by state law.

40.What percentage of injection wells in Oklahoma is monitored for pollution (in groundwater, deep and shallow)? In those that were monitored, what was the concentration of pollutants?

Wastewater disposal through underground injection is regulated by the State of Oklahoma through delegated powers from the EPA pursuant to the Safe Drinking Water Act and to the best of my knowledge the State appropriately follows all requirements under the law.

The “Hockey Stick Moment” is when a variable of interest hits an exponential point in its growth with respect to time. The most notable “Hockey Stick Moment” is the rising levels of atmospheric CO2, N2O, and CH4 resulting from anthropogenic forces. However, a moment closer to Oklahoma is the exponential increase in earthquake activity even the USGS has shown is a function of the disposal of nearly 20% of US fracking waste into Oklahoma and Kansas' Class II Injection wells.

41.Do you agree that this growth in quake activity is a function of excessive and irresponsible oil and gas waste generation and disposal and is worthy of more research and monitoring by the EPA?

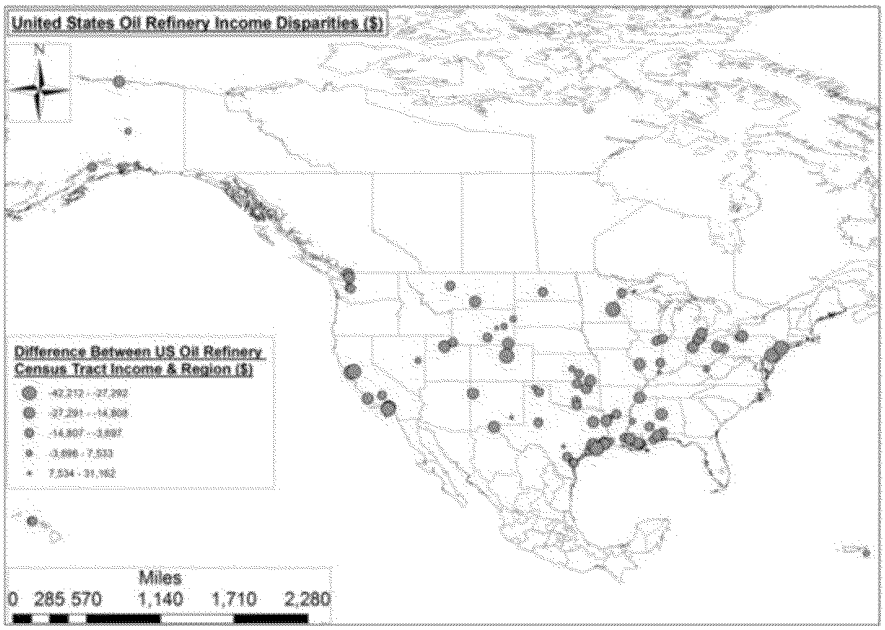
As previously mentioned, wastewater disposal through underground injection is regulated by the State of Oklahoma under delegated powers from EPA pursuant to the Safe Drinking Water Act. Underground injection is not unique to the oil and natural gas industries as EPA has regulations on six different classes of underground injections. Underground injection of wastewater from oil and natural gas activities has been conducted safely in a number of states for decades, and, in a previous EPW hearing, Senator Cardin complimented "the actions taken" in Oklahoma with regard to oil and gas wastewater disposal. He went so far as to say the State "provided a good model that should be used in other States," lauding Oklahoma's actions as an example of "the Federal Government working with the State to develop the right framework for dealing with natural gas extraction." The State of Oklahoma has acted on local seismicity concerns and, to the best of my knowledge, follows all applicable SDWA requirements in regulating class 2 injection wells within the state.

42.You at first belittled the idea that oil and gas operations could cause human induced seismicity in Oklahoma, so did Harold Hamm. Do you now believe that you were both wrong?

As new information becomes available on a number of issues it should always be evaluated and taken into consideration. The State of Oklahoma has taken actions to address seismicity concerns related to the oil and natural gas industry and I support the state taking action.

43. How would a Trump/Pruitt EPA address growing environmental and economic justice issues associated with existing oil refineries and associated unconventional oil and gas infrastructure proposals?

As I stated at my confirmation hearing I believe addressing environmental justice in poor and minority communities is an important role of the EPA Administrator. If confirmed I intend to enforce laws under EPA jurisdiction with uniformity regardless of which industry a potential violation of law comes from.



44.Would you support implementing a requirement to provide full, well specific, public disclosure of all information related to oil and gas development involving

hydraulic fracturing that informs understanding groundwater, surface water, public health and safety, and habitat potential impacts?

If confirmed I would review both EPA's legal authorities as well as the potential need for new requirements and regulations.

With regards to decommissioning a former nuclear power plant, a fair amount of confusion appears to exist in regulating non-radiological hazardous materials during active plant demolition. Most agencies, including the EPA, will defer to the Nuclear Regulatory Commission (NRC) for anything at a nuclear power plant site. However, the NRC does not regulate the non-radiological aspects of nuclear power plant operation--e.g., the NRC does not regulate chemical or oil spills that occur at a nuclear power plant site.

45.How active of a role should the EPA play during the hazardous material survey and active demolition phases of power plant decommissioning to assure that public health and the environment are not impacted by a site's prior use as a nuclear power plant?

In 2002, the EPA and the NRC signed a Memorandum of Understanding entitled "Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites." The EPA's responsibilities with regard to the regulation of non-radiological hazardous materials are address in sections V.C.3, V.D.4, and VI. If confirmed, I will carry out EPA's responsibilities under the law.

The National Environmental Policy Act (NEPA) requires all federal agencies to consider the potential environmental impact of any industrial project while the agencies assess their regulatory authority specific projects. While the Nuclear Regulatory Commission (NRC) does conduct Environmental Assessments for nuclear power plant construction, operations, modifications and decommissioning activities, these assessments are frequently conducted after all other technical assessments for a nuclear power plant project have been evaluated; meaning that they are not an integral part of the NRC's regulatory decision-making process.

46.As Administrator, how will you encourage or require the NRC to more rigorously include NEPA requirements in its "technical" regulatory evaluations?

I am not familiar with how the Nuclear Regulatory Commission conducts its analyses under the National Environmental Policy Act. Under section 309 of

the Clean Air Act, EPA reviews and comments on the NEPA analyses of other agencies. If confirmed, I will ensure that EPA continues to carry out this statutory responsibility.

Changes in weather patterns, such as heavier precipitation events that increase run-off and flooding, are affecting lakes, rivers, and reservoirs nationwide. Water quality, quantity, and the integrity of our water infrastructure are at risk. Recent studies in the Northeast have found that degraded water quality on lakes can cost lakeside communities millions of dollars in losses from both tourism and taxable income due to reduced property values.

47.How will the EPA support water resource management programs to address these issues?

If confirmed, I will continue to implement the water quality protection authorities granted to EPA by Congress. These include regulatory and financial and technical assistance programs. The Clean Water Act expressly leaves the allocation of water quantity to states. I further note that Congress has not given EPA water resources management authorities. Instead, such programs are carried out by the Corps of Engineers and, in the 17 Western states, the Bureau of Reclamation.

48.How would you address EPA's permitting backlog, e.g. the National Pollutant Discharge Elimination System (point source water dischargers) program?

Making sure permits are current is one of core functions under the statutory responsibilities given to EPA and in turn carried out by authorized states. However, in recent years states have been asked to shift their focus and resources to other activities. If confirmed, I would focus on ensuring EPA is able to carry out its core functions under our environmental.

Federal regulations such as the Clean Water Act and the Clean Air Act set national standards to protect our natural resources and safeguard public health. In 2010 you campaigned against a "one-size-fits-all strategy" towards environmental protection.

49.What did you mean by that and how would you, as EPA Administrator, ensure that all Americans are adequately protected against poisonous water and air regardless of where they happen to live?

As I said in my testimony before the committee, I support national standards and neighborhood solutions. That means there may be one standard that applies nationally, but not only one way to achieve that standard. If confirmed, I will bring this philosophy to my role as EPA Administrator.

50.Do you support and stand behind the premise of the Clean Water and Clean Air Acts that every American has the right to clean water and air?

I fully support the Clean Water Act and the Clean Air Act.

In a court filing opposing the Waters of the United States you wrote "This regulation usurps the state's authority over its land and water use, and triggers numerous and costly obligations under the [Clean Water] Act for the state and its citizens."

51.Without national regulations how would you guarantee the quality of water that flows across state boundaries?

Regulation of rivers and streams that form the boundaries of states or flows from one state to another is not an issue raised by states in the WOTUS litigation.

52.Do you believe that the only people with an interest in water are those within a state and not downstream neighbors?

No.

53.Every national science organization, not to mention the Pentagon, lists climate change as a critical threat to our planet, our economy, and our national health. The Pentagon considers Climate Change a "Threat Multiplier" and a "Growing Security Threat." Do you agree with the Pentagon and our National Security advisors regarding the severity of this crisis?

I have no reason to disagree with the statements from the listed security experts, although I have not made any attempt to independently verify their accuracy.

54.Please describe your plan, process, or other information that the EPA may be able to provide to the Pentagon to mitigate or mollify the threats our military describes.

Interagency cooperation is very important. I believe the development of military readiness and response plans are best left to our military and national security experts. If confirmed, I will provide technical expertise to other agencies as appropriate.

55.Will you be promoting greater use of carbon-based fossil fuels?

I do not believe it is the mission of the EPA to promote one type of energy source over another. If confirmed as Administrator, I will fairly and equitably enforce the laws within the framework established by Congress and not pick winners and losers.

56.Do you think the EPA has any role in helping our nation decrease or end the consumption of carbon fuels?

The mission of EPA is to set standards that protect the environment and the health and welfare of our citizens. While setting national energy policies are not within the statutorily ascribed purview of the agency, EPA regulatory actions often impact the ability of those charged with generating our nation's energy to do their job. If confirmed, I will listen to all impacted stakeholders when developing EPA actions. I will also coordinate with impacted agencies, such as the Federal Energy Regulatory Commission, to ensure EPA's actions do not undermine their equally important missions and statutory objectives.

57.Do you see any reason for reducing carbon emissions that come from using fossil fuels like oil, coal, and natural gas?

I believe the Administrator has an important role when it comes to the regulation of carbon dioxide. If confirmed, I will fulfill the duties of the Administrator consistent with Massachusetts v. EPA and the agency's Endangerment Finding on Greenhouse Gases respective of the relative statutory framework established by Congress.

58.What do you think are the most reliable sources for scientific news and information?

If confirmed as EPA Administrator, I will adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment and will base my decisions on sound science, including advice provided by agency experts and advisory personnel.

59.Do you plan to request regular briefings from government science and/or intelligence sources? If so, how often? If not, why?

If confirmed, I will make decisions based on sound science reflective of diverse, objective and unbiased views conducted in a transparent manner reliant on public engagement and consistent with the framework established by Congress.

60.Do you intend to have meetings with or receive regular briefings from private industrial sources? If so, how often? If not, why?

If confirmed, I intend to operate the agency consistent with the statutory framework established by Congress and follow associated processes, which require extensive outreach with the public and regulated community.

The President-Elect has positioned himself as a champion of coal miners. You may be aware of the crisis facing the nation's largest multi-employer health and pension plans serving coal miner retirees, administered by the UMWA. The pension plan is facing insolvency within 10 years and, more immediately, over 20,000 retired coal miners and their dependents are facing an imminent loss of health care coverage. Senator Manchin e developed a bi-partisan legislative response to this crisis called the Miners Protection Act that I co-sponsored. It was marked up and passed by the Senate Finance Committee last September on an 18-8 vote. We were expecting the Senate and House Republican leadership to work with us to include the MPA in the Continuing Resolution package that we deliberated on during the lame duck session. We also asked the President-Elect to express his support for this legislation given his abundant pro-coal miner rhetoric during the Presidential campaign. Senate Democrats sent him a letter imploring him to publicly express his support. We got no response. The outcome was a Continuing Resolution that included nothing more than a 4 month extension of health benefits for the retirees who now face a termination of benefits in April instead of this month.

61.How will you work with the President-elect and the rest of his cabinet to work with Congress to pass the MPA and fulfill the nation's commitment to the coal miners whose work powered this country for generations?

I am not familiar with the proposed legislation referenced in the question or EPA's authorities and responsibilities for pension and health care plans for miners.

As you may know, each federal agency, including EPA, has an important role in enforcing Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin by recipients of federal funds. This is an accountability law — before the law was passed, federal funds were subsidizing agencies and organizations, from schools to hospitals to other agencies of government that discriminated. The case that led to the passage of Title VI was *Simkins v. Moses Cone Memorial Hospital,* a 1963 case in which a circuit court finally, 9 years after *Brown v. Board,* struck down a provision of federal law that allowed federally subsidized hospitals to have separate wings for "whites" and "colored" people under a "separate but equal" provision of a federal law called the Hill Burton Act.

62.Are you familiar with Title VI?

Yes.

63.Are you familiar with the Moses Cone Memorial Hospital case?

Yes.

64. If confirmed, wiill you commit to enforcing Title VI and the regulations promulgated by EPA to enforce Title VI?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress that impose duties or grant authority to me as Administrator, including the Civil Rights Act.

Title VI (at 42 USC 2000d-1) specifically empowers "each federal department and agency" that distributes federal funds to effectuate Title VI and then authorizes each agency to issue rules, regulations and orders to implement the law. Thus, the authority and responsibility to enforce Title VI and to ensure that recipients of

federal funds are not discriminating rests with each federal agency, including EPA. As you may know, federal enforcement is all the more important because affected communities can't go to court to enforce claims unless they can prove intentional discrimination under a case that arose out of Alabama — *Alexander v. Sandoval*, 532 U.S. 275 (2001).

65.Are you familiar with the text of Title VI, 42 USC 2000d, which prohibits discrimination on the basis of race, color or national origin?

Yes.

66.What is your vision for Title VI enforcement at EPA? What reforms need to be made? What concrete steps do you envision to strengthen civil rights enforcement at EPA?

If confirmed as Administrator, I will faithfully execute Title VI. I will expect my staff to evaluate any areas that might need reform, and I will take appropriate actions based on the recommendations made to me.

67.Are you familiar with the Supreme Court decision in *Alexander v. Sandoval* (2001)?

Yes.

68.To your knowledge, does the text of the law define or limit the meaning of "discrimination"?

I cannot answer this question without additional context as to what text of what law you refer to.

69.Are you familiar with regulations promulgated by EPA to implement this language, found at 40 CFR Part 7?

I cannot answer this question without additional context as to what you are referring to when you say "this language."

70.In your opinion, does this language further define what is meant by "discrimination"?

I cannot answer this question without additional context as to what you are referring to when you say "this language."

71.In fact, the regulations prohibit actions with an unjustified disparate impact. Do you agree?

The regulations speak for themselves.

72.Are you aware of criticism that EPA has historically done a “poor” job of enforcing Title VI and its regulations?

I am not.

73.If so, do you agree or disagree with criticisms that EPA has historically done a “poor” job of enforcing Title VI and its regulations?

Because I have not heard those criticisms, I cannot say whether I disagree or not.

74.Are you familiar with the Deloitte Report (2011), see https://assets.documentcloud.org/documents/723416/epa-ocr-audit.pdf, which documented problems with EPA’s enforcement of Title VI? If so, what is your past experience with the Deloitte Report?

I am not familiar with the report you reference.

75.Were you aware that the Deloitte Report made the following findings:

•The Office has not adequately adjudicated Title VI complaints – those addressing allegations of discrimination against communities of citizens affected to environmental rules promulgated by the EPA.

•OCR has not completed compliance checks of EPA grantees, in a timely or effective manner, to ensure that grantees are not engaging in discrimination in their work.

I am not familiar with the report you reference.

76.If so, what is your past experience with the findings?

I am not familiar with the findings.

77.In your opinion, what has the EPA already done to address these issues?

I do not know what EPA has or has not done to address any such issues.

78.Do you know whether these steps have been effective?

Because I am not aware of the steps taken--if any--I cannot judge their effectiveness.

79.In your opinion, what more could the EPA do to address these issues?

It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is fully and fairly considered, as part of a transparent process that seeks input from all stakeholders.

80.If confirmed, will you commit to taking action to address these issues?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress and imposing upon EPA duties or powers.

81.Do you believe that recipients of federal funds — across this whole country — are making any decisions that are discriminatory?

I do not doubt that some recipients of federal funding engage in behaviors that violate federal anti-discrimination laws.

82.Under Title VI and its regulations, should recipients of federal funds review whether a decision has a disproportionate adverse impact to ensure that it is in compliance with civil rights law?

Recipients of federal funds should take all actions required by law to ensure that they are in compliance with federal civil rights laws.

83.Do you have plans for pre-award compliance reviews? When would any such plans go into effect? And post-award compliance reviews? What would such reviews involve?

If confirmed as Administrator, I will ensure that federal funds are awarded in compliance with federal law.

84. What is your understanding of the obligations of recipients under Title VI and EPA implementing regulations? Do you think those obligations are sufficient?

The obligations of recipients of federal funds are defined by the statutes and regulations to which you refer. Those statutes and regulations speak for themselves.

Energy burdens above six percent of a household's income are typically considered unaffordable, but low income households spend an average of 15 to 20 percent of their income on energy bills. Low income families are also more likely to live in older, inefficient housing. The Clean Power Plan provides incentives to states to invest in energy efficiency improvements in low income communities.

85.Are you concerned about the lack of access to energy efficient, affordable housing for low income families?

I am unfamiliar with EPA's role and statutory authorities as they relate to affordable housing. I am concerned about the impact regulations can have on the cost of energy for consumers.

86.As EPA Administrator, how would you help low income working families reduce their energy burdens and access energy-efficient affordable housing?

I am unfamiliar with EPA's role and statutory authorities as they relate to affordable housing.

Low-income rural and urban communities and people of color are disproportionately live near, are exposed to, and die from environmental risks/hazards. As of February 27, 2014, there were 1322 Superfund sites on the National Priorities List in the United States. Fifty-three additional sites have been proposed for entry on the list. Communities of color breathe in nearly 40 percent more polluted air than whites. Sixty-eight percent of African-Americans live within thirty miles of a coal-fired power plant, the zone of maximum exposure to pollutants that cause an array of ailments, from heart disease to birth defects. Half of all U.S. Latinos live in the country's most polluted cities. Hispanic children are twice as likely as non-Hispanic white children to die from asthma while, from 2012-2014, African American children had a death rate ten times that of non-Hispanic white children. African-American children are three times as likely to suffer an asthma attack.

87.As EPA Administrator, how would you ensure that vulnerable low-income communities and communities of color are not overburdened by the harmful impacts of pollution?

If confirmed, I expect to make the cleanup of contaminated land one of my priorities. I believe the nation's environmental laws apply to all Americans.

88.Would you say there is anything you will do, if confirmed, to help these Americans? Will you push to reduce smog and particulate matter that causes more asthma attacks and other lung problems? Or is that a matter for the states and not the EPA?

If confirmed, I will work to ensure human health is protected by implementing Clean Air Act provisions, such as the National Ambient Air Quality Standards for criteria pollutants, including for ground-level ozone and particulate matter, which prioritize protection of human health and welfare. I will also work to ensure all Americans are treated equally under the law in furtherance of EPA's mission to protect human health and the environment.

EPA has adopted many cost-effective safeguards in the past eight years that would significantly reduce the pollution that contributes to asthma attacks in children -- many of which you challenged as Attorney General of Oklahoma.

89.Can you explain how you will protect the interests of these and other children that suffer from asthma?

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in an the capacity of an advocate. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

90.Will you commit to working to further reduce pollution, including pollution that disproportionately burdens Hispanic and Environmental Justice communities?

If confirmed, I will work to ensure all Americans are treated equally under the law in furtherance of EPA's mission to protect human health and the environment.

91.Do you think the EPA has done enough to ensure that low-income communities near brownfields receive the same amount of attention as high-

income communities? Will you give priority to the safety and health of our children and future generations over short-term current economic gains of few?

I do not know what EPA has or has not done on this issue. If confirmed as Administrator, I will work to ensure the brownfields program is operated in accordance with applicable legal requirements.

92.Municipal electric utilities depend on the municipal bond tax-exempt status. For Vermont Municipal electric utilities, this is particularly true with regard to utility investments. Do you support tax-exempt bonding as one important tools to improve utility infrastructure (electric, water, wastewater, etc)?

As Attorney General for Oklahoma, I have not studied the issues related to tax-exempt bonds for utility infrastructure. I am not familiar with EPA's role and legal authorities as they relate to municipal tax-exempt bonds.

Your state of Texas is part of a market (ERCOT) that is not Federal Energy Regulatory Commission jurisdictional. This means that Texas does not comply with the same requirements as electric utilities in Vermont and other ISO regions face. ERCOT seems to have embraced wind and other renewable sources.

93.What are the strengths of the ERCOT approach?

I am Attorney General for Oklahoma, not Texas, and do not have an opinion on the Texas electric grid.

94.How would you contrast those with the strengths and weaknesses of the New England ISO?

I am not familiar with the electric grid in New England.

“Green infrastructure” (forests, wetlands, natural floodplains, etc.) can play a critical role in reducing impacts of flooding from extreme weather events like Tropical Storm Irene, and in helping to meet essential water quality requirements/improvements such as the EPA-approved Lake Champlain Total Maximum Daily Load (TMDL) plan. Also, green infrastructure is often much more cost effective than updating or investing in new traditional “gray infrastructure.” EPA has played an important role in providing training, technical and financial assistance related to capitalizing green infrastructure.

95.What do you see as EPA's role going forward related to green infrastructure?

Green infrastructure is a good example of a neighborhood solution that can achieve compliance with national standards. I believe EPA should be supportive of such efforts. If confirmed, I will work to break down barriers within EPA to the use of green infrastructure.

In your own state of Oklahoma, wastewater disposal from fracking and drilling has induced thousands of earthquakes, threatening lives and destroying property. Joe and Mary Reneau suffered through a 5.7 magnitude quake (Nov. 6, 2011) near Prague, Oklahoma – their chimney fell into the living room, right on top of a favorite spot of Mary's to sit. Luckily for them, Mary wasn't sitting there at the time, they had earthquake insurance, and they had $200,000 of repairs done on their house. Joe jokes that he won the earthquake lottery. Jerry and John Loveland weren't so lucky, they had $50,000 worth of damage done on their house, no insurance, and no way to pay for the damage. Oklahoma is an oil and gas state. Joe Reneau said he wouldn't bring any claims against the oil company, because if he did, he would be "run out of town." Oklahoma regulators have done next to nothing to help those harmed by oil industry induced quakes or prevent more destruction.

96.As EPA administrator, what will you do to help the Amos family, John and Catherine Fenton, or all those in Oklahoma threatened by oil industry induced earthquakes?

As I have previously stated, underground injection is regulated by the State of Oklahoma under delegated authority from EPA under the Safe Drinking Water Act. The State has taken action to address seismicity concerns and, if I am confirmed, I will continue working with States and within EPA's legal authorities to address public health and environmental concerns.

In September 2016, the EPA recommended a moratorium on the underground injection of fracking wastewater in certain earthquake-prone parts of Oklahoma because regulations had not successfully addressed the problem.

97.Will you uphold the EPA's recommendation—yes or no?

The State of Oklahoma has worked collaboratively with the EPA to address seismicity concerns and state regulators have shut down dozens of

underground injection wells and, if confirmed, I will continue this cooperative approach to addressing such future issues as they might arise.

98. Specifically, EPA's recommendation arose out of the agency learning that the Oklahoma Corporation Commission, the body overseeing the underground injection control program in a primacy agreement with the EPA, has illegally permitted restricted wells to return to normal operations. While EPA cannot order Oklahoma to impose a moratorium, it can revoke the state's authority and take over regulation of the wells itself. As EPA Administrator, will you regulate these wells in compliance with the Safe Drinking Water Act and in addressing the seismic catastrophe occurring in your state—yes or no?

If confirmed as EPA Administrator I will review relevant information, including EPA's legal authorities, to ensure drinking water protections in Oklahoma and across the nation.

99.Do you think local communities have the right to protect themselves from pollution and other threats to public health?

Yes, if authorized under the law and not preempted or displaced by state or federal law.

100.Will you, as EPA Administrator, support these state and local regulations by not intervening or challenging them—yes or no?

I believe in cooperative federalism and I will work with States and local communities to protect citizens consistent with our nations laws.

101. How do you reconcile challenging these rules with your view of respecting and giving deference to state and local environmental regulation?

It is not clear to me what rules are being referred to in this question, however, I believe that environmental and public health protections are the strongest when there is collaboration across all levels of government consistent with applicable laws.

The FracTracker Alliance has shown that 11% of organic farms are within 1/2 mile of oil and gas development, and 100% of farms within the San Joaquin Valley and Southern California are within 8 miles of oil and gas operations (59,840 wells),

and that produced water is being used to irrigate crops (and also organic crops). California feeds 50% of the country.

102. What is your response to the US maintaining food independence and food safety when the majority of its food sheds are threatened by oil and gas contamination?

I have seen no evidence or information that proximity to oil and natural gas development has contaminated or threatened to contaminate our nation's food safety. The State of California would be better able to address their laws and regulations with regards to the location of oil and gas development in their State as well as their irrigation policies.

103. Why is energy independence more important than food independence?

I have not made any statements ranking the importance of these two issues critical to our nation's health and welfare.

104. We have the opportunity to be both energy independent and food independent without poisoning people and the planet. Why should the US be dependent on other countries to supply its food, but not be dependent on other countries to supply its energy?

I support both the goals of domestic energy independence as well as protecting our domestic food supply and working collaboratively with our nation's farmers and ranchers.

105. From your Great Plains perspective how do you feel the advent of High Volume Hydraulic Fracturing (HVHF) will affect the growing concerns about food security/safety relative to energy infrastructure?

Oklahoma, as a rural state, has long successfully balanced safe energy production as well as farming and ranching.

106. How can the public trust the oil and gas industry when it is exempt from so many environmental regulations?

Any statutory exemptions come from Congress and if confirmed I will uphold the laws as directed by the Constitution.

107. How can rural communities trust oil and gas operators when rural gas gathering lines are exempt from federal pipeline safety regulations (because of the exemption, states also cannot regulate rural gas gathering lines, and therefore because they are not regulated the operators do not have an obligation to report on incremental failures along the pipelines, they are only required to report if there is a need for an evacuation).

The State of Oklahoma has worked well with both rural communities and the domestic energy industry (including alternative energy producers as well as conventional) and, if confirmed, I will continue working to foster safe domestic energy development and maintain trust with our nation's communities both rural and urban.

The conventional food supply is sufficiently burdened by a toxic load from pesticides, herbicides, fertilizers, and genetic modification. It doesn't need yet another toxic burden.

108. How can consumers trust the food in restaurants and grocery stores when it may be grown near oil and gas operations?

If confirmed, I would expect to be briefed by staff to before taking action and would work to ensure EPA followed all applicable legal requirements and made decisions based on sound science.

109. How can parents trust the food that is being served to their kids in school cafeterias?

If confirmed, I would expect to be briefed by staff to assess what role, if any, EPA plays concerning the safety of food served in school cafeterias.

Many of our environmental laws were designed to permit regulation and enforcement by the states so long as state programs meet minimum federal standards established by EPA. Since state laws, however, do not always have general effect or application on Indian lands, Congress has amended several of our environmental statutes to permit tribes themselves to assume primacy of enforcement.

110. Do you intend to encourage tribes to develop their own enforcement regimes under approved programs, much as the states do? Or do you expect EPA itself to

provide direct regulation and enforcement of federal environmental laws on Indian lands throughout the country?

If confirmed as Administrator, I would ensure that Indian lands were subject to adequate environmental regulation, whether that be through tribes utilizing regulatory powers as contemplated by Congress, or through direct regulation by the EPA.

Much of the nation's and the world's attention has been focused in recent months on the Dakota Access Pipeline, the construction of which crosses multiple states. Many pipelines on Indian lands are located entirely within a single state, however. Here EPA is not always the primary regulator, and state laws do not always apply. The health and environmental consequences of pipeline failures, however, can be enormous.

111. Will you commit to work with this Committee and other agencies to address the environmental and public health and safety issues associated with the operation of pipelines on Indian lands, including purely intrastate pipeline facilities?

If confirmed as Administrator, I would faithfully execute any obligations imposed on EPA by Congress to ensure the environmental soundness of pipelines on Indian lands.

Many of the nation's Superfund sites are on Indian lands. We are still dealing with clean-up issues from our uranium industry's legacy from the 1940s and 1950s. The nation's largest open pit uranium mine--Jackpile Mine on Laguna--was only recently added to the Superfund list. The largest Superfund site in the country in your own state is largely on Indian lands: Tar Creek on Quapaw. We have not fully addressed abandoned uranium mill tailings piles and the failure of the Church Rock Dam that dumped irradiated mill tailings into Navajo lands and waters. More recently the failure of the dam below the Gold King Mine in Colorado turned the San Juan River on the Navajo Reservation red all the way to Utah. Today, and nearly every day, fugitive coal dust emissions from trains silt over spawning grounds of treaty-protected fisheries. Oceangoing dumping threatens subsistence lifeways throughout Alaska and the Pacific Northwest. Newer and more virulent strains of black lung disease are overwhelming public health facilities in mining communities. These are just a few examples of major environmental issues that impact disproportionately the poor and the underrepresented elements of our society, including Indian communities and tribal lands.

112. Can you assure us that under your leadership the EPA will address issues of environmental justice in Native American communities and offer a voice to those most affected by the environmental consequences of industrialization?

If confirmed as Administrator, I will faithfully execute all environmental laws enacted by Congress, and will do so in all communities, including Native American communities.

These questions extend to resources protected by treaties such as water rights and compacts, forestry, hunting and trapping, fishing, etc. Some treaties have language that doesn't apply any longer and needs to be updated. Other language needs updating to reflect cultural realities. For example, “hunting” rights do not include “trapping rights” in the letter of the treaty unless trapping is explicitly mentioned, even though the tribes did not differentiate between both.

113. Please describe the relationship between the federal government and American Indian Tribes as it relates to sovereignty the trust responsibility.

Pursuant to federal law, the federal government has a trust responsibility to American Indian Tribes.

114. What obligations do federal agencies have to formally consult with American Indian tribes? What about independent federal agencies?

The obligations of federal agencies--independent or otherwise--to formally consult with American Indian tribes are defined by federal law. If confirmed as Administrator, I will faithfully execute all laws enacted by Congress requiring or authorizing formal consultation with American Indian tribes.

115. What procedures should the EPA follow regarding permitting of infrastructure projects that could potentially impact American Indian tribes and their citizens?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress requiring that procedures be followed with regard to infrastructure projects that could potentially impact American Indian tribes and their citizens

116. How do you interpret the United Nations Declaration on the Rights of Indigenous Peoples, especially as it relates to obligations of the federal government?

The federal government's obligations with respect to Indian tribes is defined by federal law.

117. Do you believe federal funding should be block granted to states to then disburse to tribes? Alternatively, should tribes receive their full and fair allocation of federal funding without being beholden to cumbersome state bureaucracy?

Federal funding should be disbursed to States and tribes in the manner directed by Congress.

118. What is the federal government's role in permitting extraction of mineral resources on federal Indian lands?

As trustee of federal Indian lands, the federal government's role is to act in the best interest of the tribes with regard to permitting extracting of mineral resources on those lands.

119. How will you promote economic development within Indian country?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress directing or authorizing me to promote economic development within Indian country.

120. How will you ensure the Bureau of Indian Education provides quality education to American Indian students?

The Bureau of Indian Education is overseen by the Department of the Interior, not EPA.

121. What is the role of the federal government to promote renewable energy development on American Indian lands?

The federal government's role in promoting renewable energy development on American Indian lands is determined by Congress. If confirmed as Administrator, I will faithfully execute all laws enacted by Congress imposing upon EPA duties relating to promoting renewable energy development on American Indian lands.

122. What is the role of inter-agency cooperation to work across agencies on American Indian issues?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress imposing upon EPA duties relating to American Indian issues, and if faithful execution of those laws requires cooperation with other federal agencies, I will ensure that such cooperation occurs.

123. Will you work with the White House Inter-Agency Working Group on American Indian issues?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress requiring or authorizing me to work with the White House Inter-Agency Working Group on American Indian issues.

Federal Indian law has long recognized that tribes maintain authority over Indian country to the exclusion of states. Oklahoma has 38 federally recognized Indian tribes and those tribes exert jurisdiction over their lands throughout the state. But as Oklahoma Attorney General, your office has never filed a brief in support of tribal jurisdiction. Instead, your office filed briefs in ODEQ v. EPA, the Dollar General case, and several other cases OPPOSING tribal jurisdiction.

124. How can you hope to serve as a protector of tribal lands when you have, over and over again, advocated to deny tribal governments the right to regulate and protect their OWN resources?

As Oklahoma Attorney General, my duty was to ensure that the State of Oklahoma's jurisdiction was fully realized, and sometimes took legal actions in pursuit of that duty. If confirmed as Administrator, I will faithfully execute all laws enacted by Congress directing or authorizing me serve as a protector of tribal lands.

Indian lands outside reservation boundaries. The EPA has, since at least 1984, recognized the federal government's trust responsibility, which is built upon the longstanding historical and legal relationship between the federal government and Indian tribes. The EPA has also acknowledged that treaties, as part of the supreme law of the land, have the same legal force as federal statutes and must be considered when making agency decisions.

125. How will you work to protect tribal treaty lands and resources that lie outside of reservation boundaries, and how will you help expand tribal authority over those lands and resources?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress directing or authorizing me to regulate tribal treaty lands and resources and directing or authorizing me to seek to expand tribal authority over those lands and resources.

Tribal communities, especially those in Alaska, have borne the brunt of the impacts of climate change. Several Native Alaskan villages have seen their entire way of life vanish as their homes have begun to erode away beneath their feet due to rising sea levels. Others have seen vital food supplies contaminated and sacred species of fish devastated by climate change.

126. How do you plan to protect native peoples from the effects of climate change?

If confirmed as EPA Administrator, I will adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment for all of our nation's citizens.

127.There are established consultation processes set up for Indian Nations. Will you have "meaningful" talks with them? Will your Agency be transparent in all dealings with Tribal Nations? Will you be honest and fair?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress requiring consultation processes for Indian tribes. I will engage all who have business before the EPA--including Indian tribes--in meaningful, transparent, honest, and fair processes.

Senator Sullivan:

1. Alaska's seafood industry is the nation's largest and is one of major employer's in the Alaska economy. In fact, over 60 percent of the nation's commercially harvested fishery resources are caught and processed in Alaska. Alaska's waters remain some of the cleanest and most pristine in the nation. Most of the seafood processors who process these great resources are located in remote areas of Alaska. Each of those processors hold Clean Water Act discharge permits for the small amounts of seafood waste produced during procession operations.

EPA has delegated the management of those discharge permits to the State of Alaska Department of Environmental Conservation as directed by the CWA. In spite of that delegation, EPA remains actively involved in deciding issues that impact the ability of the state agency to accomplish its mission. For example, the EPA is currently considering a rule change that would dramatically impact the operation of seafood processing plants in those remote areas. That change could result in some of those operations having to cease processing because they cannot comply with this rule change. The current rule has been in place for almost 35 years and there is no water quality problem in the locations to justify such a rule change.

Will you commit to reviewing this proposal and confer with the Alaska Congressional Delegation prior to making any change to the current status?

If confirmed, I will review this proposal and confer with the Alaska Congressional Delegation prior to changing the Clean Water Act regulations currently applicable to seafood processors.

The Alaska Department of Environmental Conservation has recently issued a draft Clean Water Act APDES permit to allow seafood processors to continue discharging small amounts of waste pursuant to the Clean Water Act. Unfortunately, EPA is objecting to some of the permit conditions. Again, they are doing so with no known water quality issues or public concern about those conditions. Rather, it appears as though the EPA does not approve of the manner in which our state agency is pursuing its obligations. As a former State of Alaska Department of Natural Resources Commissioner, I have great faith in the ability of state employees to make solid permitting decisions that will protect the state's environment while allowing operations and employment to continue that are compliant with the Clean Water Act.

2. Will you commit to reviewing these EPA actions and allow the state to issue its permit?

Yes, if confirmed, I will review EPA's actions as they relate to Alaska seafood processing permits. As I stated in my testimony, I support national standards and neighborhood solutions.

3. CERCLA Financial Assurance Requirements under Section 108(b):

On December 1, 2016 the Environmental Protection Agency issued a proposed rule under Section 108(b) of the Comprehensive Environmental Response, Compensation and Liability Act that would require hard rock mines to obtain additional and duplicate financial assurance requirements for copper, gold, iron, zinc and other hard rock mines. If this proposed rule is finalized, the financial assurance requirements would likely result in significant redundant costs for mining corporations. EPA has indicated that these regulations will expand to the oil and gas sector next. If confirmed would you work to ensure that any new rules or regulations are not duplicative of rules imposed by other federal agencies or states?

I am not familiar with the details of this rulemaking action and would not want to prejudge the issue prior to being confirmed as Administrator. However, if confirmed I will work to ensure EPA complies with all applicable legal requirements, including those related to analyzing impacts on small businesses, as part of this or any other rulemaking.

4. Section 404(c) of the Clean Water Act:

Do you believe that EPA's use of a preemptive veto of a project under section 404(c) of the Clean Water Act may create the opportunity for overreach by the agency and could undermine administrative process and the rule of law?

As I stated in my testimony, I believe that it is very important that federal agencies follow the appropriate legal process when taking any actions. Any preemptive action before the completion of a statutorily mandated process could undermine both the administrative process and the rule of law.

Senator Whitehouse:

1.Estuaries are important coastal habitats the sustain unique wildlife and plant species, serve as a nurseries for commercially important fish, buffer coastal communities from coastal storms, and filter water as it flows into the ocean. The EPA manages a network of 28 estuaries of national significance around the country. Last Congress, the National Estuary Program (NEP) was reauthorized through 2021 (Public Law No.114-162) in a bipartisan effort and charged with providing grants to support projects that address a number of problems facing estuarine and coastal environments, including seagrass habitat loss, harmful algal blooms, invasive species, and sea level rise. Coming from a non-coastal state, please describe in detail how you will acquaint yourself with 1) the NEP, and 2) coastal issues the NEP helps address.

If confirmed, I would expect to be briefed by EPA staff on the relevant statutory authority and any EPA programs established pursuant to this authority.

2. Each NEP must institute a Comprehensive Conservation and Management Plan (CCMP) to guide management and conservation decisions at the NEP. The effects of climate change on estuaries (i.e., saltwater inundation, increased rainfall-driven runoff, warming waters) are included in these CCMPs. Would you direct the NEPs to disregard the consequences of climate change in the CCMPs and other decision-making reports and tools?

If confirmed, I would expect to be briefed by EPA staff on the relevant statutory authority and any EPA programs established pursuant to this authority. If confirmed, I will follow all as enacted by Congress.

3. The Climate Ready Estuaries program coordinates with the NEP to educate managers on how to assess the effects of climate change on U.S. estuaries. It also provides recommendations and toolkits to help design climate change adaptation and risk identification capabilities. Will you direct the Climate Ready Estuaries program to remove any materials, cancel any webinars or presentations, or stop its coordinated work on climate change with the NEPs?

I am not familiar with the details of the specific program referenced in your question. If confirmed, I would expect to be briefed by EPA staff on the relevant statutory authority and any EPA programs established pursuant to this authority.

4.Marine debris is a growing problem around the world, with plastic debris being the most troublesome component due to its pervasiveness and persistence in the marine environment. The EPA is currently a co-chair of the federal Interagency Marine Debris Coordinating Committee. Under your direction, will the EPA to maintain a leadership role on the committee? How will you continue EPA's

coordinated work with NOAA and other agencies to prevent marine debris, conduct education outreach, and support research efforts?

I am not familiar with the details of the specific program referenced in your question. If confirmed, I would expect to be briefed by EPA staff on the relevant statutory authority to better understand EPA's role compared to those of other federal agencies on this issue.

5. EPA completed a State of the Science White Paper in December entitled "A Summary of Literature on the Chemical Toxicity of Plastics Pollution to Aquatic Life and Aquatic-Dependent Wildlife." The white paper identified four key areas where additional research is needed: 1) "the fate of chemicals both sorbed to and in plastics under differing environment conditions and within an organism after ingestion;" 2) "the relative role plastics play in chemical contaminant transfer to the tissues of organisms compared to other exposure pathways (aqueous dermal exposure and ingestion from natural prey);" 3) "the relative impacts of physical and chemical effects of ingested plastic particles on a wide range of organisms;" and 4) "whether the relatively high surface area of nanoplastics compared to microplastics and their potential to permeate membranes with increased retention time may increase their toxicological risk to organisms." What is EPA's role and responsibility in finding answers to these research questions?

I am not familiar with the report referenced in this question. If confirmed as Administrator, I would expect to be brief by staff to learn more about EPA's authorities and responsibilities before taking any actions referenced in the question.

6. Do you accept the science of ocean acidification that has directly connected the increase in human-caused carbon dioxide emissions with decreases in ocean pH?

First, I would note that the oceans are alkaline and are projected to remain so. Second, it is my understanding that the degree of alkalinity in the ocean is highly variable and therefore it is difficult to attribute that variability to any single cause.

7. Do you accept that the oceans are currently acidifying at a rate unprecedented in tens of millions of years?

First, I would note that the oceans are alkaline and are projected to remain so. Second, it is my understanding that the degree of alkalinity in the ocean is highly variable and therefore it is difficult to attribute that variability to any single cause. I am unaware of tens of millions of years of data on the pH of oceans.

8. Do you accept ocean acidification's predicted toll on coral reefs worldwide, important habitats for recreation, tourism, and commercial fishing?

I am aware that there is a relationship between the alkalinity of water and the calcification process that grows shells and reefs and that a decrease in alkalinity can impair that process.

9. What is the EPA's role in helping states and coastal communities mitigate or adapt to the challenges projected for the shellfish industries or the thousands of individuals that make their living off of this billion-dollar resource?

If confirmed, I will implement the laws that EPA is charged to administer. Under section 304 of the CWA EPA establishes water quality criteria to protect aquatic life, including shellfish. Certain EPA programs also include authorities that can support projects that may benefit the shellfish industry, including the National Estuary Program under section 320 of the CWA, the Long Island Sound programs under section 119 of the CWA, and the Chesapeake Bay program under section 117 of the CWA. Finally, section 319 of the CWA can support programs and projects to reduce runoff that may impact oyster beds.

10. What do you understand to be the consequences of sea level rise, increased storm surge, and warming ocean waters on coastal communities and estuaries?

If confirmed, I would expect to be briefed by staff on the impact sea level rise, storm surge, and warming ocean waters on consequences on coastal communities and estuaries.

11. Both states and some Members of Congress have for years criticized EPA for "one-size-fits-all approaches" and failing to give adequate flexibility to states. Yet in challenging EPA's Clean Power Plan, you attacked EPA for just that – giving states and regions too much latitude in administering the Clean Air Act. Wouldn't that take the Agency in the wrong direction?

I, along with the Supreme Court, which issued a stay against the Clean Power Plan in February 2016, believe the EPA exceeded the bounds of authority established by Congress in the Clean Air Act. In particular, the Rule attempted to supplant decisions traditionally preserved for the states, including the establishment of intrastate energy policies, for agency mandated alternatives that would have increased the price of electricity for local citizens and reduced reliability. The notion of flexibility in the Clean Power Plan was conceptual at best. If confirmed, I will work to achieve the objectives of EPA-administered laws consistent with the process and framework established by Congress abiding by the bedrock principle of cooperative federalism, which relies on meaningful collaboration between the EPA and the states to achieve important environmental objectives.

12.According to the EPA, it has been estimated that the Clean Air Act has a history of reducing air pollution, while creating jobs. Since 1970 aggregate emissions of common air pollutants dropped 72 percent, while the U.S. gross domestic product grew 219 percent. Total private sector jobs increased by 101 percent over the same period. In 2020, EPA estimates that the standards will create the equivalent of over 104,000 new jobs including 17,000 new jobs building renewable energy facilities and over 78,000 jobs in improving demand-side energy efficiency. Do you agree that regulations under the Clean Air Act since 1970 have grown the economy? If not, can you provide your analysis, materials used, and people you solicited to come to this conclusion?

The success of the Clean Air Act is a direct result of the important partnership between the EPA and the states in developing and implementing its key programs. State regulators best understand the needs and uniqueness of local environmental challenges while the EPA is well positioned to set and adjust environmental safeguards that continue to improve the nation's air, land and water and protect public welfare. If confirmed as Administrator, I will adhere to the clear directives and process set out by Congress so that the agency can once again focus on fulfilling its core mission.

13.In 2014, four Republican former EPA Administrators – Bill Reilly, Bill Ruckelshaus, Lee Thomas, Governor Christine Todd Whitman – testified before EPW that climate change is real, EPA regulations do not end up costing as much as industry initially estimates, and EPA has clear authority under the Clean Air Act to curb carbon pollution. In a 2015 interview with Climate Progress, Governor Whitman said: “The idea the EPA is a job killer is false” and with regard to the Clean Power Plan “what EPA did was to allow as much flexibility as frankly I’ve ever seen them be able to create in a regulation.”
Do you think that the former Administrators are correct in their assessment that regulations do not cost as much as industry initially estimates? If not, can you explain why not?

I am not sure what specific regulations the former EPA Administrators were referring to and accordingly lack sufficient information to answer the specific question. Generally speaking, if confirmed, I will work to ensure that EPA regulatory actions accurately account for the costs and benefits across all impacted stakeholders.

14.Carbon Capture Utilization and Storage is a bipartisan policy area that I am working on with my Republican colleagues. Senator Graham and I visited the world’s first Carbon Capture project in Canada that has been operational since 2014. In 2016, SaskPower successfully captured and injected 800,000 metric tons of carbon dioxide and the facility has operated nearly 85 percent of the time. Recently, Petra Nova in Texas became the first United States first post-

combustion carbon capture project to begin operation. SaskPower and Petra Nova are listed in the Clean Power Plan as viable options for helping states reach their Clean Power Plan targets. Do you believe that CCUS is a viable technology for reducing emissions from power plants?

I believe CCUS technology can play an important role in the development of our future coal fleet, however it is not yet a viable option. Both the SaskPower and Petra Nova plants referenced in your question relied on significant support from their respective governments to become operational. Forcing private businesses to use unproven, expensive technology would be unfair, which is why Congress provided for protections against the EPA embracing such a practice in the Energy Policy Act of 2005.

15.In Rhode Island we have BioProcess H2O in Portsmouth and Agcore Technologies, LLC in Cranston that do carbon utilization—the conversion of carbon dioxide into useable products and fuels. These technologies not only capture carbon pollution, but can ease the demand of over-fishing by offering an alternative source of oils and protein. The carbon pollution from the algae production is creating and delivering algae-derived fish and animal feed. These utilization technologies are available now and are reducing carbon emissions. We also have retrofitted coal facilities using CCUS (SaskPower and Petra Nova). Do you believe that CCUS should be pursued as an emission reduction technology for the power sector and industrial sector?

Congress established clear directives the Administrator must consider when setting new source performance standards under the Clean Air Act. These directives are not technology specific, but instead require the Administrator set standards based on the best system of emission reduction that is technically feasible, achievable, adequately demonstrated and considerate of costs. If confirmed, I will follow the Clean Air Act process respective of the framework set by Congress.

16.According to the U.S. Energy Information Administration, in 2014, Oklahoma ranked fourth in the nation in net electricity generation from wind, which provided nearly 17% of the state's net generation. The American Wind Energy Association also estimates that wind power saved electricity customers in Oklahoma more than $1.2 billion in 2013 and a study from the Oklahoma State University found that wind companies have paid close to $134 million in property taxes to the state since 2004, producing revenues for the state. Do you agree that wind energy has saved Oklahomans money and brought revenues to the state? Do you agree that wind energy is an important part of our future clean energy economy?

As I discussed at my nomination hearing, 17 percent of Oklahoma's electricity is generated from wind, and as a state, we have a heavy emphasis

on renewables in addition to oil and gas. Wind energy can be part of successful, diverse, energy portfolio.

17.AWEA also found that the wind farms provided an additional $2.8 billion in societal benefits each year to Southwest Power and that the wind power helped save 3 billion in gallons of water in Oklahoma in 2013. The Windfall Coalition, a group created by Continental Resources Inc. founder and CEO Harold Hamm is trying to get rid of the Oklahoma's incentives for wind energy, as they believe it is a mature technology and doesn't need incentives. Do you support the Coalition's efforts?

The decision on how to address state tax incentives for Oklahoma lies with the State Legislature and, ultimately, the Governor.

18.According to the Wind Energy Association and Solar Energy Industries Association, in 2016 the United States had 400,000 wind and solar jobs–310,000 solar, 88,000 wind. In contrast, according to 2016 DOE Energy Employment Report, employment in oil and gas extraction was 388,000 and 53,000 in coal mining. The Energy Information Administration (EIA) just found that coal production continued to decline in 2016 down nearly 17% from 2015 production. Its Annual Energy Outlook in 2017 reports that declining cost of natural gas is still encouraging utilities to shift away from coal over the long-term. The change is expected under our existing policies regardless of the Clean Power Plan. Do you believe that dismantling the Clean Power Plan and cutting back on environmental regulations will bring back the coal industry? Specifically, will it bring back coal jobs and make coal the dominate source of electricity in the U.S. again?

I am unable to say whether United States utilities and electric cooperatives would or would not return to coal as a predominant portion of their fuel mix if the Clean Power Plan were revoked or other regulations were cut back. The federal Energy Information Administration projects that coal will be an important part of the American fuel mix for the foreseeable future.

19.The Clean Air Act requires the EPA to consult with an independent scientific body, the Clean Air Scientific Advisory Committee, on air quality standards. Congress has also directed EPA to establish and seek advice from an independent Science Advisory Board. Do you intend to deviate from the current appointment process for this advisory committee? Will you disclose professional and political affiliations and political contributions of members that you appoint to the committee? Do agree to maintain the existing structure of this committee and current rules that are in place for the decision making of this committee?

I understand and appreciate the important role of EPA's independent scientific bodies. I have no first-hand knowledge of the existing processes or rules of the advisory committees referenced in the question and, if

confirmed, I expect to learn more about these committees and commit to follow applicable legal authorities.

20.Improved environmental quality and economic growth aren't mutually exclusive. Since 2009, the states participating in the Regional Greenhouse Gas Initiative (RGGI) have seen carbon pollution fall by 18% while their economies grew by 9.2%. Emissions in the other 41 states fell by 4% while their economies grew by 8.8%. Do you agree that RGGI has developed a successful model for growing our states' economies and cutting carbon pollution at the same time? Will you commit to maintaining funding levels for EPA grant programs that fund state level initiatives to reduce their emissions?

While the agreement between the states participating in RGGI appears to be successful, what works for the Northeast may not achieve the same success in, for example, the Southwest. If confirmed, I look forward to working with EPA's budget staff and program offices to develop a budget focused on protecting human health and the environment for all populations. I will work to ensure that the limited resources appropriated to EPA by Congress are managed wisely in pursuit of that important mission and in accordance with all applicable legal authorities.

21.EPA operates multiple networks to monitor compliance with the Clean Air Act's National Ambient Air Quality Standards and to track hazardous air pollutants regulated under the act. These networks include, among others, the State and Local Air Quality Monitoring Network, the National Air Monitoring Network (which targets areas of high population density with a variety of air pollution sources), Special Purpose Monitoring Stations (used for short-term studies and other purposes), Photochemical Assessment Monitoring Stations (used to measure pollutants that contribute to ground-level ozone, a harmful air pollutant), and the National Air Toxics Trends Stations. During our meeting you mentioned a desire to increase resources for the Office of Research and Development, specifically mentioning monitoring equipment in non-attainment areas. What is your vision for monitoring? Do you plan to increase funding at EPA for these important monitoring networks?

I agree that monitoring compliance with the National Ambient Air Quality Standards is important to EPA's mission because it provides EPA with concrete and policy relevant data concerning the attainment status of communities throughout the country. If I am confirmed as Administrator, I expect to assess the Agency's resource usage and regulatory priorities and increased funding for air monitoring will be an area where I will consider deploying additional resources.

22.Section 105 grants provide significant funding to states for implementing the Clean Air Act requirements. Beginning in FY 2017, EPA is proposing a new formula for how the 105 grants are distributed to each of the regional offices (and subsequently to the states). Region 1, where Rhode Island receives its funding from, will receive a smaller percentage of the total 105 funds under this revised

formula. EPA is proposing an implementation approach that would limit regional losses to no more than 2.5% from each region's prior year amount. Region 1 will lose 2.5% for, at least, each of the next five fiscal years and possibly ten years, under this proposed approach. Will you commit to not implementing the new formula until and unless there is sufficient overall funding such that no Region will see reduced funding from the prior year's amount?

If I am confirmed as Administrator, I will consider this and other resource allocation issues and will use my best efforts to ensure that regional funds are allocated equitably.

23.The National Environmental Policy Act has been a bedrock of our nation's environmental laws, ensuring that the environmental and community impacts of major federal actions are properly understood, that alternatives are appropriately considered, and that the public has the opportunity to actively participate in the environmental review process. What is your view of NEPA and its associated regulations, and will you commit to ensuring that the law, including the processes it establishes to ensure meaningful public participation and informed decision making, is in no way weakened?

I understand the National Environmental Policy Act established the White House Council on Environmental Quality and generally a process for considering the environmental impacts of federal actions. If confirmed, I will faithfully execute all applicable laws as Administrator.

24. The EPA's Office of Civil Rights has a long history of failing to comply with the Civil Rights Act of 1964. To date, the office has never found a violation of Title VI, which prohibits recipients of federal funding from acting in discriminatory ways. It has also allowed complaints to linger for years without a response. What will you do to ensure compliance by the EPA with the Civil Rights Act and to improve the track record of the Office of Civil Rights?

If confirmed as Administrator, I would expect to be briefed by staff and review any recommendations by the Office of Inspector General before taking action on this issue.

25. EPA and States are co-implementers of many of our federal environmental laws and programs. We believe that the tools used to implement these programs should be updated, particularly at the State level, to ensure effective implementation. Are there approaches, systems, or tools that you have considered to improve these programs and investments you would like to make in improvements that would benefit both federal and state environmental programs?

As I testified in the hearing, I have pursued opportunities to address interstate environmental quality matters. One of the examples I have highlighted is the work that Arkansas Attorney General Dustin McDaniel and

I took to address an enforceable water quality standard between Arkansas and Oklahoma. I have also discussed how Texas should be responsible when air quality issues affect Oklahoma and my experience with that. When negotiations among and between states breakdown EPA has a role to set environmental standards. However, that is should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA.

26. Under Section 111(b) of the Clean Air Act ("CAA"), in 2012, EPA issued New Source Performance Standards (NSPS) to limit emissions of VOCs from new, reconstructed, and modified sources in the oil and gas industry and finalized the rule in August of 2015. EPA developed a regulatory impact analysis of the regulation that estimated that the final standards for new and modified methane sources will yield benefits of $690 million in 2025, which will outweigh estimated costs of $530 million in 2025. Do you disagree with EPA's regulatory analysis? If you do, can you specify what information and analytics you use to justify your position?

I am familiar with the rule and understand that regulatory impact analyses play an important role in the EPA's rulemaking process. I also understand certain statutes, executive orders, and federal guidance documents inform the development of regulatory impact analyses. If confirmed, I commit to work with EPA staff to ensure regulatory impact analyses follow the relevant legal authorities.

27.In 2009, as mandated by the Supreme Court and backed by a robust scientific and technical review, the Environmental Protection Agency produced the Endangerment and Cause or Contribute Findings for Greenhouse Gases (GHGs) under Section 202(a) of the Clean Air Act. It found six greenhouse gases - carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride - "taken in combination endanger both the public health and the public welfare of current and future generations." You challenged the endangerment finding in court and lost. Do you agree with the EPA's finding? Do you commit to not take any steps as Administrator to narrow the scope or otherwise weaken this finding?

If confirmed, I will fulfill the duties of the Administrator consistent with Massachusetts v. EPA and the agency's Endangerment Finding on Greenhouse Gases respective of the relative statutory framework established by Congress. To my knowledge, there is nothing currently

pending before the EPA that would require I take any additional actions on the Endangerment Finding and if there were, it would not be wise to prejudge the outcome.

28.There appears to be clear benefit from the regulation of methane emissions from the oil and gas sector. Can you discuss your views on the techniques used in the regulatory impact analysis for the NSPS for new oil and gas wells to quantify the cost and benefits of the regulation? Do you commit to maintaining the same metrics like emissions reductions, monetized climate benefits and health co-benefits, economic effects, employment benefits when designing new rulemakings?

I am familiar with the role and understand that regulatory impact analyses play an important role in the EPA's rulemaking process. I also understand certain statutes, executive orders, and federal guidance documents inform the development of regulatory impact analyses. If confirmed, I commit to work with EPA staff to ensure regulatory impact analyses follow relevant legal authorities.

29.The regulatory impact analysis for the methane emissions estimates that the rule could also reduce 210,000 short tons of ozone-forming VOCs in 2025, along with 3,900 tons of air toxics, such as benzene, toluene, ethylbenzene and xylene. Industry frequently talks about the costs to polluters of meeting public health standards while ignoring the costs to people harmed by the effects of pollution like the formation of ozone. Do you believe EPA should look at only the costs to the polluters when undertaking its regulatory impact analysis? Should the costs to families, such as children sent to emergency rooms due to asthma attacks triggered by smog, be included in the analysis? If so, should those costs be given a different weight than those claimed by industry?

I am familiar with the rule and understand that regulatory impact analyses play an important role in the EPA's rulemaking process. I also understand certain statutes, executive orders, and federal guidance documents inform the development of regulatory impact analyses. If confirmed, I commit to work with EPA staff to ensure regulatory impact analyses follow relevant legal authorities.

30.As you know, methane emissions from industry are as much as 90% higher than EPA had initially estimated, as has been demonstrated by academic peer-reviewed studies. New information is currently being sent to EPA, as part of the Information Collection Request (ICR), on methane emissions from existing sources. How do you plan to use the information collected? How do you plan to lead the agency in addressing this significant spike in known methane emissions?

Section 114 of the CAA provides the Administrator of the EPA to collect emissions data from existing sources. If confirmed, I will review the ICR

currently underway regarding methane emissions and examine the submitted data to determine the appropriate next steps.

31.You have been quoted previously, "my concern is that EPA is employing its flawed methodology in order to rationalize new and unjustified federal regulations to solve a methane-emissions problem that simply does not exist." Science has shown us that methane's effect on climate change is up to 34 times greater than that of CO2 when averaged over a 100-year time period and even greater when considered over the first 20 years after it is emitted. Additionally, a recent Geophysical Research Letter article found that the U.S. could be responsible for the 30% to 60% increase in atmospheric methane emissions since 2002. Can you clarify what you mean that a methane-emissions problem does not exist? Do you refute the argument that human's development of oil and gas has led to more methane emissions? The U.S., Canada, and Mexico have all pledged to work together in reducing methane emissions from the oil and gas sector between 40% to 45% by 2025. If you are confirmed as Administrator, do you intend to work with the State Department to honor our international methane commitments?

It is my understanding that even EPA's revised methane data shows a decrease in methane emissions from oil and natural gas development since 2005, during a time period of a large increase in domestic energy development. EPA's data is based on a number of assumptions that, if confirmed, I will review carefully prior to making any prejudgments of future actions.

32.The State Department and others have assessed life-cycle emissions for various crude oils and found tar sands crude is one of the dirtiest crudes on the planet from a GHG perspective. Do you agree tar sands crude has significantly higher life-cycle emissions than Oklahoma Sweet and most other crude oils?

The lifetime emissions of any energy source should be considered in the context of necessary extraction techniques as well as transportation of the fuel, among other issues. For example, transporting crude via pipeline clearly creates fewer emissions than transporting it via other sources in terms of fossil fuel energy. Without knowing the specifics of all of these factors in a given instance, it is difficult to identify which sources may result in greater emissions.

33.The State Department conducted a comprehensive economic and environmental analysis of the project and determined that under the current market conditions and those projected for the next few years, Keystone XL is key to getting tar sands crude to market. The EPA agreed with this conclusion. Do you agree? If not, why?

I am not familiar with the State Department study but with over 2.4 million miles of pipeline in the United States as well as other transportation methods for moving goods and energy resources it is my understanding that oil sands development has continued despite the lack of approval for the Keystone XL's cross-border permit.

34.Many of Keystone XL's proponents suggested that rejecting the project would simply divert more tar sands to rail to the Gulf Coast. Were you aware that according to the Energy Information Administration, shipments of Canadian crude by rail to the Gulf Coast have declined since Keystone XL was rejected, from 64,000 barrels per day in 2015 to 45,000 barrels per day in 2016?

I am not familiar with that particular EIA data.

35.The State Department found that the emissions associated with the production, refining and combustion of the tar sands in Keystone XL would result in 147 to 168 million metric tons (MMT) CO2e per year (equivalent to the emissions from as many as 35.5 million cars). The State Department also found that by displacing conventional crude with dirtier tar sands, the project would result in 1.3 - 27.4 MMT CO2e of additional emissions (equivalent to the emissions from as many as 5.7 million cars). Do you agree? If you disagree, please identify any research studies or experts you have consulted to form your opinion.

I am familiar with multiple State Department determinations that the Keystone XL pipeline would not significantly impact climate change.

36.In a recent study, the National Academy of Sciences (NAS) concluded that diluted bitumen—the type of crude that would be primarily transported by Keystone XL—has a series of properties that, taken together, make tar sands spills of greater concern for spill responders than spills of other, commonly transported crude oils. Both EPA and the Coast Guard advised the scientists on the NAS committee. Do you agree with their conclusion that tar sands spills pose greater risks and challenges for spill responders than other crude oil spills? If you disagree, please identify any research studies or experts you have consulted to form your opinion.

Diluted bitumen has been transported safely by pipeline in the United States for more than 40 years. It is my understanding that he NAS report did not infer that the Keystone XL pipeline posed significant concerns or that diluted bitumen could not be safely transported via pipelines or other forms of transportation.

37.The NAS committee also found that there are no known, effective strategies for recovering tar sands bitumen than has been spilled in a waterbody and sunk. Do

you agree? If you disagree, please identify any research studies or experts you have consulted to form your opinion.

I have no information in supporting or challenging this assertion.

38. The NAS committee also found that regulations and agency practices do not take the unique properties of diluted bitumen tar sands into account, nor do they encourage effective planning for spills of diluted bitumen. Do you agree? If you disagree, please identify any research studies or experts you have consulted to form your opinion.

EPA is not the primary regulator of pipelines, this question would more appropriately be posed to the Pipeline and Hazardous Materials Safety Administration.

39.The State Department's EIS found that Keystone XL's leak detection system is unlikely to identify leaks smaller than half a million gallons a day. Given the increased risks of tar sands spills and Keystone XL's proposed route through the Ogallala aquifer, should the EPA play an active role in ensuring that the water our nation's ranchers and farmers rely on is protected?

EPA should play an active role in ensuring protection of our domestic water supply.

40.The Environmental Protection Agency (EPA) has raised concerns regarding the effect that Keystone XL and the tar sands it carries will have on the air quality of Gulf Coast refinery communities. Do you believe that the EPA should take a role to ensure that projects like Keystone XL do not put our communities at risk of asthma, cancer and other serious illnesses?

I am aware that EPA has a role in implementing the National Environmental Policy Act, and other statutory responsibilities as it relates to infrastructure projects like pipelines. If confirmed as Administrator, I will work to faithfully execute the laws EPA is responsible for administering in order to protect human health and the environment for all Americans.

41. Do you believe that Native Americans, landowners, farmers, ranchers and communities affected by projects like Keystone XL should have the opportunity to have their concerns considered and address as part of an environmental review process?

Yes.

42.Based on the climate change implications, spill potential, and other factors, the Obama Administration determined Keystone XL isn't in our nation's best interest. Do you agree? If not, why?

While the Obama Administration failed to grant the cross-border permit required to complete the Keystone XL pipeline, much of the pipeline was built in accordance with applicable laws and permits both federal and state. A large portion of the Keystone XL pipeline safely operates through Oklahoma and I believe that safely and efficiently moving natural resources through the country is very important.

43.If confirmed, do you commit to ensuring EPA fully considers and articulates the environmental implications, based on the best-available science and in accordance with EPA's authority under the National Environmental Policy Act, when determining how to proceed on the Keystone XL Pipeline and any other projects?

If confirmed, I will faithfully execute all applicable laws as Administrator.

44.According to EPA 49% of coal units lack the most advanced NOx controls (Selective Catalytic Reduction systems or SCR). Several units that have SCR or other NOx emission control technology installed are not optimizing their use. For example, these six coal units have SCR installed but are not using it to optimize NOx reductions. In 2015, these facilities' NOx emissions were significantly higher than 2009 because they are not using the systems they have in place to reduce NOx. EPA estimates it costs facilities $500/ton NOx pollution to optimize the reduction of NOx from an SCR and $1300/ton to restart a SCR unit. Do you think these facilities should be regulated to keep on their NOx controls on?

If I am confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act. That includes evaluating your concerns regarding the use of post-combustion NOx controls if and when they are presented to me in a matter before the Agency.

45.Industry frequently talks about the costs to polluters of meeting public health standards while ignoring the costs to people harmed by the effects of pollution. In Rhode Island these effects cannot be ignored as we seen them through rising seas and bad air days for Rhode Islanders. Because Rhode Island ozone air quality issues are largely due to transported emissions from upwind states leading to ozone formation that pollutes the air and lungs of people in downwind states like mine. Over the past two years in Rhode Island, the 8-hour standard ozone standard exceeded 0.07 ppm 10 times in 2015 and 6 times in 2016. With respect

to ozone, do you believe EPA should look at only the costs to the polluters when undertaking its regulatory impact analysis? Should the costs to families, such as children sent to emergency rooms due to asthma attacks triggered by smog, be included in the analysis? If so, should those costs be given a different weight than those claimed by industry?

Under the Clean Air Act, while setting NAAQS for criteria pollutants, cost cannot be considered. This is because human health is the primary focus of these standards. EPA's regulatory impact analyses have typically addressed what you describe as "costs to families" in the benefits portion of the analysis (i.e., the value of public health and environmental effects avoided).

46.EPA's independent science advisers, leading medical groups like the American Medical Association, American Academy of Pediatrics, American Thoracic Society, American Lung Association, American Heart Association, and leading public-interest groups such as the NAACP called for a 60 ppb standard instead of the 70 ppb standard EPA finalized last year. What was your scientific basis for concluding that the old standard, 75 ppb, was sufficient to protect public health? Can you explain what sources you consulted? What groups you discussed this with?

Due to a number of factors and steps taken by the previous Administration, implementation of the 2008 ozone NAAQS did not begin until years later. States had only recently begun to implement the 75ppb standard for ground-level ozone when EPA changed it; considering that approximately 40 percent of the country was in nonattainment for the 2008 standard, I believe EPA should focus on helping those areas meet that standard. Oklahoma's challenge to the most recent ozone NAAQS was based, in part, on concerns that EPA has not adequately assessed the available science. It is EPA's obligation to properly justify any change to an existing NAAQS.

47.Rhode Island ozone air quality issues are largely due to transported emissions from upwind states leading to ozone formation that pollutes the air and lungs of people in downwind states like mine. The Rhode Island Department of Environmental Management told me that there remain a number of power plants located in upwind states that have pollution control equipment installed to reduce nitrogen oxides emissions that either do not use that equipment during the ozone season or do not use it in a way that optimizes the reduction of nitrogen oxides emissions. Why would this be the case?

I am unfamiliar with the specifics as to why certain sources upwind of Rhode Island may not be using control devices in particular ways. CSAPR and related rules are designed to address emissions from upwind states

that significantly contribute to nonattainment in downwind states. EPA presumably considered emissions from the upwind power plants referenced in your question in formulating the existing requirements.

48.Each year, RIDEM issues “ozone alerts” to warn vulnerable Rhode Islanders to stay indoors to protect their health on hot days when air quality is poor. This is a problem that cannot be solved in the state because masses of polluted air are coming from upwind. The health of Rhode Island citizens depends on a strong federal EPA program to impose pollution controls on NOx, particulates, and other mobile and stationary sources of pollution. What will you do to support the federal air quality programs? Will you commit to keep existing funding levels for the clean air programs that impose and regulate pollution controls and protect Rhode Islanders?

If confirmed, I will work to administer the statute and applicable federal programs in accordance with Congressional intent. I look forward to working with EPA's budget staff and program offices to develop a budget focused on fulfilling EPA's mission to protect human health and the environment for all populations. I will work to ensure that the resources appropriated to EPA by Congress are managed wisely in pursuit of the Agency's important mission and in accordance with all applicable legal authorities.

49.Ozone levels in RI are strongly affected by the transport of pollutants emitted in upwind states into RI. Although RI is currently designated as an unclassifiable/attainment area for the ozone NAAQS, monitored ozone levels in the State still exceed the standard on a number of days in the summer months. The Ozone Transport Region (OTR) states, including RI, have implemented a number of programs to reduce pollutant emissions from mobile and stationary sources in their states, as required by the Clean Air Act (CAA). RI and other OTR states were required by the CAA to implement emissions control programs not mandated in upwind states, resulting in increased energy costs and an inequitable economic burden to industry in the OTR states. Any additional emissions reduction programs that could be adopted in the OTR to further reduce ozone levels in the region would be less cost-effective than implementing OTR controls in upwind states and would further this inequity. What steps will you take to address the transport of pollutants emitted in upwind states that contribute to exceedances of the ozone standard in RI and other OTR states?

Interstate transport of pollutants is a concern. An upwind state that contributes to a downwind state's inability to meet air quality standards should take responsibility. It is EPA's responsibility to address such issues, and, if confirmed, I look forward to working on this issue.

50.The intent of the establishment of the RFS in the Energy Policy Act was to enhance U.S. energy security by displacing some imported petroleum with domestically produced ethanol. In your estimation, has the RFS reduced imports of foreign oil?

As Congress indicated in the Energy Independence and Security Act of 2007, domestic production of renewable fuel contributes to our nation's "greater energy independence and security."

51.President-elect Trump has said, "The RFS, which is Renewable Fuel Standard, is an important tool in the mission to achieve energy independence for the United States. I will do all that is in my power as president to achieve that goal….Energy independence is a requirement of America's to become great again. My theme is "Make America Great Again"; it's an important part of it." Do you hold the same beliefs as President-elect Trump about the RFS? If not, can you be specific where your views differ on this policy?

As Congress indicated in the Energy Independence and Security Act of 2007, domestic production of renewable fuel contributes to our nation's "greater energy independence and security." To that end, if confirmed, I will work to administer the RFS program in accordance with statute and Congressional intent.

52.Agriculture Secretary Tom Vilsack, who has been supportive of the RFS, made a statement in Bloomberg Markets, "There's going to be a lot of saber-rattling, but it supports too many jobs and too much rural infrastructure is set up for it. The Renewable Fuel Standard is solid." Do you agree that the RFS has supported jobs . and helped develop our rural infrastructure?

Yes.

53.You have been quoted, "It should come as no surprise that I am working diligently with Oklahoma energy companies, the people of Oklahoma and the majority of attorneys general to fight the unlawful overreach of the EPA and other federal agencies." Do you think that the renewable fuel standard is one of those unlawful overreach regulations from the EPA? Can you explain in more detail the type of overreach you are talking about when it comes to the EPA and other federal agencies?

The RFS was first enacted by Congress in 2005 and updated and expanded in 2007 to promote domestic production and achieve energy independence. Therefore, I do not consider it to be "one of those unlawful overreach regulations from the EPA." The EPA needs to better administer this program

to provide involved entities with the certainty they need, and, if confirmed, i will administer the RFS in accordance with statute and Congressional intent.

54. You have been quoted in the press saying, "The American people are tired of seeing billions of dollars drained from our economy due to unnecessary EPA regulations, and I intend to run this agency in a way that fosters both responsible protection of the environment and freedom for American businesses." Do you see the RFS as one of those unnecessary EPA regulations that is draining money from our economy?

The RFS was first enacted by Congress in 2005 and updated and expanded in 2007 to promote domestic production and achieve energy independence. The EPA needs to better administer this program to provide involved entities with the certainty they need, and, if confirmed, I will administer the RFS in accordance with statute and Congressional intent.

55.The RFS has been a significant factor in growing the volumes of biodiesel and other advanced biofuels. In light of the uncertainty surrounding the Biodiesel Tax Credit and the increased volume of biodiesel imported from Argentina, do you intend to support the RFS and continue to increase the Renewable Volume Obligations (RVOs) that provide the long term market stability to support investment and increase the jobs available in a growing domestic industry? Do you commit to making all economic and pricing models used in developing the annual blending targets under the RFS available to the public? If you come across models that were used in the past that were left out of the public record, will you make those available? Do you intend to use EIA data in conjunction with your administration of the RFS? Are there other data sources that you intend to rely on?

If confirmed, I will administer the RFS in accordance with statute and Congressional intent. There has been significant investment that has gone into the infrastructure following the enactment of the RFS in 2005, and these individuals need certainty that the EPA has failed to provide in the past, from the trading program to monitoring the fraud in the system, to faith that the program will be enforced and administered as Congress intended. The Clean Air Act requires the Administrator of the EIA to submit annual projections of transportation fuel, biomass-based diesel, and cellulosic biofuel to be sold or introduced into commerce into the United States, and I will commit to continue relying on EIA data projections to set annual volume obligations.

56.It has been estimated that the RFS supports roughly 850,000 jobs across the country and many of those jobs rely on certainty from the EPA setting its volume

requirements for the renewable fuels each year. If confirmed to serve as EPA Administrator, will you carry out the Energy Policy Act as passed in 2005 and updated in 2007, particularly adopting the statutory volume requirements for renewable fuels?

Section 211(0) of the Clean Air Act contains enumerated tables of applicable target volumes of renewable fuel for calendar years 2006 through 2022. If confirmed, I will work to administer the RFS program in accordance with statute and Congressional intent.

57.The RFS has driven investment in low carbon biofuels in our country. Are you committed to working to achieve the gains in advanced and cellulosic biofuels promised under the statue?

Section 211(0) of the Clean Air Act contains enumerated tables of applicable target volumes of renewable fuel, specifically cellulosic and advanced, for calendar years 2006 through 2022. If confirmed, I will work to administer this program in accordance with statute and Congressional intent.

58. Following the Sixth Circuit's stay of the Clean Water Rule in 2015 pending further court action, the EPA and Army Corps issued a joint memorandum that states the agencies 1) "look forward to vigorously defending the merits of the Clean Water Rule, which we continue to believe is fully consistent with the law and based on the best available peer-reviewed science," 2) "intend to move forward with measures to improve implementation of the national CWA section 404 program that were announced concurrent with the Rule," 3) will continue their commitment to improve transparency through making section 404 decisions public and making a number of other improvements to the section 404 permit program, 4) strengthen coordination between the agencies, and 5) "work closely with the Department of Justice to ensure [their] actions remain consistent with the stay." If confirmed as EPA Administrator, will you uphold the tenets of this memorandum? If not, what would you change in the EPA's pursuance of clean water and cooperative relationship with the Army Corps of Engineers? Will you commit to working collaboratively with the Army Corps under its corresponding section 404 and other Clean Water Act authorities to ensure clean water for all Americans? If confirmed as EPA Administrator, would you advise DOJ to stop defending the rule and instead ask the court to set aside the rule and send it back to the agencies for reconsideration? Do you disagree with the process the EPA used in developing the Clean Water Rule, which involved incorporating the best available science and feedback received through around 400 public meetings and over 1 million public comments?

If confirmed I will support efforts of the Corp to improve transparency through making section 404 decisions public and to strengthen

coordination between the agencies. However, I do not support the WOTUS rule and do not believe that it is consistent with the Clean Water Act. Accordingly, if confirmed, I will take appropriate steps, in accordance with the Administrative Procedure Act, to withdraw the rule and replace it with a rule that is within the authority granted to EPA and the Corps under the Clean Water Act and is promulgated in compliance with the APA, the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, the Unfunded Mandates Reform Act, Executive Order 13132 on Federalism, and Executive Order 12866 on regulatory planning and review, procedural requirements that I believe were not met in the promulgation of the WOTUS rule. If confirmed, I also would inform the appropriate courts of these actions.

59. In the wake of SWANCC, Rapanos, and other decisions, how would you shape regulations and internal EPA policy to provide more certainty for regulated parties on how the agency will make section 404 permitting decisions?

EPA does not make 404 permitting decisions. Section 404 of the Clean Water Act grants that authority to the Secretary of the Army, who carries it out acting through the Corps of Engineers. Under section 404(c) EPA has the authority to veto a Corps-issued permit if it EPA determines the discharge will have unacceptable adverse effects. If confirmed, I will seek to clarify when it is appropriate for EPA to use its 404 veto authority.

60.If you choose to pursue a renewed rulemaking to clarify "waters of the United States," will you follow the same procedure and commit to at least the same level of outreach the EPA undertook in developing the Clean Water Rule in developing a new rule?

If confirmed, I will ensure that the outreach performed by EPA is not only extensive, but meaningful.

61.Extreme weather events put water and wastewater infrastructure at risk. In Rhode Island, Super Storm Sandy almost caused Narragansett Bay to breach the water supply for the City of Newport. The March 2010, storms flooded the Pawtuxet River, overtopping the Warwick Wastewater Treatment facility and sending untreated wastewater into surrounding neighborhoods, the River and Narragansett Bay. What do you see as EPA's role in helping cities and towns respond to these increasingly frequent extreme weather events and ensure the safety of the nation's critical water and wastewater infrastructure?

EPA provides water and wastewater infrastructure assistance through the Clean Water Act and Safe Drinking Water Act revolving loan funds and through the new WIFIA loan program.

62.What role can green infrastructure play in helping municipalities manage and prevent sewer overflows and other storm water and wastewater treatment concerns?

Green infrastructure is a neighborhood solution that can help meet national standards.

63.In making recommendations for revisions to state shares of Clean Water State Revolving Fund (CWSRF) money, do you support increasing allocations for states with the oldest infrastructure?

No. I am not aware of any analysis that suggests that age of infrastructure is an appropriate metric that predicts funding needs for wastewater infrastructure. It was not suggested in the May 2016 Report to Congress from EPA on its review of the CWSRF allotment formula, required by section 5005 of the Water Resources Reform and Development Act (WRRDA) of 2014. I also note that the formula is established by law and only Congress can change it.

64.Sea level in Newport, RI has risen over 10 inches since 1930, Rhode Island experiences significantly more rain and more intense storms than in past decades, and Superstorm Sandy and the Flood of 2010 destroyed roads and buildings. The RI Department of Environmental Management is finalizing an assessment of the vulnerability of each wastewater treatment facility in the state from damage due to flooding and storm surge. Will states have the ability to choose to use State Revolving Fund monies to finance resiliency projects under the next Administration? What restrictions, if any, would you foresee putting on the use of these funds for this purpose?

The eligibilities for the use of CWSRF funds are established in the Clean Water Act. If confirmed, I will manage that program as authorized by Congress.

65.States rely on EPA funding, technical assistance, and other resources to help keep the air, water, and soil clean, particularly through the State and Tribal Assistance Grants and Categorical Grants. State agencies like the RIDEM have delegated authority to carry out federal pollution control laws. Based on what you know about the EPA, do you believe states and tribes are getting enough money from the federal government to support clean air and clean water investments and

enforcement? If confirmed, will you commit to ensuring states and tribes continue to receive at least the amounts of funding they do now? Are there programs that support states and tribes that you would consider cutting or increasing financial support for?

I support the federalism structure of our federal environmental laws, which includes state delegation or authorization of most programs, and EPA STAG grants to help states implement those programs. If confirmed, I will seek to reduce the workload on states by refraining from adding more and more requirements for them to implement and to instead allow them to focus on implementing core environmental programs relating to air, water, and waste. I am not familiar with the development of EPA's FY 2018 budget so I cannot comment on that proposal, but please be assured that I support funding for states.

66.A 2016 Associated Press study of EPA data identified Providence, RI as "one of the largest [drinking water systems] in the country to exceed a federal lead standard since 2013." Almost 20 percent of all retail customers' homes were found to be serviced by utility-owned lead lines. EPA's lead limit before corrective action is required is currently 15 parts per billion. The city's water supply was found to be over this limit six times since 2010. Providence's water hit 30 parts per billion in tests in 2009 and 2013. Providence has shown marked improvement since those peaks, but there is still millions of dollars of investment needed in the city's drinking water infrastructure to reduce the risk of lead. What role do you believe EPA should play supporting these investments?

I would urge the City to explore funding opportunities available from the new WIFIA loan program, which is implemented by EPA.

67.What have you done in your career to demonstrate lead contamination of drinking water will be a priority if you are confirmed as EPA Administrator? Please cite specific examples.

I am concerned about children's health, but the Oklahoma Department of Environmental Quality and the Oklahoma Water Resources Board have primary responsibility for implementing and enforcing environmental laws in Oklahoma, so issues relating to lead contamination of drinking water would fall within their responsibilities. If confirmed as Administrator, I will faithfully execute all environmental laws enacted by Congress, including the Safe Drinking Water Act.

68.In an interview with the Providence Journal last April, Rhode Island's chief of the Center for Drinking Water Quality at the RI Department of Health stated that "[i]n the last monitoring period, we had six small water systems exceed the lead action level. Five were school systems." These systems were brought back into

compliance, but the concern remains. How will you prioritize lead abatement in schools and among the most vulnerable populations?

If confirmed, I will fully carry out EPA's authorities, including its authorities under the Safe Drinking Water Act. I note that in the WIIN Act, Congress amended the Safe Drinking Water Act to authorize funding for voluntary school lead testing. If confirmed and if funding is provided, I will carry out that program.

69.EPA's regulations on lead in drinking water, otherwise known as the Lead and Copper Rule, were last revised in 2007. In its October 2016 white paper on revising the rule, the EPA recognized "[t]here is a compelling need to modernize and strengthen implementation of the rule—to strengthen its public health protections and to clarify its implementation requirements to make it more effective and more readily enforceable." Do you agree the Rule is in need of updating to reflect the latest science?

Yes.

70.Do you believe all covered water systems should follow EPA's drinking water analytical methods when testing drinking water for contamination? If so, what efforts will you undertake to ensure all water systems are brought into compliance?

If confirmed, I will fully carry out EPA's authorities, including its authorities under the Safe Drinking Water Act. To achieve this, I will focus on EPA's core missions, such as provision of safe drinking water.

71.In a November 2016 interview with the New York Times, President-elect Trump specifically called out "crystal clear water" as a priority. Do you agree "crystal clear water" should be a priority of the EPA? If so, please list the specific steps you would take as Administrator to make the President-elect's vision a reality.

Yes, I agree that clean water is a priority of the EPA. If confirmed, I will ensure that EPA focuses on the core missions as directed under laws enacted by Congress, including clean water and safe drinking water.

72.Over 40,000 water bodies in the United States are considered "impaired" under Section 303(d) of the Clean Water Act, meaning they do not meet water quality and health standards. Six hundred and thirty-five of these are in Oklahoma. What specifics steps did you take as Attorney General and as a state legislator to improve the water quality in these impaired waters in Oklahoma?

Regulation of water quality in Oklahoma is the responsibility of Oklahoma's environmental regulators at agencies like the Oklahoma Water Resources Board and Oklahoma Department of Environmental Quality. Those agencies would be best situated to describe the actions taken by Oklahoma to improve water quality in impaired waters.

73.What clean water initiatives undertaken by the EPA in the last five years do you support?

I support the Mach 2011 nutrient framework issued by the Assistant Administrator for the Office of Water entitled "Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions," which prioritizes state action to encourage on the ground activities over establishment of numeric nutrient limits. I support EPA's May 2012 Integrated Municipal Stormwater and Wastewater Planning Framework, which directs EPA enforcement and permitting officials to allow municipalities to integrate multiple CWA responsibilities in a single plan and prioritize the actions with the greatest health and environmental benefits, and to allow extended compliance schedules to carry out that prioritization. I support EPA's efforts to promote green infrastructure to meet Clean Water Act requirements. Green infrastructure can be a neighborhood solution to meet national standards. I support the new Water Infrastructure Finance and Innovation Act loan program authorized by Congress in 2014 that recently received its first appropriations. The WIFIA program creates tremendous opportunities to increase water and wastewater infrastructure investment because every federal dollar appropriated can leverage as much as $60 in infrastructure investments.

74.How will you address EPA's National Pollutant Discharge Elimination System permitting backlog without undermining any environmental protections or subverting the goals of the Clean Water Act?

First, I would note that at the end of FY 2016, 96.9 percent of Oklahoma's permits were current. Making sure permits are current is one of core functions under the statutory responsibilities given to EPA and in turn carried out by authorized states. However, in recent years states have been asked to shift their focus and resources to other activities. If confirmed, I would return EPA's focus to ensuring that core functions under our environmental laws are carried out.

75.Factory farming of animals is known to cause multiple forms of pollution, such as contaminating local groundwater with nitrates, contributing to hypoxia and "dead zones" in rivers and coastal waters, and releasing the potent greenhouse

gas methane. Considering your close ties with the animal agriculture industry in Oklahoma, your previous history of unsuccessfully prosecuting lawsuits against states with animal welfare laws, your opposition of EPA's attempt to conduct a survey of CAFOs, and your pursuit of punitive yet failed investigations of nonprofit advocacy groups working for animal welfare, do you believe you should recuse yourself from any decisions related to enforcing the CWA and CAA to the fullest extent of the law against these facilities? If not, will you commit to disclosing to the EPW Committee any solicitations you have made to interested parties before you make any decisions related to this topic? If not, what assurances can you provide that you will be able to discharge your duties in this area impartially?

If confirmed, I will faithfully execute the Clean Water Act and Clean Air Act as enacted by Congress. My track record with regard to CAFOs, which includes suing a CAFO together with EPA and collecting what EPA at the time said was the largest civil penalty ever assessed against a CAFO for CWA violations, demonstrates that I can, and will, approach such issues with a fair and open mind.

76.Explain your reasons for opposing EPA's 2012 attempt to conduct a survey of CAFOs. Has your thinking changed since then? Please explain why or why not.

For the purpose of this response, I am assuming that you are referring to EPA's 2011 proposed animal feeding operation reporting rule, published at 76 Fed. Reg. 65431 (October 21, 2011), and the January 19, 2012 comments on that proposed rule filed by 12 state attorneys general, including myself. This proposed rule is an example of an attempt to impose new regulatory requirements without complying with either the law or proper administrative process. Under the Clean Water Act, only facilities that discharge pollutants can be regulated. Despite this limitation on EPA's authority, it had twice before attempted to regulate non-discharging facilities. In 2005, the Second Circuit vacated parts of EPA's 2003 CAFO rule that purported to require non-discharging CAFOs to apply for permits. Waterkeeper Alliance, Inc. v. United States Environmental Protection Agency, 399 F. 3d 486. In 2011, the Fifth Circuit vacated the part of EPA's 2008 CAFO rule that would have required all CAFOs "proposing to discharge" to apply for NPDES permits regardless of whether they had actual discharges. National Pork Producers Council v. United States Environmental Protection Agency, 635 F. 3d 738 (5th Cir. 2011). Further, EPA's authority to require reporting (section 308 of the CWA) applies only to point sources that discharge. That was made clear by the 8th Circuit in Service Oil, Inc. v. Environmental Protection Agency, 590 F. 3d 545 (8th Cir. 2009). Despite the clear limitations of the Clean Water Act, in the CAFO reporting rule EPA proposed to require facilities that are not subject to the Clean Water Act to submit reports to EPA. As such, that proposed rule exceeded EPA's authority.

77.According to the CDC, in 2014 Oklahoma reported the second highest rate of exposure to pesticides in the nation. At a time when pesticide/herbicide usage is on the rise across the country, how would you protect American workers, consumers, and landscapes from the toxic effects of agricultural chemicals?

I am not personally familiar with the data referenced in this question or generally the rate of pesticide usage in Oklahoma. If confirmed as Administrator, I would expect to be briefed by EPA staff before taking action on this issue and would work to ensure EPA followed all applicable legal requirements and made its decisions based on sound science in an open and transparent process.

78.Your close ties to the fossil fuel industry have given a strong appearance of pay-to-play politics favorable to that industry. As you well know, the agrichemical and seed biotechnology industry has a similar history of major lobbying, campaign financing, and maintaining close relationships with lawmakers and agency administrators. Monsanto, the Oklahoma Farm Bureau, and other agricultural interests contributed more than $90,000 to your previous campaigns. Do you believe you should recuse yourself from any decisions related to this industry? If not, will you commit to disclosing to the EPW Committee any solicitations you have made to interested parties before you make any decisions related to this topic? If not, what assurances can you provide that you will be able to discharge your duties in this area impartially?

It is my understanding that recusal obligations do not extend to regulatory rulemaking of general applicability, which does not create a conflict under applicable rules. In any matters involving specific parties where I believe that my impartiality may be questioned, I will consult with relevant federal ethics officials to determine whether to participate in a particular matter, provide them with all relevant facts, and follow their guidance. Following these procedures, along with all the other commitments I have made to comply with applicable ethics rules, will ensure that I discharge my duties impartially.

79.How should the EPA consider the synergistic effects of chemicals when considering approval of these chemicals under FIFRA?

If confirmed, I would expect to be briefed by staff about EPA's relevant legal authorities concerning pesticide registration and current practices in this area before taking any action.

80.The Fish and Wildlife Service recently listed the rusty patched bumble bee as endangered, the first wild bee in the lower 48 states to receive this distinction. Pesticides were listed as part of the blame for the bee's current status. Other

bumble bee species are also at risk due to increased pesticide use and other environmental challenges. How can the EPA assist in bettering the understanding of pesticides' role in declining bee and other pollinator species?

I am generally aware of the important role bees play as pollinators, but I am not personally familiar with the details of the Endangered Species Act listing decision referenced in the question. If confirmed as Administrator, I would expect EPA to be briefed on the matter concerning EPA's legal authorities and any ongoing activities in this area before taking action.

81.Under your leadership, what role will EPA play in the management and control of vector borne illnesses like Zika?

If confirmed, I would expect to be briefed by staff about EPA's relevant legal authorities and operations in this area before taking any action.

82.With respect to the Rule of Law Defense Fund, please provide the following: A written explanation of the role you or any person under your supervision has played in the establishment and operation of the Fund; a list of all donors who have contributed to the Fund since its inception, total donated, and their affiliations; a list of all requests you have made for funding and what was given and from whom in response; a list of all expenditures of over $1,000 made by the Fund since its inception; details of any Fund expenditures over $100 that have benefited you or any person under your supervision, including travel; all communications, including e-mails, between you and the Fund and between you and any individuals related to the establishment of the Fund or the conduct of the Fund's activities; a list of all meetings and fundraisers organized by or sponsored in whole or in part by the Fund that you or any person under your supervision attended, including the dates, locations, agendas and attendees; and a list of all federal and state legislation or regulations the Fund has taken a position on, Fund-organized legal briefs and letters to federal lawmakers, and all actions you have taken with respect to those matters.

I did not play a role in founding or forming the Rule of Law Defense Fund, and no one on my staff played such a role. My understanding from the time I was a member of that entity's board is that its staff operates the fund. A list of contributors to the Fund since its inception is in the custody of RLDF and I do not personally have records of or have knowledge of that information. Expenditures by the fund are in the custody of RLDF, and I do not personally have records of or have knowledge of that information. Any records relating to requests for funding to individuals or to corporate entities would be in the possession of RLDF. RLDF has paid for flights and accommodations when I attended RLDF events or panel discussions.

Because those flights or accommodations were booked directly by RLDF staff, I am not in possession of any receipts for such flights or accommodations.

83.Please list all matters you or your office has had with the US EPA since you became Attorney General of Oklahoma. For the purposes of this and the following questions, “matters” refers to lawsuits (including lawsuits in which your office filed a “friend of the court” brief), enforcement actions, investigations, rulemakings, or any other matter which included an adjudication between parties.

In order for you to receive a comprehensive response to a voluminous request of that nature requesting information on all matters, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act.

84.For each matter you identify in the previous question, please list the following: The names of the attorneys in your office who worked on the matter, and the names and affiliations of all attorneys with whom you or the attorneys in your office had communications about the matter. The names and affiliations of any person with whom you had communications about the matter, and the dates of the communications, and a summary of the substance of that communication. For any person listed the previous subpart, or corporation represented by that person, any contribution or payment made to Scott Pruitt for Attorney General, the Republican Attorney General Association, the Republican Attorney Generals Association, the Rule of Law Defense Fund, Liberty 2.0, Oklahoma Strong, or any other political action committee or 501(c)(4) organization with which you are or have been affiliated in any way.

In order for you to receive a comprehensive response to a voluminous request of that nature requesting information on all matters, I would direct you to make a request of the Oklahoma Attorney General's Office and the Oklahoma Ethics Commission under the Oklahoma Open Records Act and the individual political organizations.

85.Please list all matters you or your office has had with the US Department of Interior since you became Attorney General of Oklahoma. For the purposes of this and the following questions, “matters” refers to lawsuits (including lawsuits in which your office filed a “friend of the court” brief), enforcement actions, investigations, rulemakings, or any other matter which included an adjudication between parties.

In order for you to receive a comprehensive response to a voluminous request of that nature requesting information on all matters, I would direct

you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act.

86.For each matter you identify in the previous question, please list the following: The names of the attorneys in your office who worked on the matter, and the names and affiliations of all attorneys with whom you or the attorneys in your office had communications about the matter. The names and affiliations of any person with whom you had communications about the matter, and the dates of the communications, and a summary of the substance of that communication. For any person listed the previous subpart, or corporation represented by that person, any contribution or payment made to Scott Pruitt for Attorney General, the Republican Attorney General Association, the Republican Attorney Generals Association, the Rule of Law Defense Fund, Liberty 2.0, Oklahoma Strong, or any other political action committee or 501(c)(4) organization with which you are or have been affiliated in any way.

In order for you to receive a comprehensive response to a voluminous request of that nature requesting information on all matters, I would direct you to make a request of the Oklahoma Attorney General's Office and the Oklahoma Ethics Commission under the Oklahoma Open Records Act and the individual political organizations.

87.Please list all matters in which your office participated in any way challenging a law, rule, or regulation of a state other than Oklahoma. For each matter listed, please include the following: Your understanding of the effect of that law, rule, or regulation on the people of Oklahoma. The names of the attorneys in your office who worked on the matter, and the names and affiliations of all attorneys with whom you or the attorneys in your office had communications about the matter. The names and affiliations of any person with whom you had communications about the matter, and the dates of the communications, and a summary of the substance of that communication. For any person listed the previous subpart, or corporation represented by that person, any contribution or payment made to Scott Pruitt for Attorney General, the Republican Attorney General Association, the Republican Attorney Generals Association, the Rule of Law Defense Fund, Liberty 2.0, Oklahoma Strong, or any other political action committee or 501(c)(4) organization with which you are or have been affiliated in any way.

In order for you to receive a comprehensive response to a voluminous request of that nature requesting information on all matters, I would direct you to make a request of the Oklahoma Attorney General's Office and the Oklahoma Ethics Commission under the Oklahoma Open Records Act and the individual political organizations.

88. As Attorney General you have played a major rule challenging EPA's Clean Power Plan and seven other major rules protecting the public from air pollution, water pollution, and toxic threats. Professional ethics rules prohibit attorneys from changing sides, as you would be doing if confirmed. Federal ethical guidelines specifically require that a public official should not act on a matter if a reasonable person who knew the circumstances of the situation could legitimately question his or her fairness. Will you commit to recusing yourself from substantive matters that include EPA's climate rules, its mercury and air toxics rules, its most recent clean water rule, and others related to the eight pending cases you have against EPA as an Attorney General?

It is my understanding that recusal obligations do not extend to regulatory rulemaking of general applicability, which does not create a conflict under applicable rules. With respect to my professional obligations as a member of the bar, I am not permitted to "switch sides" as counsel in any matter in which I participated as a lawyer. The standards that would apply to me as EPA Administrator are different as I would not be representing the EPA as a lawyer. Nonetheless, in any matters involving specific parties where I believe that my impartiality may be questioned, I will consult with relevant federal ethics officials to determine whether to participate in a particular matter and provide them with all relevant facts.

89.You have taken credit for the lawsuit State of Oklahoma et al. v. Mahard Egg Farm. What was the date on which the complaint in that case was filed? What are the dates of the allegations in the case? Had any Oklahoma state agencies taken any steps to investigate that matter before you became Attorney General? If so, please specify the agencies, their roles investigating the case, and the dates on which they were taken. Did the Oklahoma Attorney General's office take any steps to investigate that matter before you became Attorney General? If so, please specify what was done and when. Please indicate the date on which the Attorney General's office first contacted defendant(s) in this matter.

As I have testified, it was a lawsuit that I initiated together with the State of Texas and the EPA. The complaint was filed on May 23, 2011. The consent decree was entered into on August 10, 2011. There was no case when I took office, but the matter had been investigated by the Office of Attorney General, the Oklahoma Department of Agriculture, the EPA, and the State of Texas. I do not know the first date that the Office of Attorney General first contacted the defendants in that matter.

90.Have you ever met or spoken with Richard "Rick" Berman, who has been affiliated with Center for Consumer Freedom? If so, please describe the substance and dates of your communications with him. Did you or the Attorney General's Office during your tenure ever receive communications of any sort from

Mr. Berman or the Center for Consumer Freedom? If so, please specify the date and content of those communications.

I do not recall ever having met Mr. Berman. I am not aware of any communications with Mr. Berman, but a request for such information can be made to the Office of Attorney General pursuant to Oklahoma's Open Records Act.

91.Before March 12, 2014, had your office received any complaints about the Humane Society of the United States [HSUS] from a resident of the State of Oklahoma? If so, please identify the date of the complaint, the allegations in the complaint, and the city or town of residence of the complainant.

I believe that our office had received such a complaint, but I do not know the residency of any such complainant. A request for such information can be made to the Office of Attorney General pursuant to Oklahoma's Open Records Act.

92.In March 2014, your office issued a consumer warning about HSUS. Based on what evidence did you issue this warning? Did you or your office communicate to any person or entity outside the Attorney General's Office about the timing or substance of your consumer warning about HSUS before it was issued? If so, please state the names of those with whom you or your office communicated, the dates, and the substance of those communications.

The consumer warning was based on information suggesting that HSUS's solicitations for contributions might be misleading Oklahoma consumers. A request for communications can be made to the Office of Attorney General pursuant to Oklahoma's Open Records Act.

93.On July 1, 2014, your office issued a Civil Investigative Demand (CID) to HSUS. Based on what evidence did you issue that CID?

The purpose of a CID is to gather such evidence.

94.On or about July 21, 2014, after the New York Attorney General entered into a settlement with the direct mailing firm Quadriga Art, you were quoted as saying "We believe what happened in New York potentially has happened in Oklahoma." Based on what evidence did you make that statement? Did you issue a Civil Investigative Demand or subpoena to any organizations other than HSUS as a result in whole or in part because of the NYAG's Quadriga Act settlement? If so, please specify the names of the organizations, the dates of the CID, and the result of any investigation conducted pursuant thereto. If not, what evidence did you have that distinguished HSUS from any of the other clients of Quadriga Art?

As I recall, the Office believed that Quadriga Art may have been the vendor for direct mailers used by HSUS in Oklahoma. I am not aware of any other CIDs issued as a result of the Quadriga Art settlement. I am not aware of the Office having received any complaints or having any open investigations relating to other Quadriga Art clients.

95.During the 2010 election cycle, did Devon Energy and Koch Industries max out to your campaign? During the 2014 election cycle, when you ran unopposed, did Devon, Koch Industries, and ExxonMobil max out to your campaign? How much total money has "Scott Pruitt for Attorney General" received from fossil fuel and agricultural interests? Please list your fossil fuel and agricultural donors, dates, and amounts.

A full list of contributors to my campaigns for the state senate and attorney general may be found at the Oklahoma Ethics Commission's websites. For state campaign committee from 2002-2014, please use this site: https://www.ok.gov/ethics/public/candidate.php. For 2015 to the present, the Commission uses this site: http://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=1F26BA5E-71EA-48E4-8D50-C1013E9FE0A7. Attached is a letter from the Oklahoma Ethics Commission regarding materials prior to 2002.

96.How much total money did Oklahoma Strong, your leadership PAC, receive from fossil fuel and agricultural interests? Please list your fossil fuel and agricultural donors, dates, and amounts.

I do not manage or control Oklahoma Strong PAC. Questions relating to its donors would need to be directed to those who do.

97.How much total money did Liberty 2.0, the SuperPAC created to help get you elected, receive from fossil fuel and agricultural interests? Please list your fossil fuel and agricultural donors, dates, and amounts.

I do not manage or control Liberty 2.0. Questions relating to its donors would need to be directed to those who do.

98.Did you or anyone working for you or on your behalf ever solicit money for Oklahoma Strong or Liberty 2.0 from fossil fuel and agricultural interests? If so, when, from whom, and what was the result? Please note any solicitations that were made in which you mentioned work done in your official capacity as Attorney General of Oklahoma and what that work was.

I solicited funds for Oklahoma Strong PAC from a broad array of individuals and corporations representing many different industries. While I do not recall specific solicitations, given my state's deep ties to farming and oil and

gas, I do not doubt that I at some point fundraised from individuals with some connection to those industries. Staff members of the Oklahoma Strong PAC may have records of such solicitations, so requests for details would have to be made to that entity. I have on occasion solicited funds for Liberty 2.0, and records of those solicitations may be maintained by the staff of that organization, so requests for details would have to be made to that entity. I do not recall the contents of any specific conversations that I may have had in this context.

99.During the hearing, I asked if you led the Rule of Law Defense Fund. In response, you stated you had "been an officer of the organization [Rule of Law Defense Fund] for 2016." Your EPW questionnaire states you were a board member or chairman at the Rule of Law Defense Fund between November 2013 and December 2016 while your OGE disclosure says you were a member of the board or Chair between April 2014 and December 2016. Please clarify when you were you a board member of the Rule of Law Defense and when were you the Chair.

I served on the Board of Directors of the Rule of Law Defense Fund from April 2014 until November 2016. I served as Chairman of the Board of Directors of the Rule of Law Defense Fund from November 2015 to November 2016.

100.During the hearing, I asked if you've ever solicited funds for RAGA and you stated you "did not serve in an officer capacity at that entity [RAGA]." On your EPW disclosure form you stated you were a member of the executive committee between November 2013 and November 2015. As discussed, OGE doesn't require you to disclose your relationship with RAGA or other 527 political organizations. Your LinkedIn and campaigns pages state you were chair of RAGA for two terms and RAGA's website indicates you were the RAGA chair in 2012 and 2013. Please clarify when you've been chair of RAGA and when you've been on RAGA's executive committee. Did you provide any information about your relationship with RAGA to OGE or EPA when they were reviewing your conflicts of interest?

I served as Chairman of the Republican Attorney Generals Association from November 2011 to November 2013. These dates represent "two terms" of serving as Chairman. Thereafter, I was a member of the Executive Committee from November 2013 to November 2015. I made all required disclosures to OGE and EPA ethics counsel, including disclosures about my relationship to RAGA.

101.RAGA has given other Republican attorneys general call sheets to solicit on its behalf. Have you or any person working on your behalf ever received call sheets from RAGA asking you to solicit money or event sponsorships? If so, when, for what purpose, who was on your list to contact, who if anyone did you or

any member of your staff make contact any of the listed people/entities, and how much money and which sponsorships was given to RAGA as a result?

I did receive call sheets to solicit funds and/or event sponsorships for RAGA and I did make contact with the listed people/entities. The exact dates, the purpose, and who was called are records that are kept by RAGA, and those requests would need to be made to RAGA. Similarly, I do not have records of how much money or sponsorships were raised as a result - those records are kept by the Republican Attorneys General Association.

102.Besides call sheet efforts, did you or any person working on your behalf ever solicit money for RAGA? If so, when, from whom, for what purpose, and what was the result?

No one else working on my behalf has solicited funds for RAGA. In addition to call sheet efforts, I have asked for funds from individuals/entities in person for RAGA. Records of exact dates, names of individuals and entities and how much money was solicited are kept by the staff of RAGA.

103.In 2015, you were on the agenda to speak on a panel entitled, "The Dangerous Consequences of the Clean Power Plan and other EPA Rules" during RAGA's National Summer meeting that included several fundraisers. The agenda for that meeting included private meetings with attorneys general and Murray Energy, Southern Company, and American Fuel Petrochemical Manufacturers. According to RAGA's 2015 and 2016 member benefits descriptions, donors that contribute $50,000 or more have an "annual opportunity to lead private briefings with Republican attorneys general during RAGA events" and attend other private events, including private dinners and retreats, at which Republican attorneys general are present. Did you or any person working on your behalf attend any of the private meetings with Murray Energy, Southern Company, and/or the American Fuel Petrochemical Manufacturers during the 2015 Summer National RAGA meeting? If yes, please provide a list of meeting attendees, any minutes/notes taken, and describe any conversations about EPA matters.

I do not recall which meetings I attended at the event you reference.

104.During your time as a member of RAGA, have you or any person working on your behalf attended any private meetings or functions with co-plaintiffs or amici for any of the 14 cases you brought against EPA? If yes, please provide a description of the meeting, the date, a list of meeting/event attendees, any minutes/notes taken, and describe any conversations about EPA matters.

I do not recall private meetings or functions with a co-plaintiff or amici while at a RAGA event, and do not know of any instance where a person working on my behalf attended such a meeting. In instances where a case is being litigated, counsel for each plaintiff or amici will routinely speak about matters related to the litigation, as court rules and other procedural matters often require such communications.

105.RAGA indicates that it raises and spends considerable amounts of money to support the election campaigns of Republican attorneys general. Please detail all expenditures from RAGA used to support your position in office, including but not limited to election campaign spending, contributions to other groups and PACs, and opposition research. Please detail any actions that you or your staff have taken to support the fundraising of RAGA for its campaign spending.

RAGA's Oklahoma PAC contributed $5,000 to Scott Pruitt for Attorney General in April, 2014. Inquiries about what other groups and third parties RAGA may have contributed to, or research they conducted would have to be directed to RAGA.

106.RAGA has indicated it has chartered flights for Republican attorneys general. Have you ever been a passenger on a RAGA-chartered flight? If so, when and where did you travel to and from? Did RAGA ever cover or reimburse you for transportation and accommodation? If so, please itemize when, for what, and the value.

Yes, I recall I was a passenger on a chartered flight to and from Las Vegas, Nevada in the fall timeframe of 2014. RAGA has covered the cost of flights and accommodations for me when I have attended RAGA meetings. I do not keep itemized records of these expenses, flights and accommodations are booked directly by RAGA staff.

107.While you were on the board of RLDF, did it cover any chartered flights on which you were a passenger or any of your transportation and accommodation costs? Please itemize any chartered or commercial flights, accommodations, and other travel-related expenses that exceed $100, and the value that RLDF covered.

As far as I am aware, RLDF has never covered the cost of chartered flights for me or my staff. RLDF has covered costs of transportation and accommodations when I traveled on behalf of RLDF for meetings, panels, and other policy-related events. The staff of RLDF booked travel and accommodations for me directly, and records of the costs and expenses are kept by Rule of Law Defense Fund staff and are not in my possession.

108.In 2014 and 2015, while you were on the board or Chairman of RLDF, it contributed over half a million dollars to RAGA. Please list each transaction and the purpose of the transaction.

Records of transactions between those entities are held by Republican Attorneys General Association staff and Rule of Law Defense Fund staff and are not in my possession.

109.As Attorney General, you have jointly signed numerous letters with other Republican attorneys general, such as your letter of June 15 2016 outlining your opposition to state investigations of ExxonMobil. What role did the Rule of Law Defense Fund have in preparing and coordinating release of any letters signed by you as Attorney General? What role did the Republican Attorneys General Association have in preparing and coordinating release of any letters signed by you as Attorney General? What role did any corporate funder of Rule of Law Defense Fund or Republican Attorneys General Association have in preparing and coordinating release of any letters signed by you as Attorney General?

I am not aware of what steps may have been taken by the Rule of Law Defense Fund in preparing or coordinating letters. Day to day operations of the Rule of Law Defense Fund are delegated to staff of the organization. I am unaware of any role by RAGA in preparing or coordinating release of letters. My understanding is that such letters are typically released by the office who took the lead on preparing the letter. I am unaware of any corporate funder of either RAGA or RLDF having any role in preparing or coordinating the release of letters signed by my office.

110.During your time on the board or as Chairman of Rule of Law Defense Fund, did corporate donors to that organization participate in any meeting of the executive committee, including board meetings, phone calls or retreats, during which any EPA matters were discussed? If yes, which corporations participated, what was the nature of the event, and how did they participate (e.g., in person, by phone)?

During my time as Chairman of Rule of Law Defense Fund, I cannot ever recall a time when "corporate donors" participated in a meeting of the executive committee, including board meetings, phone calls or retreats during which EPA matters were discussed. However, members and funders of the Rule of Law Defense Fund were invited to attend large group panel discussions hosted by RLDF where several EPA matters were discussed. Any records of attendees at those meetings would be in the possession of the Rule of Law Defense Fund staff.

111.During your time as attorney general, have you received gifts or in-kind donations that exceed $100 from any entities besides RAGA and RLDF? If so, please list when, from whom, and describe if it was related to a specific event or commitment.

I do not recall receiving gifts with a value of more than $100 from RAGA and/or RLDF. I have, as stated before, had travel and accommodations provided for me when I traveled to and from RAGA or RLDF meetings.

112.Will you commit to recusing yourself from matters before EPA involving any party from whom you have solicited funds during your time as Attorney General of Oklahoma?

Before participating in any matters involving specific parties where I believe that my impartiality may be questioned, I will consult with relevant federal ethics officials and provide them with all relevant facts.

113.Under your predecessors, senior EPA managers' schedules have been available to the public. If confirmed, do you agree to make senior managers' schedules available as well?

If confirmed, I will commit to following applicable laws concerning the public availability of schedules for senior managers.

114.How many email addresses have you used since becoming Attorney General of Oklahoma? How many do you still use? Please provide the domains of all email addresses you've used during your time as Attorney General of Oklahoma, along with the dates used, and note whether they were personal, professional, or both.

I have used two e-mail addresses since becoming Attorney General of Oklahoma. I use a personal e-mail address for personal e-mail, and an official e-mail address for official business. The domain of my personal e-mail address is me.com and the domain of my official e-mail address is oag.ok.gov.

115.Have you ever conducted business using your personal email accounts, non-official Oklahoma Attorney General email accounts, text messages, instant messenger, voicemails, or any other medium? If yes, please provide all business-related emails, texts, from those mediums and any others you've used to conduct official business.

I use only my official OAG email address and government issued phone to conduct official business.

116.In a recent Oklahoma Strong fundraising email, you said:"...As Chairman of the Rule of Law Defense Fund, the policy arm for Republican Attorneys General, I asked my fellow AGs to sign onto a letter urging Senate Majority Leader McConnell and Judiciary Chairman Grassley to stand strong and continue to hold fast against this [Merrick Garland] nomination." What email address did you use to get the other attorneys general to sign onto this letter? What if any groups solicited signatures from other attorneys general? Did you ask Democrats to sign the letter or just Republicans?

I do not recall using any email address to solicit signatures. I have no knowledge of what other groups may have solicited signatures from attorneys general. I do not recall asking any Democrats to support the letter.

117.If confirmed, do you commit to notifying the Committee of all of the email addresses you plan to use upon confirmation and within seven days of using a new email address, including any aliases or pseudonyms? Do you commit do conducting all business using official email addresses and other means and to refrain from any mediums that are outside the Freedom of Information Act's reach?

If confirmed, I commit to notifying the Committee of the e-mail address I use for official business. I will use my official e-mail address for official EPA related business.

118.The office of the Oklahoma AG's budget and FTEs have grown significantly while you've been in office and you indicated you have seven FTEs, accounting for $679,000 in salaries, focused on "environmentally-related responsibilities." What is the breakdown of budget and FTEs dedicated to challenging EPA vs. criminal and civil environmental cases?

The Office's budget and expenditures can fluctuate greatly year over year depending on the timing of case settlements and related distributions. For example in fiscal year 2014, the Attorney General's Office distributed higher than normal case settlement funds that inflated the budget over typical levels. Conversely, that total came down in fiscal years 2015 and 2016. Thus, fluctuations such as the one assumed by your question do not accurately reflect the size of the Office's budget. In my tenure as Attorney General, the Oklahoma Office of the Attorney General streamlined legal services for dozens of agencies, returned $29 million to the General Revenue Fund, distributed mortgage settlement restitution funds to impacted citizens, strengthened tobacco enforcement, and led the Office in such a fiscally responsible manner that the Office was able to forego all $6.4

million in state-appropriated operating funds for fiscal year 2017--that in addition to the Office having its annual appropriation cut in every prior year. The Office of Attorney General was the only state agency to voluntarily do this. During my tenure, the Office assumed the statutory duties of the Human Rights Commission through our Office of Civil Rights Enforcement, strengthened tobacco settlement enforcement efforts, and launched the Solicitor General's Unit. The Office also increased by one third the number of agencies, commissions, or boards which it represents. This has led to a precipitous decline in state agency usage of costly private counsel. It is these and other efforts that have permitted the Office to contribute approximately $29 million to the General Revenue Fund over the last six years. With regard to FTEs related "to challenging EPA vs. criminal and civil environmental cases," the Office currently has four FTEs whose responsibilities would include (among many other things) challenges to EPA rulemakings or other actions.

119.As submitted for the record, here are some statistics from Drew Edmonson's Environmental Unit (1997 to 2010): Criminal matters
142 criminal investigations; 56 federal or state prosecutions; 110 felony counts convictions of individuals; 21 misdemeanor count convictions of individuals; 10 felony counts convictions of corporations; 3 misdemeanor count convictions of corporations; 28 years of jail time; $8M in fines. Is it still your position that the Environmental Protection Unit was only handling one case when you took office?

I am not familiar with the cases being handled prior to my taking office. As I have stated, when I took Office, the primary focus of the "environmental protection unit" was a single lawsuit relating to poultry farms.

120.We reviewed the Oklahoma Attorney General's website between when you took office and the present and found no press releases on criminal or civil environmental enforcement matters. For this review, we did not include lawsuits by Oklahoma against EPA. Why were there no environmental enforcement matters listed on your website as of January 17, 2017?

I have not reviewed the website, so I am not familiar with what matters are or are not listed.

121.What specific reductions in air, water, or solid waste pollution have resulted from your environmental enforcement actions as Attorney General?

Environmental regulation in Oklahoma is the responsibility of Oklahoma's environmental regulators at agencies like the Oklahoma Department of Environmental Quality and the Oklahoma Water Resources Board. The

Office of Attorney General sometimes provides legal services to those agencies with regard to environmental issues, and in that capacity the Office has, for example, negotiated a consent decree requiring a large concentrated animal feeding operation to clean up its operations to prevent water pollution, and negotiated an agreement whereby Arkansas agreed to a stringent phosphorous standard in the Illinois River.

122.How many criminal investigations, federal prosecutions, state prosecutions, felony count convictions of individuals, misdemeanor count convictions of individuals, felony count convictions of corporations, misdemeanor count convictions of corporations, years of jail time, and cumulative fines resulted from environmental cases you initiated? Please list and describe any civil suits and actions you initiated.

To list and describe every civil suit and action initiated by the Office of Attorney General would be all but impossible. Each attorney is responsible for maintaining their own case files, and the Office employs many attorneys across many different units who litigate civil matters of all kinds. In order for you to receive a comprehensive response to a voluminous request of that nature requesting information on all matters, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act, and to the extent it is even possible to compile such a list, the Office would make efforts to do so.

123.The Center for Media and Democracy ORA request is dated on or about January 5, 2015. During the hearing, you said, “I actually have a general counsel and an administrator in my office that are dedicated to performing or providing responses to open records requests.” In response to questions about the January 5, 2015 request, your general counsel apologized for the delayed response and explained she was busy with other duties. What percentage of time do each of the two staff you mentioned dedicate to responding to Open Records Act requests? Have you communicated with your office’s general counsel or any other attorney handling ORA requests to discuss the timing of your office’s response to any specific request? If so, please identify which requests you discussed, the dates of those discussions, and the substance of your discussions.

The Office of Attorney General employs a paralegal who intakes requests, opens files, and searches for documents responsive to each Open Records Act request. Once the search is complete, the office's general counsel must review each document to ensure it does not contain information required to be kept confidential under state and federal laws. Along with overseeing the Open Records Act process, the office's general counsel is responsible for overseeing many other programs and statutory duties with which the Office is tasked. I am unaware of what percentage of time is spent solely on Open Records Act requests. I do not recall any conversations with individuals in my office regarding the timing of Open Records Act responses.

124. In a letter regarding this request, your general counsel stated your office processes "these requests in the order in which they are received." How long has that been the policy of your office? Have you fulfilled any ORA requests submitted since at least January 5, 2015?

To my knowledge, that is how the office has historically processed such requests. I am not aware of which requests submitted since January 5, 2015 have or have not been responded to.

125.According to a recent E&E article, your office has 52 outstanding open records requests. Please provide a list of all pending FOIA, Open Records Act or other similar information requests under Oklahoma state law, by whom, and when each was a filed.

I am not familiar with the pending requests. Such a requests should be directed to the Office of Attorney General's general counsel, who can provide such a list.

126.The public and this Committee, in fulfilling our constitutional advice and consent duties, have a right to see information pursuant to the Open Records Act. Please produce all of the following material that has been requested under the Open Records Act prior to November 8, 2016: related to RAGA, RLDF, Liberty 2.0, Oklahoma Strong, and any other 527s, 501(c)(3), and 501(c)(4)s, including the State Policy Network and ALEC; correspondence with the fossil fuel and agriculture industries and any other industries regulated by EPA; any other material related to energy, environment, agriculture, and EPA.

If Open Records Act requests for such information have been made, as your question suggests, those requests will be answered in the normal course.

127.Please provide a list of all Open Records Act requests your office has received during your tenure, from whom and when, the number of days it took to produce the requested documents or decline the request, the outcome of those requests including whether any decisions have been or currently are being challenged in court, and share the following material that has been disclosed as a result of those requests with the Committee: related to RAGA, RLDF, Liberty 2.0, Oklahoma Strong, and any other 527s, 501(c)(3), and 501(c)(4)s, including State Policy Network and ALEC; correspondence with the fossil fuel and agriculture industries and any other industries regulated by EPA; any other material related to energy, environment, agriculture, and EPA.

In order for you to receive a comprehensive response to a voluminous request of that nature, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act.

128.What was the average length of time it took your office to fulfill open record act requests to your office between January 2011 and December 6, 2014? What was the average length of time it took your office to fulfill open record act requests to your office from December 7, 2014 to the present? What, if any, steps has your office taken to improve the timeliness of your open records act responses?

I am not aware of what the average length of time my office took to fulfill open record act requests is. I have directed my staff to respond to all open records act requests in a timely and efficient manner.

129.Under what circumstances would it be appropriate for EPA to fail to respond to a FOIA request for 700 days?

I am not in a position to render an opinion a hypothetical given that different open record requests raise issues specific to the particular requests at issue. However, I appreciate the importance of openness and transparency, and if confirmed I will work to ensure EPA complies with all legal requirements concerning the implementation of the Freedom of Information Act and other statutes EPA is responsible for administering.

130.Why did you fail to disclose records on your office's expenditures on outside attorneys, as is required under Oklahoma state law, until contacted by a reporter? Why did you not hold your own office's spending practices to the same standard expected of other Oklahoma state offices?

The Office of Attorney General complies with its legal obligations relating to outside counsel, and discloses any outside counsel contracts when asked.

131.Is it correct that your office has spent over $1 million in outside lawyer expenses during your tenure? Please explain the unreported increase in expenses.

The bulk of the outside counsel expenses incurred by the Office during my tenure relate to a single dispute over water rights in southeastern Oklahoma. The Legislature specially appropriated funds to my office for the specific purpose of retaining outside counsel with expertise relevant to that tribal water law issue.

132.Oklahoma state law requires that state agencies select attorneys from a pre-approved list. Several of the outside attorneys that your office has hired are not included on the list of approved attorneys. Why didn't you comply with this requirement?

Because the Office of Attorney General maintains the referenced list, and is authorized to allow representation from attorneys not on the list, the Office of Attorney General plainly has the discretion to allow representation from attorneys not on the list.

133.You have not released records on your contracts with outside attorneys, as required under Oklahoma state law. Please provide all contracts, including any related to pro-bono work. Have any private interests been funding outside attorneys representing your office in lawsuits against the federal government? If so, who, why, and in what amounts? For any pro-bono work, is that an in-kind donation that should be recorded and accounted for in your office's accounting? Has your office done so? Please provide a list of these in-kind donations, from whom, when the work was done, and the value.

A requests for such contracts can made to the Office of Attorney General pursuant to Oklahoma's Open Records Act. When my office retains outside counsel to assist on a matter, it either compensates those attorneys itself, or the outside counsel provides the services pro bono. I am not aware of any outside funding of pro bono counsel, and would not retain any pro bono counsel if they were being so funded. I am not aware of any requirement that pro bono legal services be considered an in kind donation to the Office of Attorney General.

134.You received campaign contributions from at least one of the attorneys that provided outside representation for Oklahoma—David Rivkin, of D.C. law firm BakerHostetler. Is there a prohibition on receiving campaign contributions from those in a contractual relationship with your office? Was your contribution from Mr. Rivkin in compliance with such requirements?

I am not aware of any such requirements. In any event, Mr. Rivkin received no compensation from the Office for the legal services he provided.

135.Are you aware of any payments made to Mr. Rivkin from other parties in return for his representation of your state?

I am unaware of any payments made to Mr. Rivkin from any other parties in return for his representation.

136.Did you contact Mr. Rivkin about representing the State of Oklahoma, did he contact you, or did a third-party made the connection? Please explain.

I cannot recall the exact circumstances leading to Mr. Rivkin's representation, or who initiated the contact. Mr. Rivkin has represented over half of our Nation's states on various matters, and is a well-recognized expert on constitutional questions, particularly those relating to States and their federalism interests.

137.According to your questionnaire, you've given dozens of environment-related speeches in Oklahoma and around the country, many to industry groups. Have you ever given one to a public health group, environmental NGO, or scientific society? You've received various awards, several from industry groups. Have you ever received an award from a public health or environmental group for protecting public health? How about environmental quality? Have you ever received an award from a scientific society?

I have given dozens of speeches on a wide variety of topics to many different groups and industries. I do not recall a specific public health group, NGO or scientific society I have spoken to. I do not recall receiving awards from a public health or environmental group or a scientific society.

138.Please provide any correspondence or details about other communication between you or anyone working on your behalf concerning the establishment or activities of America Rising, America Rising Squared, and Protecting America Now, and any other organizations that are funding efforts to get you confirmed as EPA Administrator.

I am not aware of any such correspondence.

139.You wrote an op-ed attacking efforts to investigate whether Exxon deliberately misled investors and the public despite internal research confirming that climate change is real. Please describe any conversations you've had with political donors to you or your affiliated political action committees, RAGA, Rule of Law Defense Fund, or co-plaintiffs or amici in your cases against EPA about ExxonMobil's potential liability under federal or state law regarding climate change (e.g., federal RICO, New York state's Martin Act, etc.), including the date and substance of those conversations.

I do not recall any such conversations.

140.During your time as the Attorney General of Oklahoma, have you or anyone in your immediate family owned any stocks of companies that were co-plaintiffs or amici in any of your 14 cases against the EPA, including ExxonMobil, Devon Energy, Murray Energy, Southern Company, and Continental Resources. If yes, please list the stock, dates held, and amount.

To my knowledge, no, and a list of my investments has been provided as part of my financial disclosures.

141.In implementing the Lautenberg Act, EPA, consistent with congressional intent, issued a notice making it clear that substantiation of all non-exempt confidential business information (CBI) claims is required upfront. Do you commit to ensuring the EPA follows and upholds that requirement?

As I have previously stated I believe the Lautenberg Act struck an appropriate balance between protecting confidential business information and informing the public and I intend to apply the law as drafted by congress.

142.In a speech at Hillsdale College on June 30, 2016, you referred to a three-hour private, basement meeting with Supreme Court Justices Scalia and Thomas, Leonard Leo of the Federalist Society, and other unidentified people. Referring to Justice Scalia, you said: Leonard [Leo] blessed me on a number of occasions to spend some quality time, personal time, with the previous justice. In fact, I remember one year about three years ago, I was here for a Federalist Society event, their annual meeting that occurs in November. Leonard said 'Scott, stay over, I'd like for you to go dinner on Friday night'… we went to a basement in Washington DC, there were about ten of us in attendance. Two of those folks in attendance were Justice Scalia and Justice Thomas. And we spent three hours talking about the constitution and things that were involved in as attorneys general. It was a fabulous time.

What was the date of this basement meeting? Please provide a complete list of the participants. Please list all cases pending before the Supreme Court at the time of this meeting in which the State of Oklahoma was a party and/or on which you or an attorney in your office was counsel of record. During the basement meeting, was there any discussion or mention of EPA, the environment, public health, environmental or public health regulations, environmental laws including but limited to the Clean Air Act, the Clean Water Act, NEPA, mercury, cross-state air pollution, Renewable Fuels Standards, ozone standards, endangerment from GHGs, regional haze, or climate change. If so, please identify the specific topics that were discussed or mentioned. Have you ever had any other private meetings with any other state or federal judges or justices while you had cases pending before their courts? Which cases? Please describe any such meeting, including the dates, locations, attendees, and topics discussed.

I do not recall the date of the dinner to which you refer, but I believe it was in November 2013. It was a private dinner. I am not aware of any matters that my office had pending before the Supreme Court at the time. As far I recall, none of the topics you mentioned was discussed, nor was any specific matter of any sort discussed. I am not aware of any other meetings of the sort to which you refer. In my capacity as attorney general, I am often at events with judges or justices of various sorts, but no discussion of pending matters would ever occur in any social interactions we might have.

143.The lifetime emissions of any energy source should be considered in the context of necessary extraction techniques as well as transportation of the fuel, among other issues. For example, transporting crude via pipeline clearly creates fewer emissions than transporting it via other sources in terms of fossil fuel energy. Without knowing the specifics of all of these factors in a given instance, it is difficult to identify which sources may result in greater emissions.

The role of the United States in the Paris Agreement is a State Department matter. If confirmed, I will work to advance the mission of the EPA, which is to protect human health and the environment, consistent with the State Department's strategy for international engagement on climate change.

144. Do you support the amendment to the Montreal Protocol to phase down HFCs?

Should the State Department decide to advance the Kigali Amendment to the Montreal Protocol and if I am confirmed as Administrator, I will work with all involved agencies and impacted stakeholders to ensure that EPA's actions related to hydrofluorocarbons (HFCs) are coordinated accordingly.

Senator Markey:

1. There is tremendous diversity across states in this country, and occasionally states have differences of opinion on how to approach a problem. One of the roles of the federal government is to be an arbiter among states.
• What is your philosophy on how interstate pollution conflicts should be handled?
• Should a state be able to pollute a river for which another state relies on for drinking water?
• What is the EPA's role in resolving interstate pollution conflicts?
• How would you determine when EPA should be involved in interstate pollution disputes?

As I testified in the hearing, I have pursued opportunities to address interstate environmental quality matters. One of the examples I have highlighted is the work that Arkansas Attorney General Dustin McDaniel and I took to address an enforceable water quality standard between Arkansas and Oklahoma. I have also discussed how Texas should be responsible when air quality issues affect Oklahoma and my experience with that. When negotiations among and between states breakdown EPA has a role to set environmental standards. However, that is should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA.

2. During the hearing, you repeatedly underscored the need to make regulation "regular" for regulated entities.
• How do you reconcile that goal with the mission of EPA, which is "to protect human health and the environment"?
• If confirmed as EPA Administrator will your highest priorities be to protect human health and the environment?

As I testified, I believe in the rule of law and that process matters. I do not view these as being contrary to EPA's mission to protect human health and the environment.

3. Please list any deductible or nondeductible charitable donations you made in the last three years, including, for each contribution, the name of the recipient and the amount.

I have complied with the reporting obligations from the Office of Government Ethics and the EPW Committee.

4. As attorney general, you made Freedom of Information Act (FOIA) requests, and expected a fast response. Do you commit to respond to FOIAs as quickly as possible, if you are confirmed?

If confirmed, I will commit to tasking my staff with responding to FOIA requests in a timely manner.

5. During Mr. Trump's campaign, there were reports that even volunteers were required to sign non-disclosure agreements. After his election, President-elect Trump's team demanded lists of career officials who worked on climate science issues at the Energy Department and women's and gender issues at the State Department. It is against the law to retaliate against career officials for following lawful policy directives. It is also against the law to interfere with career employees communicating with Congress. I have included a summary of these laws below.

Any suggestion that the incoming administration is targeting career officials for retaliation simply because they worked on policies that the new President disagrees with threatens to create a chilling effect on employees who are simply trying to do their jobs.

5 U.S.C. § 7211, provides that: The right of employees, individually or collectively, to petition Congress or a Member of Congress. or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied. Pursuant to 5 U.S.C. § 2302(b)(8), it is a violation of federal law to retaliate against whistleblowers. That law states: Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority ... take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of. ... (A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences- (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation... " In addition, pursuant to 18 U.S.C. § 1505, it is against federal law to interfere with a

Congressional inquiry: Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress.
• If you are confirmed, will you commit to protect the rights of all career employees of the EPA, including their right to speak with Congress?
• Will you commit to communicate employees' whistleblower rights via email to all EPA employees within a week of being sworn in?

If confirmed, I commit to protecting the rights of all EPA employees and will follow the law.

6. The President-elect appears to be planning to ignore the advice he was given by bipartisan ethics experts to divest himself from his business interests. In the United States, he has hundreds of business interests, which include everything from vineyards, golf courses, hotels and casinos. Some of these interests could be impacted by EPA regulations or enforcement actions – for example, Donald Trump's New Jersey casino flunked air pollution tests, his hotel in Chicago has had a Clean Water Act violation and his New Jersey Golf Club violated the Safe Drinking Water Act.
• Do you commit to ensure that no employee of the EPA is pressured to take - or not take - any regulatory or enforcement action or decision because that action or decision would adversely affect business interests associated with the president-elect or his family?
• Considering that the president-elect has stated he will not release his tax returns anytime soon, how will you know exactly what all of the Trump family interests are without his tax returns?

If confirmed as Administrator, I will take care that all environmental laws enacted by Congress are faithfully executed without regard to identity of the owners of any regulated business that might be affected by such execution of the laws.

7. The following series of questions relate to Title 74 Section 20i of the Oklahoma Statutes. As Attorney General of Oklahoma, you were responsible for complying with this law. For your ease of reference, Section 20i is provided below:

74 Okl. St. § 20i (2016)
§ 20i. Legal Representation of Agency or Official of Executive Branch--Contracts

A. An agency or official of the executive branch may obtain legal representation by one or more attorneys by means of one of the following:

1. Employing an attorney as such if otherwise authorized by law;

2. Contracting with the Office of the Attorney General; or

3. If the Attorney General is unable to represent the agency, or official due to a conflict of interest, or the Office of the Attorney General is unable or lacks the personnel or expertise to provide the specific representation required by such agency or official, contracting with a private attorney or attorneys pursuant to this section.

B. When entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall select an attorney or attorneys from a list of attorneys maintained by the Attorney General. An agency may contract for legal representation with one or more attorneys who are not on the list only when there is no attorney on the list capable of providing the specific representation and only with the approval of the Attorney General. The list shall include any attorney who desires to furnish services to an agency or official of the executive branch and who has filed a schedule of fees for services with and on a form approved by the Attorney General. An agency or official may agree to deviate from the schedule of fees only with the approval of the Attorney General.

C. Before entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall furnish a copy of the proposed contract to the Attorney General and, if not fully described in the contract, notify the Attorney General of the following:

1. The nature and scope of the representation including, but not limited to, a description of any pending or anticipated litigation or of the transaction requiring representation;

2. The reason or reasons for not obtaining the representation from an attorney employed by the agency or official, if an attorney is employed by the agency or official;

3. The reason or reasons for not obtaining the representation from the Attorney General by contract;

4. The anticipated cost of the representation including the following:

a. the basis for or method of calculation of the fee including, when applicable, the hourly rate for each attorney, paralegal, legal assistant, or other person who will perform services under the contract, and

b. the basis for and method of calculation of any expenses which will be reimbursed by the agency or official under the contract; and

5. An estimate of the anticipated duration of the contract.

D. Before entering into a contract for legal representation by one or more private attorneys where the agency has reason to believe that the case, transaction or matter will equal or exceed Twenty Thousand Dollars ($ 20,000.00) or after employment when it becomes apparent that the case, transaction or matter will equal or exceeds Twenty Thousand Dollars ($ 20,000.00), an agency or official of the executive branch shall obtain the approval of the Attorney General when the total cost, including fees and expenses, of all contracts relating to the same case, transaction, or matter will equal or exceed Twenty Thousand Dollars ($ 20,000.00). Any amendment, modification, or extension of a contract which, had it been a part of the original contract would have required approval by the Attorney General, shall also require approval by the Attorney General.

E. When an agency or official of the executive branch enters into a contract for professional legal services pursuant to this section, the agency shall also comply with the applicable provisions of *Section 85.41 of Title 74 of the Oklahoma Statutes.*

F. The provisions of this section shall not apply to the Oklahoma Indigent Defense System created pursuant to *Section 1355 et seq. of Title 22 of the Oklahoma Statutes.*

G. The Attorney General shall, on or before February 1 of each year, make a written report on legal representation obtained pursuant to paragraphs 2 and 3 of subsection A of this section. The report shall include a brief description of each contract, the circumstances necessitating each contract, and the amount paid or to be paid under each contract. The report shall be filed with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chair of the Appropriations and Budget Committee of the House of Representatives, and the Chair of the Appropriations Committee of the Senate.

•The Oklahoma Governor considers the Office of Attorney General a state agency, and includes the Attorney General on a comprehensive list of Oklahoma state agencies available at https://www.ok.gov/portal/agency.php. Do you agree that the Office of Attorney General is an agency under Oklahoma state law? If not, please explain.

Generally speaking, the Office of Attorney General is a state agency. Whether it is an "agency" for purposes of any particular statute requires an analysis of that statute.

•Subsection G of Title 74 Section 20i of the Oklahoma Statutes requires the Attorney General to report annually on any contracts for legal representation that state agencies have entered into with private attorneys over the course of the prior year. For the avoidance of doubt, no exception is provided under Section 20i for contracts for legal representation entered into by the Attorney General with private attorneys. Do you agree that Subsection G of Title 74 Section 20i required

you, as Attorney General, to report contracts for legal representation that you entered into with private attorneys over the course of the prior year? If not, please explain.

No. The purpose of Section 20i, as demonstrated by its text, is to place the Office of Attorney General in the role of approving contracts for outside counsel that other agencies wish to enter into rather than utilizing the services of the Office of Attorney General. Subsection G requires a report be made of contracts entered into "pursuant to this section," as Subsection A(3) makes clear. Because the Office of Attorney General is not required to seek permission from itself "pursuant to" that section of law, it has no applicable contracts to report pursuant to Subsection G. The Office of Attorney General has, however, routinely disclosed contracts it has entered into with outside counsel, when requests for such contracts are made.

•The last fiscal year in which payments from the Office of Attorney General to private attorneys were recorded in the report submitted pursuant to Subsection G of Title 74 Section 20i of the Oklahoma Statutes was FY 2011. No payments from the Office of Attorney General to private attorneys were recorded in the reports you filed for FY 2012, FY 2013, FY 2014, or FY 2015. As Oklahoma Attorney General, did you enter into any verbal or written contracts with private attorneys for legal representation (whether or not such contracts provided compensation to private attorneys) other than those listed in the reports you submitted for fiscal years 2011 through 2015? Please provide a brief description of each such contract you entered into, the date you entered into the contract, the circumstances necessitating the contract, and the amount—if any—paid under the contract (including details of any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).

Yes. Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act.

•Subsection B of Title 74 Section 20i of the Oklahoma Statutes requires that—when entering into a contract for legal representation by one or more private attorneys—an agency or official of the executive branch must select an attorney or attorneys from a list maintained by the Attorney General. If there are no listed attorneys capable of providing the specific representation, then the agency must obtain the approval of the Attorney General in order to enter into the contract.

○Please describe your process, as Attorney General, for evaluating a request submitted by a state agency to enter into a contract for legal representation by a private attorney not on the approved list. Please provide any documents detailing this process (which you or your staff relied on in making such evaluations) or indicate if this process was undocumented.

- Please provide any documents submitted to you by state agencies requesting approval to enter into a contract for legal representation by a private attorney not on the approved list, as well as your written responses to such requests.
- Please provide any papers documenting decisions made by you or the Office of Attorney General to enter into contracts for legal representation by private attorneys that did not originate with requests submitted to you by state agencies.
- Do you agree that Subsection B of Title 74 Section 20i required you, as Attorney General, to enter into contracts for legal representation only with private attorneys included on the list referred to in that subsection unless there were no listed attorneys capable of providing the specific representation? If not, please explain.

Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act. With regard to your question, because the Office of Attorney General maintains the referenced list, and is authorized to allow representation from attorneys not on the list, the Office of Attorney General plainly has the discretion to allow representation from attorneys not on the list.

Did you—at any time during your term as Attorney General—enter into a written or verbal contract for legal representation (whether compensated or pro bono) by one or more private attorneys not included on the list referenced in Subsection B of Title 74 Section 20i of the Oklahoma Statutes? If so, for each such contract:

- Please provide a brief description of the contract, the circumstances necessitating the contract, and the amount—if any—paid under the contract (including details on any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).
- Please indicate if you entered into the contract with a private attorney not on the approved list because there were no attorneys on the approved list capable of providing the specific representation or for another reason. Please describe the process you followed in reaching a decision to enter into a contract with a private attorney not on the approved list. Please list the attorneys on the approved list that you considered hiring (and deemed incapable of providing the specific representation) before deciding to enter into a contract with a private attorney not on the approved list. For each attorney on the approved list that you considered and rejected, please describe the deficiencies in their capabilities that led you to reject them in favor of a private attorney not on the approved list.

Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act.

•As of January 18, 2017, neither David Rivkin, Jr. (nor any other attorney employed by Baker Hostetler) appeared on the "Approved Attorney List | 20i" accessible on your website at https://www.oag.ok.gov/litigation/1917atty.nsf/wfindatty.html?OpenView.

○Did David Rivkin Jr. represent the State of Oklahoma in its Clean Power Plan case against EPA?

○To the best of your knowledge, did David Rivkin Jr. or Baker Hostetler receive any compensation or funds from any third party in conjunction with this or any other litigation in which it represented the State of Oklahoma on your behalf? If so, please provide the names of any such third parties.

○Did you enter into a written or verbal contract for legal representation (whether compensated or pro bono) with David Rivkin, Jr. of the Washington, D.C.-based law firm Baker Hostetler? If so, please provide:
□a brief description of the contract;
□the date you entered into the contract;
□the circumstances necessitating the contract;
□the deficiencies in the capabilities of attorneys on your approved list that led you to reject them in favor of David Rivkin Jr.—an attorney not on your approved list; and
□the amount—if any—paid under the contract (including details on any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).
○Please list any contributions made by David Rivkin Jr. or any employee of Baker Hostetler to you, your campaign, or any organizations or entities for which you engaged in fundraising, along with the dates of such contributions.

Yes. No. Yes. Information relating to the contract can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act. A full list of contributors to my campaigns for the state senate and attorney general may be found at the Oklahoma Ethics Commission's websites. For state campaign committees from 2002-2014, please use this site: https://www.ok.gov/ethics/public/candidate.php. For 2015 to the present, the Commission uses this site: http://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=1F26BA5E-71EA-48E4-8D50-C1013E9FE0A7. Attached is a letter from the Oklahoma Ethics Commission regarding materials prior to 2002.

•During your term as Attorney General, did you ever enter into an arrangement whereby a private attorney or attorneys represented the State of Oklahoma on your behalf on a pro bono basis while being compensated by a third party? If so, please list the legal matters in which you entered into such arrangements, and, for each matter, the third party or parties that compensated the private attorneys, the amounts paid, and any monetary or non-monetary benefits that you may have

obtained in connection with the arrangement. During your term as Attorney General, did you have a process in place for ensuring that any private attorneys that represented the State of Oklahoma on a pro bono basis did not receive compensation from a third party for the legal services they provided to the state? If so, please describe this process.

No. Our Office would not enter into any such agreement for representation if it believed that the attorney was not truly working pro bono, and the Office would seek assurances from the attorney that they were.

8.The Online Lenders Alliance is "a trade group for online payday and short-term lenders and the companies that steer customers to them," according to a recent Los Angeles Times article describing actions by the Consumer Financial Protection Bureau to protect consumers from misleading advertising claims made by certain members of the payday lending industry.
•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any company making payday, title, installment, or short-term loans to consumers? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any principal, senior executive, officer, or director of a company making payday, title, installment, or short-term loans? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any member of the Board of Directors of the Online Lenders Alliance? For your convenience, the members

of the Board of Directors of the Online Lenders Alliance, along with their business affiliations, are listed below. For each of these individuals, please provide the amounts and dates of their donations, or, if you unsuccessfully solicited donations from them, the dates of such solicitations.

- Kim Anderson, Strategic Link Consulting
- Samantha Bentson, Cashland Online
- Kirk Chartier, Enova Financial
- Doug Clark, Axcess Financial
- Mark Curry, MacFarlane Group
- John Dalton, LeadFlash
- Steve Hotz, The Lead Group
- Clive Kinross, MoneyKey
- Glenn McKay, Selling Source, LLC.
- Bart Miller, Centrinex
- Greg Rable, FactorTrust, INC.
- Ken Rees, Elevate
- Walt Wojciechowski, MicroBilt

I am not aware of any such solicitations or donations.

•On June 16, 2015, you, as Attorney General, sent a letter to Richard Cordray, Director of the Consumer Financial Protection Bureau (hereinafter, "CFPB"), expressing concerns about certain rules the CFPB proposed to regulate payday, vehicle title, and installment lending.

- Was the text of this letter partially or substantially drafted by the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers?
- Did the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers participate in the drafting of this letter in any other way? If so, please explain.
- Did you ask the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any records related to your outreach.
- Did the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term

loans to consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any communications between you or your office and any such group regarding this letter.

As far as I am aware, no as to all.

9.The Consumer Federation of America is an association of non-profit consumer organizations devoted to advancing the consumer interest through research, advocacy, and education.
•Did you ask the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any records related to your outreach.

•Did the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any communications between you or your office and any such group regarding this letter.

As far as I am aware, no as to all.

10.As you may know, Oklahoma has one of the highest usage rates for payday loans in the country and allows payday lenders to charge consumers interest rates of up to 390 percent on annual basis for a 14-day term loan. In November 2016, the CFPB reported that consumers in Oklahoma submitted debt collection complaints at a rate of 36 percent (higher than the 27 percent national average). In addition, the CFPB found that average monthly complaints from Oklahomans increased 17 percent from August through October 2015 (higher than the national rate of 13 percent).

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers? If so, please list the amounts and dates of such donations or solicitations.

•Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any member of the Board of Directors of the Consumer Federation of America? If so, please provide the amounts and dates of their donations, or, if you unsuccessfully solicited donations from them, the dates of such solicitations.

I am not aware of any such solicitations or donations.

11. You have pursued at least twenty legal actions against the EPA on clean water, clean air and climate change related regulations, including multiple lawsuits that are ongoing. You have additionally criticized the EPA and its scientists on a range of scientific facts and regulations that aim to protect public health.
• Please identify EPA regulations or standards that you do support in their current form.
• In many of your legal actions and activities as Oklahoma AG, you have endorsed positions or signed letters that were drafted by oil and gas industry paid lobbyists. Please identify areas in which your views differ significantly from those of the oil and gas industry?

When negotiations among and between states breakdown EPA has a role to set environmental standards. However, that should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA. As I also testified at the hearing, when it was appropriate to pursue legal actions or settlement negotiations specifically with the oil and natural gas industry I have done so. When considering new regulations on oil and natural gas production and practices, I have joined other co-regulators in Oklahoma advocating those changes.

12.Your Ethics Agreement states that for a one-year period, you "***will*** seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party."

•Why does this language assume that you "will" seek authorizations for all such instances?

•Why is your recusal limited to a one-year period, when in some cases the "particular matters" will not be resolved within that timeframe?

•Will you commit to recusing yourself from participating in all such particular matters, without requesting or receiving a waiver, until the matter is fully resolved? If not, why not?

•These 'particular matters' are all litigation in which your Ethics Agreement contemplates you switching from plaintiff in your capacity as Attorney General of Oklahoma (in which you were a principal decision-maker on the part of those litigating against EPA), to defendant as EPA Administrator (in which you would be the principal decision-maker on the response to the lawsuit you filed). Why do

you not believe this creates an unresolvable conflict of interests that makes it impossible for you to properly, lawfully and ethically represent the interests of the EPA, while simultaneously upholding your professional duty to your former client, the State of Oklahoma?

My Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure that I seek authorization before participating in any matter involving specific parties in which I know the State of Oklahoma is a party or represents a party for one year after my resignation as Oklahoma Attorney General. I believe you may be misreading the language in my Ethics Agreement regarding prior authorization. If, during the relevant time period, I would like to consider participating in a particular matter involving specific parties in which I know the State of Oklahoma is a party or represents a party, I will seek advance authorization to do so. With respect to my professional obligations as a member of the bar, I am not permitted to "switch sides" as counsel in any matter in which I participated as a lawyer. The standards that would apply to me as EPA Administrator are different, however, as I will not be representing the EPA as a lawyer if I am confirmed.

13. During the hearing, you refused to unequivocally recuse yourself from litigation that you brought against the EPA, repeatedly stating that you would follow the direction of agency ethics officials' guidance in this area on a case-by-case basis. Isn't it true that if you are confirmed, the agency ethics officials that you are referring to will report to you, and this reporting relationship could be perceived to have the potential to influence the guidance they provide you with? In light of this, will you commit to the modification of your Ethics Agreement, using your own discretion and authority to do so and prior to any vote on your confirmation, in order to provide more clarity about your intentions for recusal related to each matter involving specific parties in which the State of Oklahoma is a party? If not, why not?

My Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure I comply with all applicable federal ethics rules. I will abide by the commitment I made in that letter. I am confident in the former staff of the EPA and have no reason to believe they will give me anything other than their best advice on ethics matters. Moreover, not all officials who may consider a request for authorization to participate in a matter will necessarily report to me. Before participating in matters involving specific parties in which I am concerned where there may be a question regarding my impartiality, I would expect, where they deem it appropriate, that EPA ethics officials may consult with ethics experts at OGE before making a recommendation.

14.I am attaching a January 17, 2017 letter from Citizens for Responsibility and Ethics in Washington (CREW) and a January 18, 2017 letter from The Campaign Legal Center (CLC), both sent to the EPA Designated Agency Ethics Official, for the record and for your review. The CREW letter references several factors related to your refusal to unequivocally recuse yourself from participating in any of these matters as EPA Administrator that would cause a reasonable person with knowledge of the relevant facts "to question his [your] impartiality in these matters" and "to question the integrity of the agency's programs and operations." The CLC letter states that "the plan described in his [your] ethics agreement is insufficient to avoid actual or apparent conflicts of interest, and would cause members of the public to question his impartiality in the conduct of his [your] duties, contrary to his [your] obligation to "ensure that every citizen can have complete confidence in the integrity of the Federal Government.""

•The CREW letter states that ethics regulations demand your recusal from participating personally and substantially as Administrator in particular matters involving specific parties in which the State of Oklahoma is a party, even if the State of Oklahoma withdraws from the matter. Do you agree to make such a recusal for each such matter, even if the State of Oklahoma withdraws from the matter? If not, why not?

•The CREW letter states that "there would be serious and apparent conflicts leading to reasonable doubts about Mr. Pruitt's impartiality if he were to participate in these lawsuits as EPA Administrator *at any point* in their lifetime. It is therefore essential that Mr. Pruitt's recusals last through the full course of each matter." Do you agree to recuse yourself for the full course of each matter involving specific parties in which the State of Oklahoma is a party? If not, why not?

•The CREW letter states that any waiver request you might make from recusal from any of these matters "should be denied based on consideration of the relevant factors listed under" 5 C.F.R. 2635.502(d). Do you agree not to request a waiver from recusal from any such matter? If not, why don't you agree with the analysis of the factors listed in the regulations as they apply to your past litigation history against the Agency that CREW described in the letter should result in a denial of the waiver request?

As discussed above, my Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure I comply with all applicable federal ethics rules. If confirmed, I will ask relevant federal ethics officials to fully review the issues raised in the CREW letter and, if appropriate, take them into account in determining the proper legal course of action in particular instances.

15.Some of the legal cases that you brought against the agency remain open, and there may be legal decisions that require EPA regulatory action as they are resolved; for example, a court could uphold the EPA regulation and require it to be enforced, or a court could direct such a regulation's revision. Since such regulatory actions would be a direct consequence of the litigation, any conflict of interests associated with your participating in the legal matter should extend to any EPA regulatory or enforcement action taken as a result of court action on the litigation. Do you agree to recuse yourself without waiver and for the entirety of your tenure at the EPA from all such regulatory or enforcement actions that are taken as a result of court action on a specific legal matter from which you were recused? If not, why not?

As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. It is my understanding that recusal obligations do not extend to regulatory rulemaking of general applicability, which does not create a conflict under applicable rules.

16.If you are confirmed, you will also have the ability to accomplish through *regulation* as EPA Administrator what you have been seeking to accomplish through *litigation* as Attorney General. For example, instead of waiting for a court to decide whether to grant your lawsuit's request to overturn EPA's smog standard, you could start to write a regulation to do just that on your very first day on the job. Will you commit to recuse yourself from working on the revision or elimination of any *regulation* regarding issues on which you have sued the EPA? If not, why not?

It is my understanding under federal ethics rules that regulatory rulemaking of general applicability does not create a conflict.

17. I am also attaching, for the record and for your review, the Ethics Agreement signed by Carol Browner, former EPA Administrator during the Clinton Administration. In her Ethics Agreement, she agreed to recuse herself from participating "personally and substantially in any EPA matter which involves the State of Florida as a specific party and in which I was personally and substantially involved as Secretary, Department of Environmental Regulations, State of Florida". I note that this agreement was not limited to one year in duration and not subject to waivers. I am also attaching, for the record and for your review, the Obama Administration Ethics Pledge that each nominee agreed to uphold, which states, in part, "I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts." If the response to any part of questions 2, 3 or 4 is no, please

also explain why in light of the stronger Ethics Agreements and pledges made by past EPA Administrators?

I am not familiar with the facts and circumstances surrounding Ms. Browner's Ethics Agreement. In my Ethics Agreement, which was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, I agreed to abide by federal regulations that require my recusal from particular matters involving specific parties in which the State of Oklahoma is a party for a period of one year after my resignation as Attorney General, unless I receive a waiver. I will abide by the commitment in that letter, in addition to any other obligations imposed by the Trump Administration as well as my obligations as a member of the bar.

18. In addition to your participation in specific litigation and regulatory matters that raise conflicts of interests, there may be pending enforcement matters at EPA in which donors to you or your political action committees are the subjects. For example, records indicate that Tyson Foods has been the subject of an EPA Clean Air Act enforcement action[3] and reportedly "faces an ongoing criminal investigation by the EPA for its release of toxic pollutants into waterways".[4] Do you commit to recusing yourself from participation in any enforcement matter in which the subject is an entity that has previously made a donation to you or any of your political action committees? If not, why not?

I will consult with relevant federal ethics officials to determine whether to participate in a particular matter.

19. *Miss. Comm'n on Envtl. Quality v. EPA*, 790 F.3d 138 (D.C. Cir. 2015) stated that "Decisionmakers violate the Due Process Clause and must be disqualified . . . when they act with an 'unalterably closed mind.'" One of your filings stated that the agency's record "does not support EPA's findings that mercury, non-mercury HAP metals, and acid gas HAPs pose public health hazards." Do you have an "unalterably closed mind" on the question of whether mercury and acid gas HAPs pose public health hazards? If not, please explain your current view on this question.

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed as Administrator, I will consider all

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[3] https://www.epa.gov/enforcement/tyson-foods-inc

[4] http://www.meatpoultry.com/articles/news_home/Business/2016/08/Tyson_investors_call_for_envir.aspx?ID=%7B4E28BCD7-045D-489C-8A41-48A6DDDBE99F%7D&cck=1

matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

20. Section 301(a) of the Clean Air Act prohibits the Administrator from delegating authority over many regulatory proceedings. To the extent that you are recused from participating in such decisions, who could lawfully make them?

If I am recused from participating in a matter, the Federal Vacancies Reform Act and other federal law provide a mechanism for another EPA official to perform such functions in an acting capacity. Under current policy, the EPA Deputy Administrator would typically serve this function.

21.Each case in which you litigated on behalf of your former client requested that the court compel EPA to take a specific action; for example, one pending suit asks a court to compel EPA to maintain the ozone standard at 75 ppb instead of lowering it to 70 ppb. A court may direct EPA to take specific actions as these cases are resolved, which will require changes to EPA regulations. Moreover, as EPA Administrator, you could simply direct the Agency to amend its regulations to do the very thing your lawsuit asked a court to do in the first place. This also creates an unresolvable conflict of interests.

• Will you recuse yourself, without waiver and for the entirety of your tenure as EPA Administrator, from any agency proceedings that a) directly result from the resolution of or b) are related to the "particular matters" that your Ethics Agreement agrees you should be recused from? If not, why not, and why do you not believe that such agency proceedings would be covered by your recusal under the applicable Standards of Ethical Conduct for Employees of the Executive Branch?

As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. I understand that this does not extend to regulatory rulemaking of general applicability, which would not create a conflict under applicable rules.

22. Our oceans are essential for life, and much of what happens on land ultimately ends up in our oceans. There are many ways in which our actions on land can both positively and negatively affect marine life and the marine environment. Under the Marine Protection, Research and Sanctuaries Act (MPRSA), the EPA ensures that harmful substances are not dumped into the

marine environment. Additionally, reducing ocean pollution is a global goal in which the U.S. is an active participant.
• In your opinion, what role does the EPA have in protecting our oceans and the marine life within?
• How specifically will the EPA, under your administration, ensure that harmful manmade substances do not end up in our oceans?
• How will the EPA continue to ensure the U.S. is a leader in reducing ocean pollution, and assisting other countries in reducing pollution that makes it into our oceans?

If confirmed, I will carry out the authorities and responsibilities given to EPA by Congress. These include responsibilities under the Marine Protection, Research and Sanctuaries Act.

23.The greenhouse gas effect traps outgoing longwave radiation causing a radiative imbalance of Earth, ultimately leading to the warming of the globe. The fundamental physics of climate change are well settled.
•Are you aware of the theory of radiative balance of the Earth? Can you briefly describe it?
•Do you understand Planck's law and the difference between shortwave vs. longwave radiation, and how that relates to Earth's energy balance?
•Do you agree that disturbances to this equilibrium can warm or cool the Earth?
•Are you aware of the atmospheric circulation and oceanic currents that transport heat from the Equator to the poles?
•Due to the complexity of the climate system, there are lag times between changes in certain conditions, such as the amount of carbon dioxide in the atmosphere, and other observable changes, such as the temperature of the deep ocean. If an action by the United States or world today, could positively or negative benefit the future, say 50 to 100 years down the road, is that an important consideration?
•Are you aware that there is less ice on land in such places as Antarctica and Greenland than in previous years since the Industrial Revolution? What do you believe is causing this decrease in mass of ice on land?
•To where do you believe the water from ice melt on land goes, and do you believe that could cause global sea levels to rise?
•Do you disagree that additional greenhouse gases in Earth's atmosphere, such as carbon dioxide, will cause a smaller magnitude outgoing longwave radiation to escape to space? Please explain.
•Do you disagree that the burning of fossil fuels, such as oil or natural gas, cause carbon dioxide to be released into the atmosphere? Please explain.
•Do you disagree that if fossil fuels were not extracted and burned, less carbon dioxide would be released into the atmosphere? Please explain.
•Therefore, is it possible, if not probable, that humans releasing greenhouse gases into the atmosphere could cause more heat to be trapped by the atmosphere? Please explain.

•Do you understand that the concept address is the previous question is the basis of human-caused climate change? Please explain.
•If not human burning of fossil fuels, how do you explain the observed increase in carbon dioxide in atmosphere?
•What is a safe level of carbon dioxide in the atmosphere? Please provide this number in parts per million. Please explain.
•If states want to individually take measures to curb greenhouse gas emissions will you allow them to do so? If yes, how will you support them? If not, why does the EPA have the authority to stop a state from implementing measures to curb greenhouse gases?

If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate. I will also adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment consistent with the process and rule of law established by congress. I also believe the Administrator has an important role when it comes to the regulation of carbon dioxide, which I will fulfill consistent with *Massachusetts v. EPA* and the agency's Endangerment Finding on Greenhouse Gases respective of the applicable statutory framework established by Congress. I believe the most effective path towards achieving these objectives is through close partnership with the states granting them regulatory leeway as ascribed by the rule of law.

24. If states want to individually take measures to curb greenhouse gas emissions will you allow them to do so? If yes, how will you support them? If not, why does the EPA have the authority to stop a state from implementing measures to curb greenhouse gases?

Yes, states are free to pursue regulatory measures to address greenhouse gas emissions under state legal authority.

25.A recently released report by *Solar Power Rocks* gave Oklahoma a grade of "F" and found that the "solar industry has been stymied at every turn."
•The length of return for a 5-kilowatt solar array installation is 16 years in Oklahoma, compared to the just 4 years in Massachusetts. Why do you believe that is the case?
•In 2014, the Oklahoma legislature passed legislation putting a surcharge on rooftop solar. Do you support this? Why or why not?

I am not familiar with "lengths of return" or the potential differences in such lengths of return between states, and thus have no opinion as to the cause

of any such differences. I am not familiar with the legislation you reference, and have formulated no opinion with regard to the wisdom of it as a matter of Oklahoma policy.

26. Last week, in his nomination hearing, Rex Tillerson dismissed the importance of America being energy independent. If you are confirmed as EPA Administrator, you will oversee tailpipe standards for cars and SUVs and the renewable fuel standard, two important polices that support energy independence by reducing oil consumption in America. In your view, should achieving energy independence be a priority for America?

As Congress indicated in the Energy Independence and Security Act of 2007, domestic production of renewable fuel contributes to our nation's "greater energy independence and security." Our energy independence will best be achieved by an "all-of-the-above" strategy without the government picking winners and losers. Setting motor vehicle emissions standards is a complex task that requires careful balancing of several competing factors. Setting such standards also requires coordination with NHTSA, which continues to administer the CAFE program. I will consider the relevant factors carefully and will coordinate closely with NHTSA on any motor vehicle emissions standards that will be addressed during my tenure if I am confirmed as Administrator.

27.A cornerstone of science is impartiality and following the facts. This is what has allowed the United States to be a world leader in science.

•Do you commit to allowing EPA scientists to do their jobs and not interfere with their science?
•How will you ensure that scientists, such as those employed by EPA, are allowed to continue their work unimpeded by potential challenges due to their topic of research?
•Do you agree that only scientists and technical experts, not impeded by political influence, should edit scientific work? If not, why?
•In your opinion, what is the role that a public affairs office has in editing any potential publically available statement or information?
•Do you pledge that your all of your work as EPA Administrator will be guided by the best available science?
•Do you commit to maintaining EPA's Scientific Integrity Policy regardless of research area?

If confirmed, it will be a privilege to work with EPA scientists and the thousands of other public servants at EPA. I have no first-hand knowledge of the role of the public affairs office as referenced in the question and, if confirmed, I expect to learn more about the office. Indeed, I fully believe, as former EPA administrators have stated, that sound, objective science must

serve as "the backbone" of EPA actions. I have no first-hand knowledge of the specific scientific integrity policy referenced in the question and, if confirmed, I commit to thoroughly reviewing the policy and to follow applicable laws and federal guidance regarding scientific integrity, information quality, and transparency.

28.It has been reported by *Wired* that President-elect Trump plans to undo President Obama's June 2013 Climate Action Plan, and remove materials from EPA websites. While we understand revising policies from administration to administration, the reports of removing environmental data from EPA websites is troubling. Will you commit to keeping environmental records, data, and records provided as part of previous rulemakings publically available on the EPA's website?
•Will you commit to ensuring that any current publically available dataset remains available and easy to access? If not, please explain.
•Will you ensure that all data interpretation tools available on the EPA website remain publically available and easy to access? If not, please explain.

I have not been briefed on any changes to the EPA website following the transfer of power from the Obama Administration to the Trump Administration. That being said, I commit to reviewing the materials that are included on the EPA site if I am confirmed.

*29.*I have heard that EPA's Fiscal Year 2018 budget request may include a 17% budget cut. . I am troubled by this reported planned cut to EPA budget and urge you to reconsider this drastic move. Will you maintain robust funding for scientific research at EPA, and to ensure that environmental data continues to be collected?

I have no first-hand knowledge of EPA's development of its FY 2018 budget request. If confirmed, I will work to ensure that the limited resources appropriated to EPA by Congress are managed wisely in pursuit of that important mission and in accordance with all applicable legal authorities.

30.Hydraulic fracturing (fracking) now provides more than half of the United States oil output. In 2000, fracking provided less than 2% of America oil. This has dramatically changed the energy landscape of the United States.
•Do you believe that hydraulic fracturing (or fracking) is the cause of the increased frequency and strength of earthquakes in Oklahoma? Please explain.
•As Attorney General have you taken any actions related to earthquakes caused by fracking?
•In May 2016, you testified that the decline in the coal industry was due to the price drop of natural gas and not EPA regulation. Do you stand by this statement? If not, why have your views changed?

•Do you believe that fracking can contaminate drinking water supplies? Please explain.

Scientists from the state level up to the National Research Council have found that the act of hydraulic fracturing itself poses very little risk of creating seismic events. Seismicity concerns related to the oil and natural gas industries are more commonly tied to the underground injection of wastewater which is regulated by the Safe Drinking Water Act. As I stated in my testimony, in Oklahoma the Corporation Commission has jurisdiction over this matter and I have been in contact with that agency that has taken very meaningful steps to address seismic concerns. I believe that there is not one single factor that has precipitated the decline in the coal industry alone. Finally, I agree with EPA's Dr. Thomas Burke who, following the release of EPA's final hydraulic fracturing water study, reiterated that the Agency only found a small number of confirmed cases of contamination. With well over one million wells that have been hydraulically fractured in the United States the evidence found by EPA suggests a very low likelihood of drinking water contamination from hydraulic fracturing or its associated activates.

31.This past December, the EPA released a report entitled, "Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States." The EPA found scientific evidence that fracking activities can affect drinking water supplies.
•Have you read this report?
•What steps will you take as Administrator to reduce the possibility of drinking water contamination due to hydraulic fracturing activities?
•Of those chemicals used in hydraulic fracturing activities, the EPA found that nearly 200 might pose a public health risk. Will you commit to continuing to study these identified chemicals and the potential health risks, as well as identify other potential harmful chemicals used in hydraulic fracturing activities?

I am familiar with the report and if confirmed as EPA Administrator I will faithfully execute my legal duties to administer laws as authorized by Congress including the Safe Drinking Water Act. Understanding and studying risks to local communities is something central to the role as Administrator and I will continue to study potential risk using the Agencies many tools.

32.Do you agree the Clean Air Act health benefits significantly outweigh costs? For example, a peer-reviewed study found that in 2010 alone the Clean Air Act Amendments of 1990, which reduced fine particulate pollution and ozone, avoided more than 160,000 premature deaths, 130,000 heart attacks, prevented 13 million missed workdays, and avoided 3.2 million missed school days by children.

Based on the limited information provided, it is unclear as to the specific study referenced. However, as I indicated in my testimony, I am incredibly proud of the progress the U.S. has made to provide public health protections and improve our environmental stewardship while also growing our economy. If confirmed, I commit to continue this progress and protect the American people through commonsense and lawful regulations.

33.According to the Consumer Reports National Research Center survey completed in June 2016, 84 percent of Americans feel that automakers should continue to improve fuel economy for all vehicle types. About three-quarters of survey respondents specifically indicated that the U.S. government should require vehicle manufacturers to improve the fuel economy of their vehicles over time. As you may know, when the government stopped increasing fuel economy standards for two decades in the mid-1980s, vehicle fuel economy stopped improving. Now that we are once again making progress, what will you do to make sure that vehicle fuel economy continues to improve as Americans expect?

While the EPA regulates emissions under the Clean Air Act, it is true that Congress vested authority to regulate fuel economy through the Corporate Average Fuel Economy (CAFE) standards" framework set forth originally in the Energy Policy and Conservation Act. Congress vested responsibility for the CAFE program in the Department of Transportation, not the EPA; accordingly, I take no position on Congress's policy decision on this subject, or on the Department of Transportation's administration of the CAFE program. If confirmed as EPA Administration, I would administer the Clean Air Act in accordance with the terms of the Act, including Congress's statutory policy objectives, and would do so on the basis of the factual record in any given proceeding.

34.After conducting its Midterm Evaluation of fuel economy standards for model years 2022 through 2025, the EPA determined that automakers were well-positioned to meet the standards at lower costs than previously estimated. In fact, the EPA chose to retain the current standards to provide regulatory certainty for the auto industry despite a technical record suggesting that standards could be made more stringent.

Among the technologies that the EPA considered in reaching its determination that fuel economy standards could be readily achieved were so-called “off-cycle technologies.” Off-cycle technologies are innovations such as more efficient air conditioning through enhanced window glass that reduces solar load, stop-start systems, solar panels, active aerodynamics, and adaptive cruise control. By reducing the energy demands placed on the engine, these technologies serve to improve fuel economy and reduce tailpipe emissions of carbon pollution. Vehicle manufacturers may claim “off-cycle credits” for these carbon pollution-reducing technologies which may have benefits not adequately captured as part the

standard fuel economy testing procedures.

Americans in Massachusetts, Ohio, Tennessee, North Carolina, Michigan, Indiana and across the country have good-paying jobs that depend on vehicle manufacturers continuing to demand these innovative technologies.

In your hearing, you explained how important it is for the EPA to consider jobs and economic impacts as part of its analysis and decision-making. If confirmed, would you support the “off-cycle credit” mechanism included that the EPA included in its fuel economy standards—a mechanism that drives American innovation and job growth? If not, please explain your position.

If confirmed, my job as Administrator would be to administer the statutes that Congress has enacted, including the statutory objectives that Congress incorporates into those statutes. If Congress chooses to enact legislation to promote certain technologies, such as "off-cycle" vehicle technologies, then those statutory priorities would fall within the EPA Administrator's responsibility. If confirmed, I would look forward to working with Congress on any such statutory proposals that it legislates.

35.Is the carbon dioxide that comes out of car tailpipes physically or chemically different from the carbon dioxide that comes out of power plant smokestacks? If so, how?

As a matter of law, Congress elected to enact different statutory frameworks for regulating emissions from stationary sources and mobile sources: Title I of the Clean Air Act for the former, Title II for the latter. As the Supreme Court recognized in Utility Air Regulatory Group v. EPA (2013), these two frameworks have significant differences.

36.Would the impact on the climate system of carbon dioxide from power plants be any different from that of carbon dioxide from tailpipe emissions? If so, in what way?

As noted above, Congress elected to enact different statutory frameworks for regulating emissions from stationary sources and mobile sources: Title I of the Clean Air Act for the former, Title II for the latter. As the Supreme Court recognized in Utility Air Regulatory Group v. EPA (2013), these two frameworks have significant differences.

37.Do you agree that the power sector and the transportation sectors each contribute at least a quarter of U.S. carbon dioxide emissions?

According to the EPA (https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions), in 2014 electricity generation accounted for 30% of total greenhouse gas emissions (quantified in terms of metric tons of CO2 equivalent), and transportation accounted for 26%.

38.Congress established protections for the air in national parks and wilderness areas in the Clean Air Act amendments of 1977. The quality of the air in New England parks like Cape Cod national seashore and Acadia national park suffers from pollution blown in from elsewhere. Last summer you joined other Attorneys General in comments objecting to the EPA's amendments to the Regional Haze Rule. Given your previous objection, if confirmed as EPA administrator, what will you do to fulfill the 40-year directive from Congress to protect and restore the air quality of national parks like Cape Cod and Acadia even if it requires states from outside the region to reduce their air pollution?

As I stated in my testimony before the Committee, I agree that the Clean Air Act gives EPA an important role in addressing interstate pollution issues, among many other things. All legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

39.The 1977 Clean Air Act amendments also provide a role for federal land managers in protecting the air quality of national parks and wilderness areas. If confirmed as EPA Administrator, how will you make sure that EPA honors the obligations federal land managers have under the Clean Air Act and that their expertise is incorporated into the policies necessary to achieve the goal of natural air quality?

I am confirmed, I will exercise my authority consistent with Congress's intent in enacting the Act. This includes acting transparently in a manner that takes into account the views of the federal land managers where the Act calls for their views, such as in assessing visibility impacts from new major sources in the preconstruction permitting process.

40.When Congress passed the original Renewable Fuels Standard (RFS) in 2005, "inadequate domestic supply" and "severe harm" to the economy were the only conditions under which the general waiver authority allowing the EPA to waive the RFS could be invoked. Despite this clear direction from Congress, in its 2014-2015-2016 final Renewable Volume Obligation (RVO), EPA used "available refueling infrastructure" as a condition to waive the standard even though Congress expressly rejected it. Do you believe that EPA's use of this reason for

granting a waiver in the 2014-2015-2016 RVO is consistent with Congressional intent and the law?

As I stated at my hearing, I believe the EPA Administrator should use its waiver authority judiciously and not to undermine or question the commitments made by Congress when enacting the RFS.

41.The Renewable Fuels Standard (RFS) is one of our country's most important tools to reduce carbon pollution from the transportation sector. The 2007 amendments to the RFS included increasing volumes of cellulosic and advanced biofuels. If confirmed, will you increase the blending targets for cellulosic and advanced biofuels, including biodiesel, given Congressional intent? What role can EPA play to facilitate the expansion of cellulosic and advanced biofuels, including biodiesel?

Section 211(0) of the Clean Air Act contains enumerated tables of applicable target volumes of renewable fuel, specifically cellulosic and advanced, for calendar years 2006 through 2022. As I indicated in my nomination hearing, it is not the job of the Administrator of the EPA to do anything other than administer the program according to the intent of Congress. If confirmed, I will work to administer this program in accordance with statute and Congressional intent.

42.In response to an Inspector General report, the EPA announced in August that it would update the estimates of carbon pollution reduction from renewable fuels. If confirmed as Administrator, will you commit to completing this update and using the best available commercial and scientific information, including a recent USDA report on the emissions profile of renewable fuels?

I have not had an opportunity to review the referenced report, but, if confirmed, I will review it.

43.In a response to a Renewable Fuels Standard question, you stated during the hearing that "we have less consumption today." Please provide the annual U.S. consumption of gasoline since 2005 as well as forecasts for 2017 and 2018. Is U.S. consumption of gasoline declining or increasing?

In the course of my nomination hearing, I referenced market conditions that have changed since 2005, when the initial RFS program was enacted. When the program was updated in 2007, Congress could not predict how the

market conditions would further change, from decreased consumption to more fuel-efficient vehicles, and therefore provided the Administrator with the ability to waive certain provisions contained in the Act. As I stated at my hearing, I do not believe the EPA Administrator should use this waiver authority to undermine the commitments made by Congress when enacting the RFS.

44.EPA set out to reduce mercury, arsenic, and other toxic chemicals from coal and oil-fired power plans through a rule that you sued to block. Power plants account for half of the mercury emissions in the United States and EPA's Mercury and Air Toxins Standards rule could save up to 11,000 lives and save $90 billion on health costs each and every year across the United States.

•The World Health Organization states that mercury has a toxic effect on humans, and in particular poses a significant threat to child development. Do you agree that mercury is a toxic substance and exposure to it should be limited? Please explain.

•Most people are exposed to mercury from eating fish and shellfish. Do you agree that we should take appropriate steps that reduce the amount of mercury in fish and shellfish? Please explain.

As I stated in my testimony before the Committee, mercury is appropriately regulated as a hazardous air pollutant under Section 112 of the Clean Air Act. If I am confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

45.Donald Trump recently bemoaned "you're not allowed to use hair spray anymore because it affects the ozone." Hairspray is still available for sale, just without the chemical responsible for the ozone hole.

The ozone hole was first discovered in the mid-1980s. The world quickly came together to address the ozone hole through the Montreal Protocol. Actions were taken prior to confirmation of the hypothesis that chlorofluorocarbons (CFCs) due to human emissions, that chemical Donald Trump alluded to in his statement, to address the ozone hole. The treaties to address the ozone hole were the first universally ratified treaties in the history of the United Nations.
•Do you agree with the overwhelming scientific evidence that CFCs are the cause of the historic depletion of the ozone layer? If not, why not?

•Do you consider the "Montreal Protocol on Substances that Deplete the Ozone Layer" to be a success? If not, why not?
•Considering the success of the world coming together to solve an environmental problem in that instance, do you believe that such a framework could be used as an example to solve other global environmental problems? If not, why not?

I consider the Montreal Protocol to be a successful example of the world coming together to solve an important environmental problem and that the Montreal Protocol could serve as an example to the President as he exercises his foreign affairs powers and to the Senate as it considers ratification of any treaty that may come before it.

46.Mr. Pruitt, you have repeatedly sued EPA to overturn regulations that seek to protect Americans from the effects of soot, ozone, greenhouse gases, mercury, arsenic and other air pollutants. These toxic air pollutants are often blown east from large industrial and energy sources in the Midwest, particularly impacting air quality and public health from Maine and Massachusetts to the Smoky Mountains.

•EPA's Clean Air Scientific Advisory Committee, which provides independent scientific advice to EPA on its air pollution standards, said that ozone causes a "decrease in lung function, increase in respiratory symptoms, and increase in airway inflammation." Do you agree with this scientific conclusion? Please explain.

•EPA projected that its final Cross State Air Pollution Rule would avoid up to 34,000 premature deaths, 15,000 non-fatal heart attacks and 400,000 asthma attacks – every year. Do you agree with this conclusion? Please explain.

•The EPA concluded that the health effects associated with fine soot particles include premature death, more ER visits and increased frequency of chronic respiratory disease. Do you agree with this conclusion? Please explain.

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

47.Lead is not just a problem in Flint, Michigan, but all over the United States including Oklahoma. In your capacity as Attorney General of Oklahoma, what did you and your office do to prevent childhood lead exposure?

While I am concerned about children's health, matters of the sort you reference would be handled by Oklahoma's environmental regulators at the

Department of Environmental Quality and the Oklahoma Water Resources Board.

48.During your confirmation hearing before the Environment and Public Works Committee, in response to a question, you indicated that you did not know if there is a safe level of lead. Scientific experts at the Centers for Disease Control and Prevention (CDC) and the World Health Organization, among other leading scientific bodies have repeatedly warned of the dangers of lead, specifically to children, concluding that there is no level of lead exposure that is safe.

•Do you agree that exposure to lead is dangerous and that no level of exposure should be considered safe?

•If confirmed, will you commit to making reducing childhood lead exposure a priority?
•What specific strategies will you implement to reduce lead exposure?
•Will you advocate for more funding for the programs that reduce lead exposure risk, especially in children?

I have not myself reviewed the scientific studies correlating blood lead levels to impacts in children. However, it is my understanding that neither EPA nor CDC have identified a "safe" level of exposure, but instead have adopted levels appropriate for action under their specific statutory authorities. If confirmed I will carry out EPA's authorities to reduce exposure to lead, including exposures by children.

49.The EPA is tasked with implemented the Safe Drinking Water Act (SDWA), and ensuring that the drinking water supply for many Americans is safe. Given the Flint, Michigan drinking water crisis, many Americans that took clean water for granted are now being faced with questions about a basic necessity.
•The Water Infrastructure Improvement for the Nation (WIIN) Act of 2016, or WIIN Act, passed Congress was signed by the President, and became public law on December 12, 2016. Will you commit to, as expedient as practicable, implementing the changes to the Safe Drinking Water Act?
•The human-caused drinking water crisis in Flint, Michigan has highlighted the widespread concern of lead in drinking water pipes across the nation. Additionally, nearly 4 million Americans may be unknowingly drinking unsafe water. Are you aware of how many public water systems in the United States have issues with lead in drinking water above safe levels?
•If a public official knowingly exposes their community to dangerous levels of contaminants, such as lead, should that official be held accountable for such actions? What do you think are acceptable punishments for such an action?
•If confirmed as EPA Administrator, what will you do to ensure that communicates across America have safe drinking water that is not contaminated with lead?

If confirmed I will fully implement the changes to the Safe Drinking Water regulatory requirements made by the WIIN Act, including the changes to the notification requirements relating to lead levels in drinking water. If funding is provided, I will also implement the assistance programs authorized in that Act. I also will fully implement the existing authorities under the SDWA, including, as appropriate, EPA's authority to take emergency action. If confirmed I will seek a briefing from EPA staff on the number of public water systems that are not in compliance with the SDWA Lead and Copper Rule. I am unaware of EPA authorities to punish individuals other than to seek the resignation of responsible EPA officials, such as the resignation of the former Regional Administrator of EPA Region 5 who resigned after her failure to act upon information regarding the lead levels in the Flint water system became public.

50.The updated Toxic Substances Control Act (TSCA) requires that EPA evaluate the risks to "potentially exposed or susceptible subpopulations" and take action to protect these subpopulations from all identified risks. Do you commit to follow this statutory requirement?

Yes.

51.As Oklahoma Attorney General, you have consistently advocated for the rights of states in the area of environmental protections. Will you apply the preemption provisions in TSCA in a manner that is consistent with the statute and your pre-stated philosophy when it comes to state leadership on environmental protection matters?

As I stated in my letter to Senators Inhofe and Boxer from April 9, 2016, I believe the Lautenberg Act ensures states have an important voice at the table and I will apply the law as enacted by Congress.

52.The new law greatly increases transparency and provides EPA with an obligation to protect against unjustified claims of confidentiality by industry. Do you commit to uphold the bill's statutory requirements in this area?

As I stated in my letter to Senators Inhofe and Boxer from April 9, 2016, I believe public dissemination of information about chemicals is critical to ensure public health and safety is upheld. In my view the Lautenberg Act struck a common sense balance between protecting confidential business information and informing the public and I intend to apply the law as enacted by Congress.

53.Do you agree that transparency is important to meaningful public participation in EPA's work on chemicals under TSCA? Do you commit to increasing transparency by fully implementing the provisions in the new law to prevent unjustified claims of confidentiality by industry?

As I have previously stated I believe the Lautenberg Act struck an appropriate balance between protecting confidential business information and informing the public and I intend to apply the law as enacted by Congress.

54.One of the reasons Congress was able to agree on a major re-write of TSCA was because of the fundamental agreement we made to clarify the law to ensure that costs could not be considered when EPA decided whether a chemical was safe or what level of a chemical was safe. Costs could only be a factor when deciding what type of regulation to require to meet that safe standard. Do you continue to support this approach? Would you oppose any effort to change this reformed approach to regulation?

If confirmed I intend to faithfully execute all provisions of the Lautenberg Act as enacted by Congress.

55.Nearly three decades ago, President George H. W. Bush attempted unsuccessfully to ban asbestos. Asbestos is banned in 55 countries across the globe and the World Health Organization says, quote, "all forms of asbestos are carcinogenic to humans". More than 30 Americans die each day from diseases like asbestosis and cancer caused by asbestos. Yet, in his 1997 book, *The Art of the Comeback*, President-elect Trump stated, that asbestos is, quote, "100 percent safe, once applied" and that he, quote, "believe[s] that the movement against asbestos was led by the mob." Do you agree with Mr. Trump that asbestos is 100 percent safe once applied or that the movement against asbestos was led by the mob?

Asbestos has been identified by the EPA as a high-priority chemical that requires a risk evaluation following the process established by the Lautenberg Act to determine whether conditions of use of the chemical substance pose an unreasonable risk. Prejudging the outcome of that risk evaluation process would not be appropriate.

56.In 2015, I released a reported entitled, "Failing the Grade: Asbestos in America's Schools."[5] Asbestos is still found in schools across America, and the true scope of the problem is still hard to ascertain. More than 53 million American children and six million American adults spend large portions of their days in school buildings that may contain dangerous environmental hazards. My report laid out recommendations on how to address the findings of the report.

•Millions of students attend schools that may have asbestos and this is clearly a widespread problem. How would the EPA under your direction, if confirmed, begin to assess the true scope of the problem?

•Will you commit to raising awareness among students, parents, teachers, and other employees about persistent asbestos hazards in school buildings? If not, why not?

•Do you support periodic reporting requirements for schools to report their progress related to the management and abatement of asbestos? If not, why not?

•Do you support additional funding for enforcement actions for schools that do not follow the law and may be exposing children to asbestos? If not, why not?

•Do you support public access to information about where asbestos can be found in products, school buildings, and elsewhere to empower the public to avoid preventable asbestos exposures? If not, why not?

•Do you support providing consumers with access to current information about asbestos-containing products? If not, why not?

•Do you support schools that are known to have asbestos updating their reports of where asbestos is located within a school? If not, why not?

•Do you support states communicating information to the EPA on their progress with implementation of asbestos response plans? If not, why not?

•Do you support continued research and outreach to improve public awareness of the danger of asbestos exposure? If not, why not?

If confirmed I will take the responsibility of protecting human health and the environment very seriously and in accordance with the legal authorities established by Congress. EPA has identified asbestos as a high-priority chemical and is now required to set the scope of review as well as conduct a risk evaluation of the conditions of use of the substance. Without prejudging that review process any conditions of use of asbestos or any other chemical substance that pose an unreasonable risk are required to be addressed under the law and appropriate communication of chemical reviews as well as transparency in the process is an important aspect of the law as passed by Congress. In addition to the Lautenberg Act, in 1986, Congress enacted the Asbestos Hazard Emergency Response Act (AHERA) and then later amended the act in 1990 to modify EPA's school asbestos remediation program. While I have not assessed the appropriateness of periodic reporting requirements, if confirmed I intend to use the authorities granted to the Agency by Congress under TSCA and other statutes to

[5] http://www.markey.senate.gov/imo/media/doc/2015-12-Markey-Asbestos-Report-Final.pdf

assess potential dangers as well as inform and protect the public as appropriate.

57.Last year entitled, "The ABCs of PCBs: A Toxic Threat to America's Schools."[6] Although Congress and the EPA banned the production and most uses of PCBs in 1979, the toxic chemical is still found in many schools across this country. In addition, my report laid out six recommendations.

•Since up 30% of students may be exposed to PCBs, this is a widespread problem. How would the EPA under your direction, if confirmed, begin to assess the true scope of the problem?

•PCBs are found within caulk and fluorescent light ballast in American schools. How would you encourage the removal of PCB-containing materials? Since these ballast are nearing the end of their useful life, EPA has said that it "recommends all PCB-containing FLBs be removed from lighting fixtures". Would you support the promulgation of a regulation under section 6(e) of TSCA that updates EPA's current regulations for PCBs and includes a requirement that all PCB-containing ballast be removed from schools and daycare facilities? If not, why not?

•There are multiple local education agencies and schools that have been seeking the advice and assistance of the EPA in dealing with PCB issues. Will you commit to assisting these agencies and schools and ensuring that the guidance EPA provides across all Regions of EPA is consistently and proactively provided? If not, why not?

•Do you support a requirement that each each school that was built or retrofitted between 1950 and 1979 (and therefor may contain PCBs) undergo a survey (to be administered by the local educational agency) in order to determine whether and where PCBs may be located within a school? If not, why not?

•Do you support a requirement for recordkeeping by state and local educational agencies of testing for, response to, and remediation of PCB hazards in schools? If not, why not?

•Do you support the EPA updating its testing guidance to encourage inspections of all schools built or retrofitted between 1950 and 1979, and improve its efforts to proactively and consistently communicate testing guidance to states, local education agencies, and schools with potential PCB hazards? If not, why not?

•Do you support the EPA developing guidance regarding the means by which parents, teachers, and employees should be notified of potential PCB hazards by schools and daycare facilities, including the manner in which such hazards should be described? If not, why not?

•Do you support the development and provision of updated guidance on the proper remediation of PCBs by EPA for schools, daycare facilities and other entities to use? If not, why not?

•Do you support the EPA proactively and regularly sharing best practices and other information outreach to states and school districts, and enforcement

[6] https://www.markey.senate.gov/imo/media/doc/2016-10-05-Markey-PCB-Report-ABCsofPCBs.pdf

activities, related to PCB hazards in schools and daycare facilities across all EPA regions? If not, why not?
•Do you support EPA regional offices increasing their outreach to states and local education agencies to make them aware of available EPA's PCB regulations, guidance and resources? If not, why not?
•Do you support the EPA updating its current guidance on PCB hazards in schools to incorporate lessons learned from previous remediation projects and best available science? If not, why not?
•Do you support schools having detailed plans on how a school specifically plans to ensure the proper removal of PCBs before starting a PCB remediation project? Please explain.
•Do you support the authorization and appropriations of money for the testing for, response to, and remediation of PCB hazards and other environment hazards in schools? Please explain.

Addressing the issues of possible harmful exposures to chemicals in schools is an issue I would take very seriously if confirmed as EPA Administrator. While protecting children from exposure to chemical substances of concern it is important to have all the facts and ensure that an action does not create unintended consequences or put children at potentially greater peril via risk shifting or the possibility of remedial actions resulting in greater exposure to a substance. While I would not prejudge a regulatory outcome under the TSCA or any other law, I will work collaboratively with state and local governments and citizens to address issues and ensuring EPA regions are consistent and performing their legally required duties will be a priority if confirmed.

58.The Environmental Working Group reported that Oklahoma led the nation in pesticide-related illness and deaths between 2000 and 2010 based on data from the Center for Disease Control and Prevention.[7]
•Are you aware that your state, Oklahoma, leads the United States in pesticide-related illness and deaths? Why do you think this is the case?
•Recent reports have suggested that the increased use of pesticides is linked to the rapid decline in the bee population. What is your understanding of the science explaining the cause of the decline in bees in the United States?

I am not personally familiar with the report referenced in this question or generally the rate of pesticide usage in Oklahoma. I am generally aware of the important role bees play as pollinators, but it is unclear from the information provided in the question what specific reports are being discussed. If confirmed as Administrator, I would expect to be briefed by EPA staff before taking action on this issue and would work to ensure EPA

[7] http://www.ewg.org/agmag/2016/12/pruitt-s-home-state-leads-nation-pesticide-illnesses-and-deaths

followed all applicable legal requirements and made its decisions based on sound science.

59.Racial minorities and low-income communities are disproportionately affected by environmental pollution, siting of waste disposal facilities, and other industrial pollution causing activities. In many instances, the combination of poverty and race as well as lax enforcement and oversight of industrial activities results in worsened health outcomes by these communities.
•How will you address environmental justice and equity for minority and poor communities through EPA programs?
•What will you do to improve health equity as administrator of the EPA?
•What are your plans on reducing toxic pollution and disproportional burden of pollutants in communities of color?
•What will you do to increase enforcement and oversight in communities that are bearing the burden of environmental hazards?

•In your confirmation hearing, you committed to making environmental justice a top priority. If confirmed, will you commit to dedicating funding to assist minority and poor communities with resources and technical assistance to better engage with the EPA and industry about pollution activities and concerns occurring in their communities?

•What will you do to improve the EPA's office of Civil Rights to ensure that the EPA is in compliance with the Civil Rights Act of 1964?
•Will you uphold and make a top priority throughout the agency's work, Executive order 12898, which requires federal agencies to make "achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."
•Do you vow to ensure that environmental justice activities throughout the agency remains focused on poor and minority communities?
•EPA recently developed the agency's EJ2020 action Agenda to better deliver on its historical promises of reducing disparities in environmental protection. Will you utilize and uphold this guidance and procedures outlined in this document throughout the work of the agency? Please explain.

As I testified, the Administrator plays an important role regarding environmental justice. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress, including the Civil Rights Act. I am personally unfamiliar with the operations of EPA's Office of Civil Rights and details of current indicatives regarding environmental justice referenced in the question, but I would expect, if confirmed, I would be briefed by staff about ongoing programs and activities before taking any action.

60.If you are confirmed, do you commit not to direct the cessation of or otherwise impede the investigations or actions of the EPA Office of Enforcement and Compliance Assurance? If not, why not?

I am unfamiliar with the specific details of the actions referenced in the question. I would expect to be briefed by staff, in consultation with the Department of Justice as appropriate, before taking any action.

61.For each year since 1995, please provide information regarding the State of Oklahoma's environmental enforcement efforts. Specifically, for each year, please provide a list that includes:

•A brief description of each environmental enforcement action (including investigations and enforcement proceedings) initiated by the AG's office, including the date the action was initiated, the name of the subject of the action, and the nature of the action and environmental violation that led thereto.

•The annual budget of the Office of Environmental Enforcement, both in dollar terms and as a percentage of the AG's annual budget.

•The number of employees in the Office of Environmental Enforcement and in the AG's office writ large.

•A description of each environment enforcement action (including investigations and enforcement proceedings) that was closed, including a description of the resolution of the matter, whether a fine or penalty was levied (and if so the amount of such fine or penalty), whether non-monetary remedies were required (and if so, what), and whether a criminal prosecution was initiated in the matter (and if so what the resolution of the prosecution was).

In order for you to receive a comprehensive response to a voluminous request of that nature, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act.

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July 25, 2017

Christopher Cook
P O Box 1351
Camden, SC 29021

Mr. Scott Pruitt
Administrator of the EPA
1200 Pennsylvania Ave, NW
Washington, DC 20460

Re: Climate change and the 'average' uninformed public

Dear Mr. Pruitt:

First, my congratulations on your confirmation to head the EPA. As a Trump supporter, I also support his appointees.

I realize that as the head of the EPA you know what to do and how to do it, and as a voter and natural born citizen/patriot of the USA, I, like so many others that have written to you or seen you on TV am writing now to offer an idea for a platform to help educate the public on the issue of Climate Change.

When President Trump pulled out of the Paris accords, one would think, based on the Fake News/incomplete news stories, and people like Nancy Pelosi, that the entire world felt that sea levels would rise the next day and that Iowa would be beachfront on both its west and east borders.

I'd like to see a TV interview or special program that would start by you, or a well- respected scientist, (or both of you)pointing out that the Scientific Community agrees that there is climate change, that the use of the term Global Warming is not indicative of its effects on all parts of the earth, and that there is agreement on the fact that the earth was formed by a Big Bang, and that over the millions/billions of years since that time, climate change has (and continues to be) inevitable, and a condition of life on this planet.

It can be pointed out that parts of Africa which are now desert were once green verdant areas that supported a robust agricultural society, that many parts of the US and other countries were under water, and you could cite a number of other very radical changes that had nothing to do with human activity.

There certainly are 'concerns' with respect to the way that activities of humankind affect climate change, and issues such as mining coal, drilling for oil and gas, burning of fossil fuels, and other activities

that contribute to atmospheric change have been addressed by and have been improved by the USA more than in any other country (and cite the countries that have 'cleaned up').

The next part of the presentation may be to point out that other countries that remain in the Paris agreement are not being pressed for compliance, that 'compliance' is a loosely defined concept, and that some countries have been given longer periods of time to comply, and that the US was asked to bear a great deal of the expense of aiding compliance and enforcement, with no apparent consequences that non-compliant countries may face.

Further, there are a myriad of regulatory issues that have hurt individuals and corporations and have not contributed to any positive aspects with regard to helping the environment. I'm sure your agency has a bookfull of these and that if the public were made aware of some of them, they might shake their heads in dismay, especially those that have resulted in loss of human and animal life, those activities that have polluted waterways, and habitat, and those that have caused financial hardships to well-meaning, non-violent, landowners. To the best of my knowledge, none of the missteps by the EPA have resulted in EPA employees being taken to task, nor has the EPA 'made amends' to those who have been negatively affected.

I'm not in favor of accelerating the extinction of lizards, birds, plant species, and the like, but there must be a way to achieve a balance between the needs of humans, animals, and plants in which each would find solace.

I know it's very complicated, but based on your experience I believe that you are the one who can provide the general public with the information that they need so that the environmental issues can be more clearly understood, and that you can cut through the overbearing, often illegal activities of the EPA so that it could be a mutually beneficial Agency.

It would also be nice if the Agency could become exempt from the words of Ronald Reagan when he said that the nine most feared words to an American are, "I'm from the Government, and I'm here to help you". Perhaps the EPA motto could be words to the effect that:

"The mission of the EPA is to bring common sense and fairness to the management of our resources".

Thank you for your consideration.

Christopher Cook

I'm enclosing an article with which I'm sure you are familiar and that may be helpful.

Climate.gov
science & information for a climate-smart nation

Does "global warming" mean it's warming everywhere?

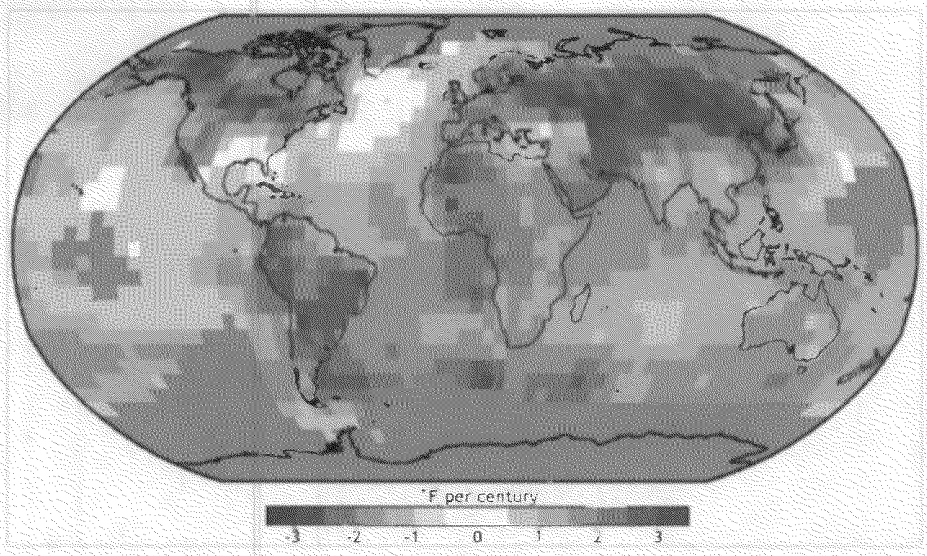
Author: Caitlyn Kennedy

May 6, 2014

No, "global warming" means Earth's *average annual* air temperature is rising, but not necessarily in every single location during all seasons across the globe. It's like your grades. If one semester you get all Bs and Cs, and the next you get all As and Cs, your grade point average rises, even though you didn't improve in every class.

That's the way it is with Earth's near-surface temperature as atmospheric greenhouse gas levels climb. Temperature trends across the entire globe aren't uniform because of the diverse geography on our planet—oceans versus continents, lowlands versus mountains, forests versus deserts versus ice sheets—as well as natural climate variability. When you're zoomed in on a particular place, you may not be able to see the overall trend.

It is only when scientists calculate the average of temperature changes from every place on Earth over the course of a year to produce a single number, and then look at how that number has changed over time that a very clear, *global* warming trend emerges. In other words, it's only when we "zoom out" to the planet-wide scale that the trend is obvious: despite a few, rare areas experiencing an overall cooling trend, the vast majority of places across the globe are warming.



Observed trend in temperature from 1900 to 2012; yellow to red indicates warming, while shades of blue indicate cooling. Gray indicates areas for which there are no data. There are substantial regional variations in trends across the planet, though the overall trend is warming. Map from FAQ appendix of the 2014 National Climate Assessment. Originally provided by NOAA NCDC.

The reason a "zoomed out" view makes the long-term trend so clear is that Earth's annual average temperatures from year to year are found to be *very* stable when nothing is forcing it to change. Today, though, every decade since 1960 has been warmer than the last, and the last three decades each have been the warmest on record. Relative to geologic time (http://pubs.usgs.gov/fs/2007/3015/), the warming that has occurred—1.5°F (0.85°C) over a span of 100 years—is an unusually large temperature change in a relatively short span of time.

However, not all land masses and oceans have experienced or will experience a constant, identical rate of warming. Natural variations in our climate system cause temperatures to vary from region to region and from time to time, leaving sporadic fingerprints in the long-term temperature record. When you consider the global map above, you can see that in a few parts of the world temperature trends were basically "flat" over the last century.

One of those "warming holes," as scientists have described them, appears in the U.S. Southeast. The latest National Climate Assessment (http://nca2014.globalchange.gov/highlights/overview/overview) describes how average annual temperature during the last century across the region cycled between warm and cool periods, with a warm peak occurring during the 1930s and 40s, followed by a cool period in the 60s and 70s, and warming again from 1970 to the present by an average of 2°F, with more warming on average during summer months. Some parts of the U.S. Southeast have experienced little net change or even a cooling trend since the early part of the 20th century, as seen in the map below. Other areas have warmed more than the average.

Temperature changes over the past 22 years (1991-2012) compared to the 1901-1960 average, and compared to the 1951-1980 average for Alaska and Hawai'i. The bars on the graphs show the average temperature changes by decade for 1901-2012 (relative to the 1901-1960 average) for each region. The far right bar in each graph (2000s decade) includes 2011 and 2012. The period from 2001 to 2012 was warmer than any previous decade in every region. Map from Chapter 2 of the 2014 National Climate Assessment, adapted for web. Original graphic provided by NOAA NCDC - CICS-NC.

The climate of the U.S. Southeast, like that of any region, is influenced by many factors, including latitude, topography, and proximity to large bodies of water like the Atlantic Ocean and the Gulf of Mexico. Its climate varies considerably over seasons, years, and decades, largely due to natural cycles like the El Niño-Southern Oscillation and North Atlantic and Arctic Oscillations, which can introduce cooler-than-usual conditions to the region during certain phases.

Researchers have also connected the cooling trend in the southeastern United States to periods of thick clouds and unusually high soil moisture. Thick clouds can decrease the amount of sunlight reaching Earth's surface, and damp soil allows for high evaporation rates, preventing daytime temperatures from getting as warm as they otherwise might.

Despite cooling trends in some locations, temperatures across the U.S. Southeast are expected to increase over the next century, even as they fluctuate annually and decade-to-decade. This natural climate variability is the reason that, as the vast majority of the world warms, a few locations are cooling and many are warming even faster than the rest of the globe. It is also why every year, perhaps even every decade, won't necessarily be warmer than the last.

When you filter out all of the natural 'noise' by averaging over large areas and long periods of time, however, the global warming trend is loud and clear. And of course, warming is also evident in a suite of other climate indicators, including loss of sea ice, glaciers (http://news-features/understanding-climate/2012-state-climate-glaciers), and ice sheets; increasing ocean heat content; rising sea level; and geographic shifts in the ranges of plants and animals on land and in the ocean.

References

Carter, L. M., J. W. Jones, L. Berry, V. Burkett, J. F. Murley, J. Obeysekera, P. J. Schramm, and D. Wear, 2014: Ch. 17: (http://nca2014.globalchange.gov/system/files_force/downloads/low/NCA3_Full_Report_17_Southeast_LowRes.pdf?download=1) Southeast and the Caribbean (http://nca2014.globalchange.gov/system/files_force/downloads/low/NCA3_Full_Report_17_Southeast_LowRes.pdf?download=1). Climate Change Impacts in the United States: The Third National Climate Assessment, J. M. Melillo, Terese (T.C.) Richmond, and G. W. Yohe, Eds., U.S. Global Change Research Program, 396-417. doi:10.7930/J0NP22CB.

Climate.gov Global Warming FAQ (http://www.climate.gov/news-features/understanding-climate/global-warming-frequently-asked-questions)

IPCC, 2013: Summary for Policymakers. In: *Climate Change 2013: The Physical Science Basis. Contribution of Working Group 1 to the 5th Assessment Report of the Intergovernmental Panel on Climate Change* [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

IPCC, 2012: *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation*. A Special Report of Working Groups I and II of the Intergovernmental Panel on Climate Change [Field, C.B., V. Barros, T.F. Stocker, D. Qin, D.J. Dokken, K.L. Ebi, M.D. Mastrandrea, K.J. Mach, G.-K. Plattner, S.K. Allen, M. Tignor, and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, UK, and New York, NY, USA, 582 pp.

Meehl, Gerald A., Julie M. Arblaster, and Grant Branstator, 2012: Mechanisms Contributing to the Warming Hole and the Consequent U.S. East–West Differential of Heat Extremes (http://dx.doi.org/10.1175/JCLI-D-11-00655.1). *J. Climate*, **25**, 6394–6408.

Rogers, Jeffrey C. The 20th century cooling trend over the southeastern United States (http://download.springer.com/static/pdf/724/art%253A10.1007%252Fs00382-012-1437-6.pdf?auth66=1399144205_d867695bddc8930d48c3e9e93b30dcdd&ext=.pdf). Climate Dynamics. Volume 40, Issue 1-2 , pp 341-352

Walsh, J., D. Wuebbles, K. Hayhoe, J. Kossin, K. Kunkel, G. Stephens, P. Thorne, R. Vose, M. Wehner, J. Willis, D. Anderson, V. Kharin, T. Knutson, F. Landerer, T. Lenton, J. Kennedy, and R. Somerville, 2014: Appendix 4: Frequently Asked Questions (Question E) (http://nca2014.globalchange.gov/system/files_force/downloads/low/NCA3_Full_Report_Appendix_4_FAQs_LowRes.pdf?download=1). Climate Change Impacts in the United States: The Third National Climate Assessment, J. M.

Melillo, Terese (T.C.) Richmond, and G. W. Yohe, Eds., U.S. Global Change Research Program, 790-820. doi:10.7930/J0G15XS3.

Walsh, J., D. Wuebbles, K. Hayhoe, J. Kossin, K. Kunkel, G. Stephens, P. Thorne, R. Vose, M. Wehner, J. Willis, D. Anderson, S. Doney, R. Feely, P. Hennon, V. Kharin, T. Knutson, F. Landerer, T. Lenton, J. Kennedy, and R. Somerville, 2014: Ch. 2: Our Changing Climate (http://nca2014.globalchange.gov/system/files_force/downloads/low/NCA3_Full_Report_02_Our_Changing_Climate_LowRes.pdf?download=1). Climate Change Impacts in the United States: The Third National Climate Assessment, J. M. Melillo, Terese (T.C.) Richmond, and G. W. Yohe, Eds., U.S. Global Change Research Program, 19-67. doi:10.7930/J0KW5CXT.

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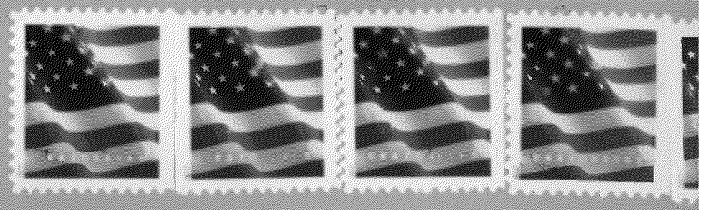

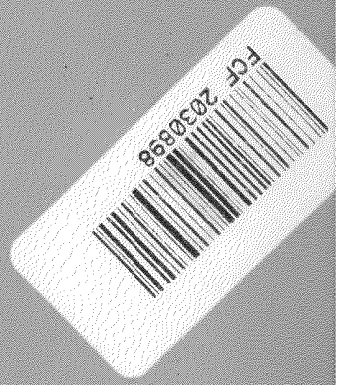

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ENERGY ADVANCE CENTER

COMMENTS ON THE ENVIRONMENTAL PROTECTION AGENCY'S ADVANCED NOTICE OF PROPOSED RULEMAKING ENTITLED "STATE GUIDELINES FOR GREENHOUSE GAS EMISSION FROM EXISTING ELECTRIC UTILITY GENERATING UNITS"

April 16, 2018

The Energy Advance Center ("EAC" or "the Center") provides the following comments on the Environmental Protection Agency's ("EPA") Advance Notice of Proposed Rulemaking entitled "State Guidelines for Greenhouse Gas Emission from Existing Electric Utility Generating Units" ("ANPRM").[1] The ANPRM solicits information on replacing EPA's Clean Power Plan ("CPP").[2] The Center is a voluntary association of energy companies, industrial energy users, and other energy-related entities formed to promote the energy industry's interests in issues related to carbon capture and storage ("CCS"), to improve the greenhouse gas emissions profile of fossil fuels, and to enhance the economic opportunities from use of CO_2 with benefits for the economy, energy security, and the environment.

According to the International Energy Agency and Intergovernmental Panel on Climate Change, no credible pathway to reaching international CO_2 emissions reduction goals exists without substantially larger use of CCS.[3] Despite CO_2 reduction aspirations, growing populations, urbanization, and prosperity across the developing world place energy systems on track to use more fossil fuels 30 years from now than are being used today. This is because fossil fuels are critical to providing reliable and affordable energy. To meet growing energy demand and international emission reduction goals, particularly including net zero emissions goals, the world must vastly ramp up investment in CCS technologies. Because CO_2 is a valuable commodity in energy production, CCS technologies can not only help achieve emission reduction goals, but also can transform regional economies and enhance U.S. and international energy security.

We below respond to four questions posed in the ANPRM related to CCS.

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[1] 82 Fed. Reg. 61,507 (Dec. 28, 2017).

[2] *Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Generating Units*, 80 Fed. Reg. 64,661 (Oct. 23, 2015).

[3] *See* INT'L ENERGY AGENCY, TECHNOLOGY ROADMAP: CARBON CAPTURE AND STORAGE 7, 2014 ("[T]he need for CCS has not diminished: the urgency of its deployment has in fact grown.. . . [G]iven today's level of fossil fuel utilisation . . . the deployment of CCS is running far below the trajectory required to limit long-term global average temperature increases to 2 °C." *and* INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, FIFTH ASSESSMENT REPORT 25, 2014 ("Many models could not limit likely warming to below 2°C if bioenergy, CCS and their combination (BECCS) are limited (high confidence).")

1. Is CCS a "best system of emission reduction . . . adequately demonstrated" for purposes of the Clean Air Act?

EPA states in the ANPRM that it "continues to believe that neither CCS nor partial CCS are technologies that can be considered as the [best system for emission reduction] for existing fossil fuel-fired [electric generating units ("EGUs")]."[4] We believe this is a correct view.

EPA bears a burden to establish that a technology has been adequately demonstrated before it bases a standard on its use. Section 111 of the CAA states that a standard of performance means:

> a standard for emissions of air pollutants which reflects the degree of emission limitation and the percentage reduction achievable through application of the best system of continuous emission reduction (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines *has been adequately demonstrated.*[5]

CCS has not been "adequately demonstrated" within the meaning invested in that term for decades by the courts. An adequately demonstrated system is "one which has been shown to be reasonably reliable, reasonably efficient, and which can reasonably be expected to serve the interests of pollution control without becoming exorbitantly costly in an economic or environmental way."[6] This may end up being the case for CCS as applied to existing fossil-fueled EGUs, but there is not enough experience yet to make such a determination.

To date, CCS has been successfully deployed at full-scale in the United States on only one EGU: the Petra Nova facility at the W.A. Parish plant in Texas, where CO_2 has been captured at scale for a little more than one year. The facility owner has publicly attested to the capture system functioning reliably. CCS also has been applied on a pilot-scale basis on fossil-fueled EGUs in the United States, including AEP's Mountaineer plant in West Virginia, and Southern Company's Plant Barry in Alabama. While CCS is a promising technology, operational experience is plainly insufficient to draw either a legal conclusion that CCS has been adequately demonstrated for purposes of Section 111 of the Clean Air Act, or a factual conclusion that CCS will perform similarly throughout the EGU source category.

EPA must show that a technology is available for implementation at all source types within the category.[7] Furthermore, where EPA attempts to impose a new technology on a source

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[4] 82 Fed. Reg. at 61,517.

[5] 42 U.S.C. § 7411(a) (emphasis added).

[6] *Essex Chem. Corp. v. Ruckelshaus*, 486 F. 2d 427, 433 (D.C. Cir. 1973).

[7] *See Standards of Performance for Electric Utility Steam Generating Units for Which Construction Is Commenced After September 18, 1978; Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units; and Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units*, 70 Fed. Reg. 9705, 9706, 9712, 9714, 9715 (Feb. 28, 2005) (rejecting several technologies not available to all source types as bases for Section 111(b) standards).

category, it must show by "substantial evidence" that the technology is feasible.[8] No carbon capture technology can be shown as available for all source types, particularly by substantial evidence, because capture technology has to date been deployed at full-scale in the United States on only one source.

Moreover, the experience at the Petra Nova facility is legally disqualified from being considered a "best system of emission reduction" under Clean Air Act section 111. The facility received $167 million in federal funding through the Clean Coal Power Initiative ("CCPI"), a program created through the Energy Policy Act of 2005 ("EPAct 05"). Congress explicitly included language in the CCPI stating that:

> No technology, or level of emission reduction, solely by reason of the use of the technology, or the achievement of the emission reduction, by 1 or more facilities receiving assistance under this Act, shall be considered to be . . . adequately demonstrated for purposes of section 111 of the Clean Air Act. . . .[9]

Thus, EPA cannot rely on the performance at the Petra Nova facility in determining whether CCS is a best system of emission reduction that has been adequately demonstrated.

2. Can utilities retrofit existing coal-fired units with CCS?

The ANPRM "solicits information on how potentially affected EGUs may utilize retrofit CCS technology as a compliance option to reduce CO_2 emissions. . . ."[10]

The experience at Petra Nova shows that carbon capture can be applied successfully at large scale on an existing pulverized coal EGU, though not necessarily at all such EGUs. As discussed above, Petra Nova benefitted from federal funding support and the proximity to an existing CO_2 pipe. Existing plants will face additional challenges. The capture equipment can have a large footprint, and not all facilities will have the space for additional equipment. Retrofits generally require tie-in to existing infrastructure and systems, which may be physically precluded by the existing plant design, or result in such significant impacts to the system that the plant cannot operate efficiently and economically.

3. What reporting should be required to show the CO_2 remains sequestered?

The ANPRM states that EPA seeks information on the appropriate level of monitoring, recordkeeping, and reporting that should be required for sequestered CO_2 in such cases. It also notes that EPA solicits comment on its existing approach as well as other alternatives that may be used when utilizing CCS as a compliance option for meeting emission reduction requirements in a state plan.

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[8] *Sierra Club v. Costle,* 657 F. 2d 298, 364 (D.C. Cir. 1981).

[9] 42 U.S.C. § 15962(i).

[10] 82 Fed. Reg. at 61,517.

To utilize CCS as a compliance option, EPA needs to have in place a framework for assuring that CO_2 injected in the subsurface does not return to the atmosphere. There is a separate regulatory objective of assuring that injected CO_2 does not contaminate underground sources or drinking water. These objectives already are met by the existing UIC programs under Class II and Class VI. The handful of wells for injecting CO_2 for the purpose of long-term storage (such as in saline formations) are regulated under the Class VI rules, while the many thousands of wells injecting CO_2 in EOR operations are regulated under the Class II rules administered by the states under EPA grants of primacy.

With specific regard to the incidental storage of CO_2 that occurs during CO_2-EOR operations via Class II wells, EPA has recognized that such storage is a "common occurrence" and that CO_2 can be "safely stored where injected through Class II permitted wells for the purpose of enhanced oil or gas-related recovery."[11] EPA has detailed the trapping mechanisms through which CO_2 injected via Class II wells becomes sequestered.[12] EPA has recognized that these trapping mechanisms are "well understood and proven."[13] And EPA has further recognized how the various other requirements under the Class II program ensure environmental protection.[14]

What EPA intended by coupling Subpart RR with Class II was, therefore, not to ensure secure incidental storage of the CO_2 during EOR operations – a goal already met via the Class II UIC program – but rather to provide an accounting framework for accurate calculation of the *quantity* of CO_2 that is incidentally stored during Class II EOR operations. EPA explained this explicitly when the Agency stated, "All that Subpart RR does is to provide an accounting framework to calculate (on a mass-balance basis) the amount of CO2 that is incidentally sequestered."[15]

The EAC agrees with EPA that accounting for and documenting the quantities incidentally stored during Class II CO_2-EOR operations is required for a CO_2 emission reduction scheme that relies in part on incidental storage during CO_2-EOR operations. The Subpart RR approach is very poorly adapted to CO_2-EOR operations. For the factual reasons below, the EAC recommends that the EPA determine reporting under Subpart UU of the GHG reporting rule to be adequate to demonstrate secure storage.[16]

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[11] *Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units*, 80 Fed. Reg. 64510, 64585 (Oct. 23, 2015).

[12] *Id.* at 64,588.

[13] *Id.* at 64,586; *see also id.* at 64,586-64,587 (describing the trapping mechanisms involved).

[14] *See id.* at 64,588.

[15] EPA, *Basis for Denial of Petitions to Reconsider and Petitions to Stay the CAA section 111(d) Emission Guidelines for Greenhouse Gas Emissions and Compliance Times for Electric Utility Generating Units* 178, (January 11, 2017) (emphasis added).

[16] Class II wells are those "which inject fluids: (1) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a

The U.S. has relatively little experience injecting CO_2 in Class VI wells for geologic sequestration. The only facility where Class VI wells have been operated is the ADM Decatur facility in Illinois. Given a slim track record and risk factors at Class VI wells that are unique among the well classes, there is justification behind a more detailed reporting system, in conjunction with a robust injection well regulatory structure, to assure that injected CO_2 does not contaminate groundwater or escape to the atmosphere.[17]

By contrast, CO_2-EOR has been conducted in the United States since 1972, and there are more than 130 CO_2-EOR projects operating at present. It is confirmed by research and widely known that CO_2 injected in the subsurface for EOR remains in place.[18] It is a fact widely accepted throughout industry and by others involved with CCS, including environmental groups, the United States Government as part of the multi-nation Carbon Sequestration Leadership Forum and, indeed, EPA itself.[19]

Thus, the most important data for EPA to record is how much CO_2 was obtained for injection. This is precisely the information Subpart UU requires to be reported. It is a fairly straightforward matter of proper accounting to preclude any "double counting" and to adapt the gross CO_2 acquisition figures to account for inputs and re-deliveries of CO_2 at the various receipt and delivery points of a pipeline system as well as recycling or transfer of previously injected CO_2 and related matters. In contrast, Subpart RR goes beyond accounting to impose an additional layer of regulation of operational matters that are beyond the articulated purpose of the rules and that are in any event already covered for EOR operations by the Class II program itself.

The CPP conditioned a regulated facility's credit for CO_2 emission reductions from CCS on CO_2 injection being reported in accordance with Subpart RR, regardless of whether the CO_2

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hazardous waste at the time of injection. (2) For enhanced recovery of oil or natural gas; and (3) For storage of hydrocarbons which are liquid at standard temperature and pressure. 40 C.F.R. § 144.6(b).

[17] The EAC intends at a later time to recommend changes to the Class VI regulatory structure. While robust regulation is appropriate, some features of the Class VI regulatory structure are unnecessary, and create unwarranted expense and risk for owners and operators.

[18] Vello A. Kuuskraa , Michael L. Godec, Phil Dipietro, *CO_2 Utilization from "Next Generation" CO_2 Enhanced Oil Recovery Technology*, 37 ENERGY PROCEDIA 6854, 6856 (Nov. 2012) (paper presented at 11th International Conference on Greenhouse Gas Technologies) ("At the end of a CO_2 flood, essentially all of the purchased CO_2 is stored in the reservoir when the operator closes the field at pressure."); DOE, NAT'L ENERGY TECH. LAB., CARBON DIOXIDE ENHANCED OIL RECOVERY UNTAPPED DOMESTIC ENERGY SUPPLY AND LONG TERM CARBON STORAGE SOLUTION 17 (Mar. 2010) ("All of the injected CO_2 is retained within the subsurface formation. . . or recycled to subsequent projects"); *see also id.* at 23 ("When a CO_2 EOR flood is finished, the CO_2 that remains underground, stays there").

[19] DEEPIKA NAGABHUSHAN, KURT WALTZER, THE EMISSION REDUCTION BENEFITS OF CARBON CAPTURE UTILIZATION AND STORAGE USING CO_2 ENHANCED OIL RECOVERY 2 (Clean Air Task Force) ("CCUS combined with EOR involves the incidental geologic trapping or storage of CO_2 that occurs as part of the oil recovery process. CO_2 is injected into mature reservoirs, where it mixes with the remaining oil, enabling it to be more easily produced, and as a result of which a portion of the CO_2 (usually about one-third to a half) is geologically trapped, permanently. The CO_2 that is not trapped is produced with the oil, recaptured, and reinjected – and the process continues until all of the CO_2 is permanently sequestered."); 80 Fed. Reg. at 64,585 ("CO_2 storage associated with Class II wells is a common occurrence and CO_2 can be safely stored where injected through Class II-permitted wells for the purpose of enhanced oil or gas-related recovery.").

was sent to a Class VI geologic sequestration well or to a Class II oil or gas well.[20] In doing so, EPA failed to distinguish the basic differences between the two types of CO_2 injection,[21] and the thin (and at the time non-existent) history of Class VI injections with largely untested retention characteristics from the long and well-settled history of permanent sequestration through CO_2-EOR at Class II wells. We also note that the EPA's action in this regard was procedurally defective, in that the Agency had not included such a requirement for CO_2 sent to Class II wells in the proposed CPP. As such, commenters did not have sufficient notice of the provision.

Subpart RR's requirement to operate under an EPA-approved monitoring, reporting, and verification plan would compel the injecting oil company to remain in the oil field after injections and oil production have ceased. This would create a number of complications. State law, as well as oil and gas lease agreements, require oil producers to vacate the property once production ceases. Setting aside State law, it would be exceptionally burdensome and could substantially alter the economic viability of a field for a company to have to renegotiate perhaps hundreds of lease agreements to provide for post-injection surface rights of unknown duration – all for the absurdity of ensuring that the same type of molecules already known to be trapped in the subsurface will be trapped in the subsurface if they come from a regulated source.

Furthermore, oil companies may obtain CO_2 for injection from multiple sources. No other CO_2 is under a requirement to be reported under Subpart RR when sent to a Class II well for injection. Thus, a Subpart RR requirement for Class II wells would compel operators to risk violating State law and lease agreements in order to take "CPP-regulated" CO_2. EPA should expect that many operators will not do so, which will deter the CO_2 reductions from CCS, rather than encourage them.

4. Should there be changes to applicability of new source review?

EPA requests comments on whether the new source review ("NSR") provisions of the Clean Air Act deter facility owners from making efficiency improvements if doing so would trigger major NSR permitting.[22] We confine our comments specifically to the potential applicability of NSR to CCS projects.

Retrofits to install carbon capture equipment would constitute a "physical change" at a facility. Some may argue that installation of carbon capture equipment could result in a significant net emissions increase by requiring consumption of additional energy, and attendant emissions, to operate the carbon capture equipment. The EPA should apply the maximum interpretive flexibility available to assure that installation of equipment for CCS – which categorically decreases carbon dioxide emissions and is a pollution control project – does not trigger NSR.

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[20] 80 Fed. Reg. at 64,883-64,884.

[21] *See, e.g.*, Bruce Hill, Susan Hovorka , Steve Melzer, *Geologic Carbon Storage Through Enhanced Oil Recovery*, 37 ENERGY PROCEDIA 6808, 6819-6820 (2012).

[22] 82 Fed. Reg. at 61,519.

To: stephen.lucas@canada.ca[stephen.lucas@canada.ca]; Karsten.Sach@bmub.bund.de[Karsten.Sach@bmub.bund.de]; Satoru_Morishita@env.go.jp[Satoru_Morishita@env.go.jp]; Nishida, Jane[Nishida.Jane@epa.gov]; nick.joicey@defra.gsi.gov.uk[nick.joicey@defra.gsi.gov.uk]; peter.betts@beis.gov.uk[peter.betts@beis.gov.uk]; Jos.Delbeke@ec.europa.eu[Jos.Delbeke@ec.europa.eu]; daniel.calleja-crespo@ec.europa.eu[daniel.calleja-crespo@ec.europa.eu]
Cc: La Camera Francesco[Lacamera.Francesco@minambiente.it]; joanna.dafoe@canada.ca[joanna.dafoe@canada.ca]; nancy.hamzawi@canada.ca[nancy.hamzawi@canada.ca]; Cc:[jacinthe.seguin@canada.ca]; nicolas.fairise@developpement-durable.gouv.fr[nicolas.fairise@developpement-durable.gouv.fr]; Pascal BARGIARELLI (MoE-Fra)[pascal.bargiarelli@developpement-durable.gouv.fr]; till.koetter.extern@bmub.bund.de[till.koetter.extern@bmub.bund.de]; marcus.schroeder@bmub.bund.de[marcus.schroeder@bmub.bund.de]; TAKESHI_SEKIYA@env.go.jp[TAKESHI_SEKIYA@env.go.jp]; Finman, Hodayah[Finman.Hodayah@epa.gov]; Dieu, Martin[Dieu.Martin@epa.gov]; demarsce1@state.gov[demarsce1@state.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Luca.Marmo@ec.europa.eu[Luca.Marmo@ec.europa.eu]; Cyril.LOISEL@ec.europa.eu[Cyril.LOISEL@ec.europa.eu]; Astrid.Schomaker@ec.europa.eu[Astrid.Schomaker@ec.europa.eu]; cheryl.case@defra.gsi.gov.uk[cheryl.case@defra.gsi.gov.uk]; Corrigan, Tanya (DEFRA)[Tanya.Corrigan@defra.gsi.gov.uk]; clare.hamilton@defra.gsi.gov.uk[clare.hamilton@defra.gsi.gov.uk]; HIROSHI_ONO@env.go.jp[HIROSHI_ONO@env.go.jp]; TAKEHIKO_FUKUSHIMA@env.go.jp[TAKEHIKO_FUKUSHIMA@env.go.jp]; YOICHI_FUKUI@env.go.jp[YOICHI_FUKUI@env.go.jp]; MAKIKO_KUBO@env.go.jp[MAKIKO_KUBO@env.go.jp]; Molocchi Andrea[Molocchi.Andrea@minambiente.it]; Castaldi Gionata[Castaldi.Gionata@minambiente.it]; 'Aldo.Ravazzi@tfambiente.it'[Aldo.Ravazzi@tfambiente.it]; A: G7emm[G7emm@minambiente.it]
From: Ravazzi Aldo
Sent: Mon 12/4/2017 11:58:48 PM
Subject: Invitation - Paris, 13 Dec. 2017 - "Financial centres: mobilising capital to accelerate climate action"
INVITATION_13.Dec.2017_FULLY BOOKED.pdf
Financial Centres Paris Event Agenda v16.pdf

Dear G7 Environment Vice-Ministers and Directors, dear Colleagues,

Director General Francesco La Camera has the pleasure to invite you to the event "Financial centres: mobilising capital to accelerate climate action" which will be held in Paris Wednesday 13 December 2017.

It is the last event of our G7 presidency, inspired by the G7 Environment 2017 Bologna Communiqué, where our Ministers acknowledged the pivotal role in the allocation of capital played by financial centres, recognized the commitments to sustainability made by an increasing number of financial centres and noted with interest their launch of an international network.
It is a "labellised event" in the frame of the One Planet Summit called by the French President Macron two years after the Paris Agreement.
Italy will announce the hosting of the first meeting of the international network in Milano 12-13 April 2018.
We take the opportunity to kindly ask you to encourage G7 Financial Centres from our G7 Countries to join the network.

Please find attached the save-the date and the updated agenda.
Apologies for cross invitations by the co-organisers.

As the event has gone “fully booked” a few hours after its launch and registrations are closed, we would be grateful, if you could confirm your participation directly to me, c.c.

Molocchi.Andrea@minambiente.it,
by Friday 8 December, 14h Rome time.

Best regards, looking forward to meeting you in Paris,
Aldo Ravazzi,
G7 Environment 2017 Italian Presidency, coordination
OIFS Italian Observatory on Sustainable Finance, secretariat
Italian MoE, DG Sustainable Development, chief economist

Da: Thelissen, A.L. (Alana) - DGMI [mailto:alana.thelissen@minienm.nl]

Inviato: giovedì 23 novembre 2017 10:12

A: Beukeboom, M.J.M. (Marcel) - BSK; Nick.Bridge@fco.gov.uk; COLLET Brigitte; Karsten.Sach@bmub.bund.de; Lars Ronnås; La Camera Francesco; Dafoe, Joanna (EC); 4-B-2@auswaertiges-amt.de

Cc: IJzendoorn, L. (Lenneke) - DGMI; Brandt, Ina; Kranz, Nicole (EXTERN); Alexandra Rydberg Cordell; Vignola Emanuela; Christopher.Wright@fco.gov.uk; Thelissen, A.L. (Alana) - DGMI

Oggetto: Follow-up Climate Envoy Meeting during COP23

ÉVÉNEMENT LABELLISÉ SIDE EVENT

INVITATION

Financial centres: mobilising capital to accelerate climate action

High-Level Event, 10.30-12.30, 13 December 2017
Institut Italien de Culture, 50 Rue de Varenne, Paris 7e, France

Agenda

10.30 Welcome
- Italian Ambassador to France, Giandomenico Magliano; Italian Ambassador to IGOs in Paris, Alessandro Busacca; Institut Italien de Culture Director, Fabio Gambaro
- Finance for Tomorrow: Arnaud de Bresson, CEO, Paris EUROPLACE

10.40 Opening Keynote Speech:
- Introduced by: Francesco La Camera, Director General, Italian Ministry of Environment
- French Secretary of State, attached to the Minister for Ecological & Inclusive Transition, Brune Poirson

10.50 Financial Centres Action
- Launch of 'Financial Centres for Sustainability' Report: Nick Robins, Co-Director, UN Environment Inquiry into the Design of a Sustainable Financial System
- Launch of 'Benchmarking Green Financial Centres' Report: Jon Williams, Partner, PWC

11.05 Financial Centres Panel
- Moderated by: Nick Robins, Co-Director, UN Environment Inquiry
* Canada: Jennifer Reynolds, CEO, Toronto Financial Services Alliance
* China: Danni Lin, Assistant President, China Emissions Exchange, Green Finance Committee, Shenzhen
* France: Philippe Zaouati, CEO, Mirova, & Chair, Finance for Tomorrow
* Italy: Paolo Garonna, Secretary-General, Febaf, & Milan Sustainable Financial Centre WG
* Morocco: Said Ibrahimi, CEO, Casablanca Finance City Authority
* Luxembourg: Nicolas Mackel, CEO, Luxembourg for Finance
* UK: Alison Gowman, Green Finance Initiative, & Alderman, City of London Corporation

11.50 Q&A

12.05 Keynote Speeches - Conclusions:
- French Minister for Ecological & Inclusive Transition, Nicolas Hulot
- Italian Minister of Environment, Land & Sea, Gian Luca Galletti

12.30 CLOSE

ÉVÉNEMENT LABELLISÉ SIDE EVENT

G7 2017 ITALIA

MINISTERO DELL'AMBIENTE E DELLA TUTELA DEL TERRITORIO E DEL MARE

UN environment

PARIS EUROPLACE

EUROPLACE FINANCE FOR TOMORROW

INVITATION

Financial centres: mobilising capital to accelerate climate action

High-Level Event, 10.30-12.30, 13 December 2017
Institut Italien de Culture, 50 Rue de Varenne, Paris 7e, France

Il Ministero dell'Ambiente italiano, Paris EUROPLACE con la sua iniziativa **Finance for Tomorrow** e **UN Environment** hanno il piacere di invitarla a un evento di alto livello per la definizione del ruolo dei centri finanziari leader mondiali nel mobilitare i capitali per l'accelerazione dell'azione sul clima.

L'evento si terrà il giorno dopo il vertice **"One Planet Summit"** del Presidente Macron che celebra il secondo anniversario dell'Accordo di Parigi e descriverà il lavoro della nuova rete internazionale delle piazze finanziarie per la finanza sostenibile, che trae origine dalla presidenza dell'Italia del G7 nel 2017.

L'evento sarà caratterizzato dal lancio del primo rapporto "stato dell'arte" preparato da UN Environment e dal primo rapporto sul benchmarking della piazze finanziarie in termini di finanza verde.

Tra gli interventi, gli alti rappresentanti dei centri finanziari di Canada, Cina, Francia, Italia, Lussemburgo, Marocco e Regno Unito; le conclusioni sono affidate ai keynote speeches dei Ministri di Italia e Francia.

Le Ministère de l'Environnement italien Paris EUROPLACE avec son initiative **Financefor Tomorrow** et **UN Environment** ont le plaisir de vous inviter à un événement de haut niveau sur la définition du rôle des places financières leaders au niveau mondial dans la mobilisation des capitaux pour l'accélération de l'action en faveur du climat.

L'événement aura lieu le lendemain du « **One Planet Summit** » organisé par le Président Macron pour célébrer le deuxième anniversaire de l'Accord de Paris. Il dessinera les contours du nouveau réseau international des places financières durables, engagées pour la « soutenabilité », initié par la présidence italienne du G7 en 2017.

L'événement sera également l'occasion de présenter le premier rapport sur « l'état des lieux » du réseau préparé par UN Environment et du premier benchmarking des places financières vertes.

Il accueillera des intervenants de haut niveau des places financières du Canada, Chine, France, Italie, Luxembourg, Maroc et Royaume Uni, et sera clôturé par des keynote speeches des Ministres de l'environnement français et italien.

Italy's Ministry of Environment, Paris EUROPLACE with its initiative **Finance for Tomorrow** and **UN Environment** are delighted to invite you to a high-level event setting out the role of the world's leading financial centres in mobilizing capital to accelerate climate action.

The event will take place the day after the President Macron's **"One Planet Summit"** which will celebrate the second anniversary of the Paris Agreement and will profile the work of the new international network of financial centres for sustainability, which originated under Italy's 2017 G7 presidency.

The event will feature the launch of the network's first 'state of the art' report prepared by UN Environment and the first report benchmarking financial centres in terms of green finance.

Speakers will include leading representatives from financial centres in Canada, China, France, Italy, Luxembourg, Morocco and UK and will be closed by keynote speeches from Ministers from Italy and France.

FULLY BOOKED – REGISTRATION CLOSED
For any question, please contact sara.garbagnoli@esteri.it, Institut Italien de Culture, and c.c. molocchi.andrea@minambiente.it

From: Novikoff, Joshua
Location: DCRoomRRB31107-1/Ronald-Reagan-Building; DCRoomRRB31107-2/Ronald-Reagan-Building
Importance: Normal
Subject: Climate Policy Discussion with Global Green Growth Institute (South Korea)
Start Date/Time: Fri 12/8/2017 4:00:00 PM
End Date/Time: Fri 12/8/2017 5:00:00 PM
GGGI Briefing Paper.docx
GGGI-NDC-Alliance-Brochure-WEB.PDF

I. PURPOSE

Discuss U.S. climate policy with Korea-based international government organization, the Global Green Growth Institute (GGGI), per their meeting request.

II. PARTICIPANTS

EPA

•□□□□□□ Ms. Mandy Gunasekara, Senior Policy Advisor to the Administrator for the Office of Air and Radiation

Global Green Growth Institute

•□□□□□□ Mr. Keeyong Chung, Director, Governance, Global Green Growth Institute

Mr. Chung is seconded to GGGI from the Republic of Korea (South Korea) Ministry of Foreign Affairs. He previously served as Minister Counselor in Washington, DC. He will be in Washington from December 4-8 to get acquainted with climate policy under the current administration. Mr. Chung mentioned that his organization was encouraged by the publication of the Climate Science Special Report and is pursuing meetings with the State Department Office of Global Change, USAID, Congressional Research Service, Senate Foreign Relations Committee, House Foreign Affairs Committee, Johns Hopkins School of Advanced International Studies, Pew Charitable Trust, Wilson Center, Center for Strategic and International Studies, Environmental Defense Fund, and others during his visit to Washington.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Cozzie, David[Cozzie.David@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Pruitt, Scott[Pruitt.Scott@epa.gov]; Page, Steve[Page.Steve@epa.gov]
Cc: James D. Elliott[jelliott@spilmanlaw.com]
From: Sarah D. Stoner
Sent: Wed 8/9/2017 8:23:54 PM
Subject: Docket No. EPA-HQ-OAR-2010-0505 - Comments of the Independent Producers
Independent Producers' Comments on Proposed Two-Year Stay.pdf

Please find attached the Comments on behalf of the Independent Petroleum Association of America ("IPAA"), American Exploration & Production Council ("AXPC"), Domestic Energy Producers Alliance ("DEPA"), Eastern Kansas Oil & Gas Association ("EKOGA"), Illinois Oil & Gas Association ("IOGA"), Independent Oil and Gas Association of West Virginia, Inc. ("IOGA-WV"), Indiana Oil and Gas Association ("INOGA"), International Association of Drilling Contractors ("IADC"), Kansas Independent Oil & Gas Association ("KIOGA"), Kentucky Oil & Gas Association ("KOGA"), Michigan Oil and Gas Association ("MOGA"), National Stripper Well Association ("NSWA"), North Dakota Petroleum Council ("NDPC"), Ohio Oil and Gas Association ("OOGA"), Oklahoma Independent Petroleum Association ("OIPA"), Pennsylvania Independent Oil & Gas Association ("PIOGA"), Texas Alliance of Energy Producers ("Texas Alliance"), Texas Independent Products & Royalty Owners Association ("TIPRO"), and West Virginia Oil and Natural Gas Association ("WVONGA") (collectively, "Independent Producers") regarding the EPA's Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements at 82 Fed. Reg. 27,645 (June 16, 2017), Docket No. EPA-HQ-OAR, 2010-0505, which was electronically submitted today at regulations.gov.

Please note that the Comments include attachments of the Petition for Reconsideration and Comments previously submitted by the Independent Producers.

Please contact the undersigned if you have any problems opening this document. Thank you.

Sent on Behalf of

James D. Elliott
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101

Mechanicsburg, PA 17050
717.791.2012 - office
202.361.8215 - mobile
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View My Bio

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Graham, Amy
Sent: Fri 6/2/2017 9:32:26 PM
Subject: RE: Studies

Got it – thanks

From: Gunasekara, Mandy
Sent: Friday, June 2, 2017 5:32 PM
To: Graham, Amy <graham.amy@epa.gov>
Cc: Bowman, Liz <Bowman.Liz@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Re: Studies

No- that's different. The only other one I have (in addition to MIT) is the Bjorne one highlighted below.

There are two total
Sent from my iPhone

On Jun 2, 2017, at 5:28 PM, Graham, Amy <graham.amy@epa.gov> wrote:

Is this another one?

Climate Action Tracker, The Coal Gap: planned coal-fired power plants inconsistent with 2˚C and threaten achievement of INDCs (December 1, 2015) available at: http://climateactiontracker.org/assets/publications/briefing_papers/CAT_Coal_Gap_Briefing_COP21.pdf

We are trying to show others in addition to MIT

From: Gunasekara, Mandy
Sent: Friday, June 2, 2017 5:26 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Graham, Amy <graham.amy@epa.gov>
Subject: Studies

The Paris Agreement has no meaningful impact on the climate:

•□□□□□□□□ According to expert testimony, the Massachusetts Institute of Technology's Joint Program on the Science and Policy of Global Change reports that temperatures by 2100 would rise 3.9°C without INDCs and 3.7°C with them – a difference of 0.2 degrees Celsius. [1]

•□□□□□□□□ Another report found that if all climate policies by the US, China, the EU and the rest of the world, implemented from the early 2000s to 2030 and sustained through the century would reduce global temperature rise about 0.17°C in 2100.[2]

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[1] Oren Cass Testimony before the US Senate Environment and Public Works Committee (November 18, 2015) *see* page 3, footnote 11, available at: https://www.epw.senate.gov/public/_cache/files/6658e59c-1098-4820-8360-3d61a34985bf/cass-testimony.pdf

[2] Lomborg, Global Policy: Impact of Current Climate Proposals (November 9, 2015) available at: http://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12295/full

To: Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Bowman, Liz
Sent: Wed 6/7/2017 6:11:24 PM
Subject: FW: Washington Post: The Energy 202: Pruitt steps up media profile in wake of Paris accord pullout, 6/7/17

Flagging for your awareness.

From: So, Katherine
Sent: Wednesday, June 7, 2017 11:28 AM
To: AO OPA OMR CLIPS <AO_OPA_OMR_CLIPS@epa.gov>
Subject: Washington Post: The Energy 202: Pruitt steps up media profile in wake of Paris accord pullout, 6/7/17

Washington Post

https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2017/06/07/the-energy-202-pruitt-steps-up-media-profile-in-wake-of-paris-accord-pullout/5936ea30e9b69b2fb981dc76/?utm_term=.d510d4b1ea58

The Energy 202: Pruitt steps up media profile in wake of Paris accord pullout

By Dino Grandoni 6/7/17

There has been much interest -- among Republicans, it's hopeful; among Democrats, it's fearful -- in how science will be conducted differently at the Environmental Protection Agency under Scott Pruitt. Following President Trump's withdrawal from the Paris climate accord, the EPA head is seeking to explain.

The former Oklahoma attorney general is suddenly appearing on all kinds of media outlets -- from "Meet the Press" this past Sunday, to MSNBC's "Morning Joe" on Tuesday to Fox News and Breitbart. In these segments, Pruitt not only defends the decision to depart the Paris accords ("all hat and no cattle," Pruitt called Paris to Fox's Martha MacCallum) but hints at what might come at the EPA.

On "Morning Joe" (not President Trump's favorite forum, incidentally), host and former Florida GOP congressman Joe Scarborough pressed Pruitt on whether he knew (no one else seems to) whether Trump believes that human activity causes climate change. See the exchange below:

https://youtu.be/3H4NhDfyoKI

The appearances on NBC and MSNBC mark a bit of a turning point for Pruitt, who until recently stuck to conservative news organizations. As Scott Waldman of E&E News reported, Pruitt sought out friendly outlets after causing an uproar on CNBC's "Squawk Box" in March after saying that carbon dioxide is not a "primary contributor" to global warming, a position that contradicts the EPA's own science.

But Pruitt is still getting himself in front of Trump's base, where he's talking up some new ideas at his agency. In an interview Monday with a Breitbart podcast, Pruitt endorsed the idea of conducting something called a "Red Team/Blue Team" exercise for climate-change science at the EPA. Pruitt said:

What the American people deserve, I think, is a true, legitimate, peer-reviewed, objective, transparent discussion about CO2. And, uh, there was a great article in The Wall Street Journal about a month or so ago, Joel, called "Red Team/Blue Team" by Steve Koonin, a scientist I believe at NYU, and he talked about the importance of having a Red Team of scientists and a Blue Team of scientists, and those scientists get in a room and ask, what do we know, what don't we know, and what risk does it pose to human health and the United States and the world, with respect to this issue of CO2. The American people need to have that type of honest, open discussion, and it's something that we hope to provide as part of our leadership.

Let's explain:

What is a "Red Team"?

Essentially, it's a group of people at an organization designated to be the Devil's Advocate (whereas "Blue Team" denotes the status quo). As Koonin, a theoretical physicist at New York

University and under secretary for science at President Obama's Department of Energy, put it in the aforementioned op-ed in the WSJ: "The national-security community pioneered the "Red Team" methodology to test assumptions and analyses, identify risks, and reduce—or at least understand—uncertainties. The process is now considered a best practice in high-consequence situations such as intelligence assessments, spacecraft design and major industrial operations."

Who thinks it's a good idea?

Naturally, many scientists outside of the consensus on man-made climate change believe this is the right approach for organizations like the EPA to take. One such scientist -- Judith Curry, professor emeritus at Georgia Tech's School of Earth and Atmospheric Sciences -- said as much to the House Science Committee, which oversees the agency, during testimony in March:

"A scientist's job is to continually challenge his/her own biases and ask 'How could I be wrong? Playing 'Devil's Advocate' helps a scientist examine how their conclusions might be misguided and how they might be wrong. Overcoming one's own biases is difficult; an external Devil's Advocate can play a useful role in questioning and criticizing the logic of the argument."

Who thinks it's a bad idea?

Naturally, the scientists whose consensus on climate change is being challenged. They argue that conventional science already has a rigorous process of testing conclusions called peer review in which researchers in the same field anonymously scrutinized research results for errors before publication. (Proponents of the "Red Team" approach counter that a public debate is more honest).

When asked to elaborate on Pruitt's comments, EPA spokesperson Liz Bowman said, "We do not have anything to announce at this time, but as Administrator Pruitt said, the American people need to have that kind of honest, open debate."

If Pruitt decides to have warring teams of scientists duel to the truth inside the EPA, Trump's base might enjoy the spectacle.

Science and global warming especially has become a symbol among conservatives for everything that was wrong with the Obama administration and how the Trump White House can fix it. Trump's withdrawal from the Paris climate accord last week was applauded by 67 percent of Republicans, according to a new Washington Post-ABC News poll, while 25 percent of GOPers opposed it.

If Pruitt goes through with the plan, he would likely endear himself to climate change skeptics, which -- judging by right-wing media sites -- has sometimes not been terribly happy with him, although that was before the Paris exit.

There was much blowback after an ill-received Fox News interview with Pruitt in early April in which Breitbart condemned the EPA head as having **"sweated, stuttered, and floundered"** and not adequately defending the view that climate change is exaggerated. "Here is the guy who was carefully selected to be in the vanguard of President Trump's war on the Green Blob which, for decades, has been doing untold damage to liberty, the scientific method, and the economy. And he can't even answer a few basic and obvious questions about why the job he is doing is necessary, important, and right," wrote Breitbart's James Delingpole.

Here is the offending video: https://youtu.be/DRHKB7Vmxzk

But at least Pruitt showed up. Before the Paris deal, some administration officials were sharply divided on what to do about the Paris accords, with Trump's daughter Ivanka and Secretary of State Rex Tillerson leading the pro-Paris side and White House chief strategist Stephen K. Bannon and Pruitt pushing the anti-Paris cause. **Only the withdrawal camp in the White House had an effective advocate on television in Pruitt. The other side didn't.**

And by all appearances, Pruitt has gotten a bit better at handling interviewers. Questioned again last Sunday by "Meet the Press" host Chuck Todd about what he believes the primary cause of climate change to be, Pruitt deflected:

TODD: "You don't believe that CO2 is the primary cause?"

PRUITT: "No, I didn't say that. I said it's a cause."

TODD: "Primary?"

PRUITT: "It's a cause of many. It's a cause like methane, and water vapor, and the rest."

https://youtu.be/L5nkrMBF3gM

Meanwhile, Pruitt is making his own stop at the Vatican ahead of a meeting with the G-7 ministers in Italy this week, reports my colleague Juliet Eilperin. It's unclear whether he'll meet, like Trump, with Pope Francis and be gifted a second copy of the pope's climate-change encyclical after Trump got one during his recent European trip.

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Lovell, Will (William)
Sent: Thur 8/24/2017 12:16:58 PM
Subject: RE: Letter regarding Request for Appeal; Mexichem Fluor v. EPA
Douglas J. Kramer, President and Chief Executive Officer (CEO), Lapolla Industries, Inc.pdf
Honeywell International Inc.pdf
Kenneth (Ken) Gayer, Vice President and General Manager (VPGM), Honeywell Fluorine Products, Permormance Materials and Technologies, Honeywell.pdf
Kenneth Gayer, Vice President and General Manager, Honeywell Fluorine Products.pdf
Kurt T. Werner, Environmental Affairs Manager, 3M Electronics Materials Solutions Division.pdf
Mary Dane, Agency Approval Engineer, Traulsen-ITW Food Equipment Group.pdf

Please see below and attached. Let me know if I can provide anything else.

Comment submitted by Kurt T. Werner, Environmental Affairs Manager, 3M Electronics Materials Solutions Division

Comment submitted by Mike Lowery, Director of Operations, All Weather Insulated Panels
[They did not submit their comments as a PDF]

Comment submitted by Honeywell International Inc.

Comment submitted by Kenneth Gayer, Vice President and General Manager, Honeywell Fluorine Products

Comment submitted by Kenneth (Ken) Gayer, Vice President and General Manager (VPGM), Honeywell Fluorine Products, Permormance Materials and Technologies, Honeywell

Comment submitted by Mary Dane, Agency Approval Engineer, Traulsen-ITW Food Equipment Group

Comment submitted by Douglas J. Kramer, President and Chief Executive Officer (CEO),

Lapolla Industries, Inc.

From: Gunasekara, Mandy
Sent: Wednesday, August 23, 2017 7:03 PM
To: Lovell, Will (William) <lovell.william@epa.gov>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: FW: Letter regarding Request for Appeal; Mexichem Fluor v. EPA

Thank you, Will!

From: Chiang, Amy [mailto:Amy.Chiang@Honeywell.com]
Sent: Wednesday, August 23, 2017 5:10 PM
To: Pruitt, Scott <Pruitt.Scott@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Letter regarding Request for Appeal; Mexichem Fluor v. EPA

August 23, 2017

The Honorable Scott Pruitt

Administrator

United States Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, DC 20460

Re: Request for Appeal; Mexichem Fluor v. EPA

Dear Administrator Pruitt:

We request that you appeal en banc the decision reached by the United States Court of Appeals for the District of Columbia Circuit on August 8 in *Mexichem Fluor Inc. v. Environmental Protection Agency*.

We believe that the Court wrongly vacated EPA's rule establishing restrictions on the use of some hydrofluorocarbons (HFCs) through the Significant New Alternatives Program (SNAP). The 1994 final rule implementing the SNAP program summarized, "In section 612 of the CAA, the Agency is authorized to identify and restrict the use of substitutes for class I and II ozone-depleting substances where the Administrator has determined that other alternatives exist that reduce overall risk to human health and the environment." This authority has driven industry to innovate, invest and continuously improve the product offerings for markets subject to SNAP regulation, and in the process increasing U.S. competitiveness and creating a significant number of jobs. Our hope is that a successful appeal results in the preservation of this SNAP tenet which leverages the strengths of U.S. industry.

The Court's decision will have a significant negative economic impact on the global business for ozone-depleting substances (ODS) and hydrofluorocarbon (HFC) substitutes including hydrofluoro-olefins (HFO), hydrofluoroethers (HFE), fluoroketones (FK), and the equipment and systems that use them. The companies signing this letter have invested heavily over the past 20 years in developing these unique products and the capacity to manufacture them in the United States, and some companies are currently investing hundreds of millions of dollars to construct and expand manufacturing facilities in support of compliance with this regulation. After years of U.S. policy and regulatory signals that these were sound investments, the Court's decision creates uncertainty for the future use of these innovative solutions. For example, U.S. companies have invested well over $1 billion in the development and manufacture of HFOs and products containing HFOs to meet U.S. and global demand while the foreign competitors who brought this lawsuit have not invested in the R&D, process technology or manufacturing capital to commercialize these alternatives. At stake are thousands of U.S.-based jobs supporting local economies, including manufacturing plants throughout the U.S.

The impacted rules are essential to economic growth and job creation in the U.S., and foster American competitiveness in this industry. The decisions made by EPA in this area have global implications as other countries will follow the U.S.'s lead. ODS and HFC substitutes, and products utilizing substitutes such as air conditioning and refrigeration equipment, foam insulation, aerosols, fire suppression systems, and solvents are exported from the U.S. to enable other countries to meet global

commitments in phasing away from ODSs and HFCs.

If this ruling stands, the American companies who innovated new technology will need to reevaluate the investments to date and any future investment plans. American companies lead the world in innovation and this ruling, instigated by two foreign competitors, discourages U.S. industry from making similar future investments.

Sincerely,

Kurt Werner, Environmental Affairs Manager

3M Electronics Materials Solutions Division

William Lowery, President

All Weather Insulated Panels

Eugene Silberstein
AC&R Safety Coalition

Bob Dwyer
Carbon Monoxide Safety Association

Paul Kirsch, President - Fluoroproducts

The Chemours Company.

Paul Valle, President & CEO

Demilec

Jerry Weiss, Chairman

ESCO Institute

Renee Tomlinson

Green Mechanical Council

George Koutsaftes, Vice President and General Manager

Honeywell

Howard S Weiss, Executive Vice President
HVAC Excellence

Lei Schlitz, Executive Vice President

ITW Food Equipment Group

Doug Kramer, President & CEO

La Polla Industries Inc

Chip Holton, President

NCFI Polyurethanes

G William Northrup, CEO

North Park Innovations

Bob Guarasci, President

VGI Training

To: Wehrum, Bill[Wehrum.Bill@epa.gov]; OAR Briefings[OAR_Briefings@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Harlow, David[harlow.david@epa.gov]
From: DeLuca, Isabel
Sent: Thur 1/25/2018 10:24:08 PM
Subject: GMI / Israel
GMI background for Israel rev 01.19.2018.docx
Israel GMI Rollout Plan-01.16.18 draft ID.docx
Israel US draft communique 01.16.2018 OGC.docx
Talking Points GMI Israel.docx

Hi Bill,

For his upcoming trip to Israel, the Administrator has expressed some interest in an event that acknowledges the intent of the United States and Israel to collaborate under the auspices of the Global Methane Initiative.

To prepare for that, GMI staff have drafted a backgrounder, rollout-plan, talking points, and a joint communiqué that could be signed by both countries.

I believe these docs have cleared OAP and OITA staff are reviewing now. They may share these soon with the 3rd floor, and we wanted to make sure you were aware that this is in the works.

Thanks,
Isabel

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Dominguez, Alexander[dominguez.alexander@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; Loving, Shanita[Loving.Shanita@epa.gov]; Cyran, Carissa[Cyran.Carissa@epa.gov]
From: Thompson, Ryan
Sent: Fri 11/3/2017 9:45:15 PM
Subject: RE: Aviation carbon emissions

Thanks Mandy! I certainly understand – if your scheduling team can suggest some dates for early December, I will gladly start working it from our team's side. Thank you and have a great weekend! - Ryan

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Friday, November 03, 2017 12:28 PM
To: Thompson, Ryan
Cc: Dominguez, Alexander; Atkinson, Emily; Loving, Shanita; Cyran, Carissa
Subject: RE: Aviation carbon emissions

Hey Ryan – I'd be happy to meet. I'm looping in our scheduling team to help firm up the logistics. Heads up that due to significant travel in November, I won't be available for an in person meeting until early December.

Best,

Mandy

From: Thompson, Ryan [mailto:thompsonr@akingump.com]
Sent: Friday, November 3, 2017 10:27 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Aviation carbon emissions

Mandy,

I hope you are well! I wanted to reach out to request a meeting to discuss carbon emissions from

aircraft engines per the article below with my client American Airlines. Would you have any time next week of the week after? Thanks! – Ryan

Ryan Day Thompson

AKIN GUMP STRAUSS HAUER & FELD LLP

Politico:

Trump administration restarts work on airplane carbon rule

By ERIC WOLFF

10/13/2017 02:48 PM EDT

The EPA confirmed it is developing a rule to regulate carbon emissions from aircraft, a rare step by the Trump administration to address climate change, and one that's seen as critical for the U.S. aerospace industry.

The rule, still under development, is part of the effort agreed to by a United Nations body last year to set a global carbon standard for international flights. Aircraft manufacturer Boeing, and its engine-makers Pratt & Whitney and GE, supported the agreement, and the companies need EPA to create the emissions regulation that would allow DOT to certify its equipment for international sale.

The rulemaking runs counter to President Donald Trump and EPA Administrator Scott Pruitt's steadfast opposition to efforts to combat climate change, and their rollback of Obama's climate policies. EPA had paused development of the aircraft rule over the summer as part of Trump's broader deregulatory push. But official schedules show Pruitt met with Boeing and GE in July, and the agency restarted the work this fall.

In crafting the rule, the administration appears to be willing to support a climate change effort that is strongly backed by industry, and could be an indicator of how it will consider a treaty to limit global warming-causing coolants. The carbon rule for aircraft is essential for Boeing, one of the top U.S. exporters.

"If the U.S. does not write a rule, U.S. manufacturers, particularly this would be Boeing, and manufacturers of engines on planes, they would not be able to sell those on international service and U.S. airlines would not be able to buy them for international operations," said Nancy Young, vice president for

environmental affairs for the lobby group Airlines for America.

A committee of the International Civil Aviation Organization, an international standards-setting body, first agreed to the carbon standard for aircraft engines early in 2016. New engine designs in 2020 would be required to be an average of 4 percent more efficient than 2015 engines, and all new aircraft will have to meet the standard by 2024. ICAO issued a final approval in the spring, and EPA had already begun work on the rule, publishing an endangerment finding in July last year.

But Trump's election put the effort in doubt, and work on the rule paused over the summer as part of the new administration's regulatory reviews. Pruitt's schedule showed he had at least one meeting with Boeing over the summer, and work has begun now in earnest to produce a rule implementing the agreement.

"EPA is working on CO2 standards for aircraft to align them with the ICAO agreement," an EPA spokesman told POLITICO, confirming news first reported by Bloomberg BNA. The agency had said in its deregulatory agenda on July 20 that work on the rule had been suspended.

ICAO sets a wide variety of technical and safety standards, and federal agencies like the FAA and DOT typically implement them with little fanfare. Agreements by the body do not typically require Senate ratification. The ICAO agreement requires action by EPA to set the emission standards, and DOT would use those standards to certify engines promoted by Boeing, but it would not require Senate ratification.

But any carbon rule seemed unlikely under the Trump administration, which has spent its first months in office erasing regulatory efforts to fight climate change, including the Clean Power Plan and the U.S. participation in the Paris climate agreement.

Without an EPA rule implementing the deal, Boeing would have been unable to export its aircraft, or would have been forced to get them certified by another country that had implemented the deal, like Canada or Mexico. Boeing is a major exporter: The U.S. exported $136 billion in aerospace equipment in 2016, and Boeing exported $25 billion in aircraft to China alone. The International Council on Clean Transportation, a transportation think tank, characterized the stakes by noting Boeing's $250 billion order backlog that could be at risk without a rule.

Boeing declined to comment for this story.

Boeing and GE met with Pruitt on July 13, a week before the public learned the rule had been paused, according to a schedule of Pruitt's meetings released by EPA last month.

"For Boeing, GE and Pratt and Whitney, it’s critical," said Daniel Rutherford, marine and aviation program director for ICCT. "If they want to sell aircraft after 2020, they need this rule."

Greens are split on the ICAO standard. Bill Hemmings, who leads aviation work at Transport and Environment, an international green group, lambasted it at the time as " a nice try" that fell short of making major strides to reduce emissions. According to ICCT's analysis, Boeing will exceed the standard with the products in their pipeline by 10 percent.

But defenders of the agreement say it has value for preventing backsliding in engine efficiency, and for stopping other countries from producing less efficient products that undercut higher-quality U.S. goods.

"With this agreement, ICAO created the first-ever standards for carbon dioxide performance for a major sector of the economy, the aviation industry," said Rick Duke, a former aide to Obama who worked on the agreement. "It's good for American industry because we produce efficient aircraft and so we want to make sure that laggards are not grabbing market share with poor-performing aircraft."

The administration's action could also be good news for the U.S. coolant-making industry, which is strongly backing a separate agreement struck at the end of last year to limit global-warming hydrofluorocarbons. The industry supports the agreement reached in Kigali, Rwanda, because U.S. companies are the leaders in next-generation coolants. But unlike the ICAO agreement, the amendment to the Montreal Protocol requires Senate ratification.

Now, the willingness of Trump's EPA to write a carbon rule on behalf of industry could signal at least tacit approval to remain part of the international business arrangement, if not administration support for the Kigali agreement itself.

"I think that's what we saw happen last year with the Kigali agreement with HFCs where U.S. industry strongly pushed for successful outcome there," Duke said. "And like the aircraft sector, the industry produces high-performing products, and they very much appreciate having a level playing field and allows them to have a clear path."

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To: Gunasekara, Amanda[gunasekara.amanda@epa.gov]
From: Nishida, Jane
Sent: Wed 3/22/2017 3:35:53 PM
Subject: FW: French Green bonds - Letter to Mr Pruitt
1-Courtesy translation G20.doc
Communiqué de presse emission inaugurale.pdf
Ministres G20.pdf
Press release.doc
structuration obligation verte.pdf
Structure of the first sovereign green bonds.pdf

Mandy,

I also wanted to inform you that there is a meeting tomorrow afternoon with the French Embassy staff to discuss French green bonds and climate change. Byron Brown, David Kreutzer and Sarah Dunham will be attending for EPA and if you wanted to be added to the invite, please let me know.

Jane

From: Nishida, Jane
Sent: Friday, March 03, 2017 4:35 PM
To: David Kreutzer (kreutzer.david@epa.gov) <kreutzer.david@epa.gov>; Ryan Jackson (jackson.ryan@epa.gov) <jackson.ryan@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: FW: French Green bonds - Letter to Mr Pruitt

FYI

From: FULDA Bruno [mailto:Bruno.FULDA@dgtresor.gouv.fr]
Sent: Friday, March 03, 2017 2:02 PM
To: Nishida, Jane <Nishida.Jane@epa.gov>
Cc: KREMBEL David <David.KREMBEL@dgtresor.gouv.fr>
Subject: French Green bonds - Letter to Mr Pruitt

Dear Jane,

I would like to forward to you, with the aim that you pass it to Mr Scott Pruitt, the following information letter from the former president of the COP21 Mme Ségolène Royal, and from the French Economy & Finance Minister Michel Sapin, regarding the successful inaugural issue of French green bonds, as well as the press release issued on January 24 and a presentation document.

I hope to hear from you soon, with the hope to schedule a meeting in the week after next.

Kind regards,

Bruno Fulda

Counselor for Ecology, Sustainable Development, Energy and Transport
French embassy in the USA and Canada
Tel. : 1.202.944 6095 Cell : **1 (202)** 374 6095 *@Pondisegur*

To: Ferguson, Lincoln[ferguson.lincoln@epa.gov]
Cc: Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Hale, Michelle
Sent: Wed 6/7/2017 5:36:07 PM
Subject: fyi good one
The Washington Times.docx

Michelle Hale

Executive Assistant to the Administrator

Environmental Protection Agency

1200 Pennsylvania Ave., NW,

WJCS, Suite 3000

Washington, D.C. 20460

(202) 564-1430

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To: Jackson, Ryan[jackson.ryan@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bennett, Tate
Sent: Tue 4/25/2017 7:19:40 PM
Subject: FW: A Decision on Paris

FYI

From: Doyle, Brett (RPC) [mailto:Brett_Doyle@rpc.senate.gov]
Sent: Tuesday, April 25, 2017 1:12 PM
To: Doyle, Brett (RPC) <Brett_Doyle@rpc.senate.gov>
Subject: A Decision on Paris

LD's, Energy and Environment LA's:

The following document was distributed at today's Policy Lunch.

FIND THIS DOCUMENT ONLINE

SENATE REPUBLICAN POLICY COMMITTEE

Senator John Barrasso, Chair
April 25, 2

A Decision on paris

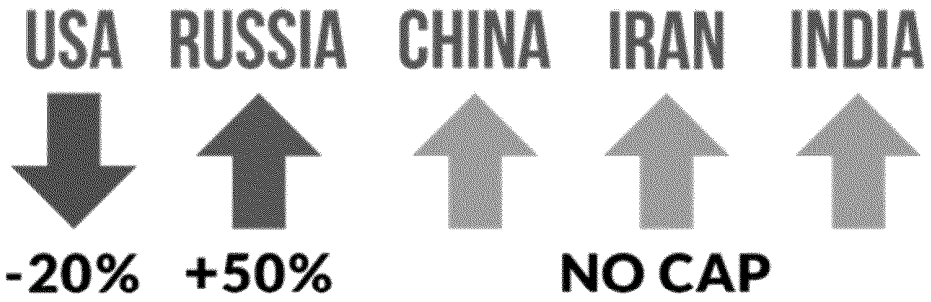
•□□□□□□□□ President Obama entered into the Paris climate agreement on his own – he never sought the Senate's advice and consent.

•□□□□□□□□ The agreement treats countries differently, with the U.S. cutting emissions more than Russia, China, Iran, and India.

•□□□□□□□□ The disparity puts U.S. businesses at a competitive disadvantage and raises energy costs for Americans.

The Paris climate agreement was a vital part of President Obama's attempts to build his legacy. The Trump administration is expected to decide the deal's fate before the president attends the G-7 summit on May 26.

Greenhouse Gas Emissions Under the Paris Agreement



disparity among countries

The United States pledged to reduce greenhouse gas emissions by 20 percent between 2015 and 2025. Meanwhile, Russia is allowed to increase its emissions up to 50 percent – and China refused to set any emissions limit at all until 2030.

After the agreement was signed, many nations indicated that they would only take action if they got a significant amount of foreign aid. Developing nations have requested at least $5.4 trillion in assistance. India requested $2.5 trillion, and South Africa asked for $909 billion. Iran made its commitments contingent on the removal of all sanctions and receiving $840 billion. President Obama transferred $1 billion from the State Department to the United Nations to implement the Paris agreement.

The Senate never approved the Agreement

President Obama knew that Congress would never approve such a flawed deal, so he refused to seek the Senate's advice and consent. Instead, he labeled it an "executive agreement" and unilaterally pledged U.S. support. President Obama's actions violated U.S. policy set during the Clinton administration requiring Senate approval for any international effort to set "targets and timetables" for emissions reductions.

potential impact on american jobs

Many of America's global competitors are unaffected by the Paris agreement, while the United States will incur significant implementation costs. President Obama pledged to cut annual

greenhouse gas emissions by about 1.1 billion tons from 2015 to 2025. That's on top of the more than 820 million tons the U.S. has already cut from annual emissions over the last decade. According to a March 2017 study by NERA Economic Consulting, the Paris agreement will cost America $3 trillion and eliminate 6.5 million jobs by 2040. Every sector of the economy will be affected, especially the U.S. industrial base.

Decline in U.S. Industrial Output Due to Paris Agreement in 2025

Cement	**-21%**
Coal	**-20%**
Iron and Steel	**-19%**
Petroleum Products	**-11%**
Natural Gas	**-11%**
Paper Products	**-5%**
Chemical Products	**-5%**

Source: NERA Economic Consulting

increasing u.s. obligations

The United States' obligations under the Paris agreement increase over time. Under the agreement, the U.S. is required to update its emission-reduction targets every five years. The plain language of the agreement states that we can only pledge to do more – not less – as time goes on.

Impact on the environment

Despite the high costs, the agreement does not solve the environmental challenges it was meant to address. China is the world's largest producer of greenhouse gases. While U.S. emissions decline, those from developing nations like India continue to rise. That's one reason why researchers at MIT estimate that the agreement will have a negligible impact on the environment.

To: Hale, Michelle[hale.michelle@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Bowman, Liz
Sent: Fri 6/2/2017 9:15:31 PM
Subject: RE: From Heartland: GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

Thanks, Michelle!

From: Hale, Michelle
Sent: Friday, June 2, 2017 4:55 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: FW: From Heartland: GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

From: Joseph Bast [mailto:JBast@heartland.org]
Sent: Friday, June 2, 2017 4:47 PM
Subject: From Heartland: GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

Friends,

This news release is going out now to address fake claims that **climate science** supports staying in the Paris Accord.

If you are on the list, be prepared to get a call from reporters or Jim Lakely.

Joe

From: Jim Lakely [mailto:jlakely@heartland.org]

Sent: Friday, June 02, 2017 2:56 PM
To: Joseph Bast
Subject: GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

Joseph,

President Trump yesterday made the bold and correct decision to withdraw the United States from the Paris Climate Agreement. He offered sound economic arguments for exiting the accord, but the scientific justifications for getting out are just as strong.

The Heartland Institute – a national free-market think tank based in Illinois – has done more to promote the work of scientists skeptical of catastrophic man-caused global warming than any other organization. Below is a list of more than 200 scientists, economists, and policy experts who can make the scientific case for the United States exiting the Paris Climate Accord.

To interview any of these experts, please contact Heartland Institute Director of Communications Jim Lakely at jlakely@heartland.org or call/text 312-731-9364.

LIST OF TOP 'SKEPTICS' OF MAN-CAUSED GLOBAL WARMING		
A Habibullo Abdussamatov Alexandre Aguiar Syun Akasofu George Allen Helmut Alt David Archibald J. Scott Armstrong Robert Armstrong Jerry Arnett Ron Arnold Dennis Avery	**H** Tom Harris Kenneth Haapala William Happer Howard Hayden Dennis Hedke Roger Helmer Victor Manuel Velasco Herrara Art Horn David Henderson Donald Hertzmark Christopher Horner Horst Lüdecke John Humphreys Tam Hunt	**O** James O'Brien Kendra Okonski Isaac Orr

	Mary Hutzler	
B Tim Ball Robert Balling Joseph Bast Joe Bastardi Charles Battig E. Calvin Beisner Larry Bell Cory Bernardi Roger Bezdek Sonja Boehmer-Christiansen Christopher Booker Donald Boudreaux Alexandra (Sandy) Liddy Bourne Robert L. Bradley, Jr. William Briggs Barry Brill H. Sterling Burnett	**I** Craig Idso Andrei Illarionov James Inhofe Roy Innis Yuri Izrael	**P** Garth William Paltridge Genrot Patzelt Tim Patterson Benny Peiser Ian Plimer Andreas Prokoph
C Gabriel Calzada Francisco Capella Robert "Bob" Carter Alan Carlin John Charles Paul Chesser George Christensen Joseph Clark John Coleman Russell Cook Roy Cordato Piers Corbyn William Cotton Richard Courtney Susan Crockford Walter Cunningham	**J** Avril Terri Jackson Jim Johnston Michael Jungbauer	**R** Paul Reiter Arthur Robinson Helen Roe Dana Rohrabacher Ronald Rychlak
D Joseph D'Aleo Kevin Dayaratna	**K** Sam Kazman	**S** Nicola Scarfetta David Schnare Harrison Schmitt Joel Schwartz Tom Segalstad Russell Seitz James Sensenbrenner Gary Sharp

Donn Dears James Delingpole Scott Denning Harold Doiron David Douglass Paul Driessen Terry Dunleavy Becky Norton Dunlop John Dale Dunn	Richard Keen Madhav Khandekar William Kininmonth Hon. Vaclav Klaus Paul C. "Chip" Knappenberger David Kreutzer Jeff Kueter George Kukla	Nir Shaviv Daniel Simmons Randy Simmons S. Fred Singer Fred Smith Lamar Smith Lawrence Solomon Douglas Southgate Willie Soon Roy Spencer Carlo Stagnaro H. Leighton Steward John Stossel Aaron Stover John Sununu Brain Sussman Daniel Sutter Graeme Swindles
E Don Easterbrook Myron Ebell James Enstrom Willis Eschenbach Christopher Essex Michael Economides David Evans	**L** Hans Labohm Donna Laframbois David Legates Jay Lehr Marlo Lewis Bryan Leyland Ben Lieberman Richard Lindzen Keith Lockitch Craig Loehle Sebastian Lüning Anthony Lupo	**T** James Taylor Thomas Tanton George Taylor Mitchell Taylor John Theon Richard Trzupek David Tuerck
F Peter Ferrara Robert Ferguson Sr. Walter Fett Terrence Flower Michelle Michot Foss Eigil Friis-Christensen	**M** Howard Maccabee Ken Malloy Jennifer Marohasy Jim Martin Gerald Marsh Phelim McAleer Tom McClintock Ann McElhinney Stephen McIntyre Ross McKitrick Owen McShane Robert Mendelsohn Patrick Michaels Robert Michaels	**V** Brian Valentine Jan Veizer

Michael Fox Chris de Freitas	Steven J. Milloy Ferenc Miskolczi Barun Mitra Christopher Monckton Patrick Moore Kilez More Alan Moran Marc Morano Nils-Axel Mörner Julian Morris Robert Murphy Iain Murray Todd Myers	
G Indur Goklany Fred Goldberg Stan Goldenberg Robert Gordon Steve Goreham Pamela Gorman Laurence Gould Vincent Gray William Gray Kenneth Green Bette Grande Kesten Green	**N** Marita Noon Mike Noel Joanne Nova	**W** Paul Waggoner Anthony Watts Gerd-Rainer Weber Todd Wynn Thomas Wysmuller **Z** Miklos Zagoni Benjamin Zycher

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The Heartland Institute is a 33-year-old national nonprofit organization headquartered in Arlington Heights, Illinois. Its mission is to discover, develop, and promote free-market solutions to social and economic problems. For more information, call 312/377-4000.

If you would rather not receive future communications from The Heartland Institute, let us know by clicking here.
The Heartland Institute, 3939 N. Wilke Road, Arlington Heights, IL 60004 United States

To: Wilcox, Jahan[wilcox.jahan@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Abboud, Michael[abboud.michael@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Konkus, John[konkus.john@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Block, Molly[block.molly@epa.gov]; Daniell, Kelsi[daniell.kelsi@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]
From: Bowman, Liz
Sent: Thur 4/26/2018 5:00:48 PM
Subject: RE: APPROVAL:

Looks good

From: Wilcox, Jahan
Sent: Thursday, April 26, 2018 12:50 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Konkus, John <konkus.john@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Block, Molly <block.molly@epa.gov>; Daniell, Kelsi <daniell.kelsi@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>
Subject: APPROVAL:

No pictures from this release. Thoughts

From: EPA Press Office [mailto:press=epa.gov@cmail20.com] **On Behalf Of** EPA Press Office
Sent: Thursday, April 26, 2018 12:49 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>

WHAT THEY ARE SAYING ...

Coverage From The House Energy And Commerce Hearing

***The Wall Street Journal* Headline: "Pruitt Says Attacks Are Driven By Opposition To Trump"** (The Wall Street Journal, 4/26/18)

EPA Administrator Scott Pruitt Stated That He Would "Show The American People We Are Good Stewards Of Taxpayer Resources, Stay True To The EPA's Mission And I Am Committed To Doing That." "'As administrator, I have to take responsibility to make changes to ensure in each of these areas we get results and show the American people we are good stewards of taxpayer resources, stay true to the EPA's mission and I am committed to doing that,' Pruitt said

in much-anticipated testimony before a House Energy and Commerce subcommittee." (The Washington Examiner, 4/26/18)

EPA Administrator Scott Pruitt Vowed To Fight For President Trump's Agenda And Not Let It Be Derailed. "Those who have attacked the EPA and attacked me are doing so because they want to derail the president's agenda. I'm not going to let that happen." Pruitt said. "A lie doesn't become true just because it appears on the front page of the newspaper." (The Washington Post, 4/26/18)

EPA chief Scott Pruitt is victim of 'Washington politics,' says senior Texas Republican. "[Rep. Joe Barton], suggested that Pruitt was an easy target for Democrats because of his policy positions, such as 'fighting some of the Obama administration radical clean air policies.' He added that if 'you can't debate policies in Washington, you attack the personality.'" (The Dallas Morning News, 04/26/18)

WHAT THE HILL IS SAYING ...

Rep. Steve Scalise (R-LA): "Frankly I think Scott Pruitt has done a great job of reinstating sanity in the rulemaking and regulating process at EPA." (CNN, 04/26/18)

Rep. Joe Barton (R-TX): "Explaining why EPA employees who favor Paris climate accord have leaked unflattering info about Pruitt: 'if you can't debate the policy you attack the personality'" (Twitter, 04/26/18)

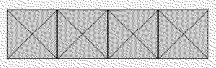
Rep. Bill Johnson (R-Ohio): "It's shameful today that this hearing has turned into a personal attack hearing and a shameful attempt to denigrate the work that's being one at the EPA." (Twitter, 04/26/18)

Rep. Gregg Harper (R-Miss.): "Says Pruitt is the victim of "bloodsport." (Twitter, 04/26/18)

Rep. Kevin Cramer (R-ND): "I never cease to be impressed by the level of detail you know." (Twitter, 04/26/18)

http://usenvironmentalprotectionagency.cmail20.com/t/d-i-ourltud-l-o/

Visit The EPA's Newsroom



U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

Unsubscribe

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Eule, Stephen
Sent: Tue 4/25/2017 1:16:10 PM
Subject: Paris

Mandy: One thing I think you need to do if you haven't done it already is to have someone from the administrator's office call over to State (the counsel's office or Trigg Talley or Sue Biniaz) and ask for a provisions-by-provision assessment of the Paris Agreement detailing what is and isn't legally binding on the U.S. Might help inform your discussions. Cheers. Steve

Stephen Eule

Vice President for Climate & Technology

Institute for 21st Century Energy

U.S. Chamber of Commerce

202 463 5654

seule@uschamber.com

www.energyxxi.org

To: Wilcox, Jahan[wilcox.jahan@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Abboud, Michael[abboud.michael@epa.gov]; Konkus, John[konkus.john@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Block, Molly[block.molly@epa.gov]; Daniell, Kelsi[daniell.kelsi@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]
From: Hewitt, James
Sent: Thur 4/26/2018 4:54:50 PM
Subject: Re: APPROVAL:

You can link to the Dallas news article about Barton if you'd like. It was sent around earlier.

Sent from my iPhone

On Apr 26, 2018, at 12:50 PM, Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:

No pictures from this release. Thoughts

From: EPA Press Office [mailto:press=epa.gov@cmail20.com] **On Behalf Of** EPA Press Office
Sent: Thursday, April 26, 2018 12:49 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>

WHAT THEY ARE SAYING ...

Coverage From The House Energy And Commerce Hearing

***The Wall Street Journal* Headline: "Pruitt Says Attacks Are Driven By Opposition To Trump"** (The Wall Street Journal, 4/26/18)

EPA Administrator Scott Pruitt Stated That He Would "Show The American People We Are Good Stewards Of Taxpayer Resources, Stay True To The EPA's Mission And I Am Committed To Doing That." "'As administrator, I have to take responsibility to make changes to ensure in each of these areas we get results and show the American people we are good stewards of taxpayer resources, stay true to the EPA's mission and I am committed to doing that,' Pruitt said in much-anticipated testimony before a House Energy and Commerce subcommittee." (The Washington Examiner, 4/26/18)

EPA Administrator Scott Pruitt Vowed To Fight For President Trump's Agenda And Not Let It Be Derailed. "Those who have attacked the EPA and attacked me are doing so because they want to derail the president's agenda. I'm not going to let that happen." Pruitt said. "A lie doesn't become

true just because it appears on the front page of the newspaper." (The Washington Post, 4/26/18)

EPA chief Scott Pruitt is victim of 'Washington politics,' says senior Texas Republican. "[Rep. Joe Barton], suggested that Pruitt was an easy target for Democrats because of his policy positions, such as 'fighting some of the Obama administration radical clean air policies.' He added that if 'you can't debate policies in Washington, you attack the personality.'" (The Dallas Morning News, 04/26/18)

WHAT THE HILL IS SAYING …

Rep. Steve Scalise (R-LA): "Frankly I think Scott Pruitt has done a great job of reinstating sanity in the rulemaking and regulating process at EPA." (CNN, 04/26/18)

Rep. Joe Barton (R-TX): "Explaining why EPA employees who favor Paris climate accord have leaked unflattering info about Pruitt: 'if you can't debate the policy you attack the personality'" (Twitter, 04/26/18)

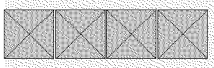
Rep. Bill Johnson (R-Ohio): "It's shameful today that this hearing has turned into a personal attack hearing and a shameful attempt to denigrate the work that's being one at the EPA." (Twitter, 04/26/18)

Rep. Gregg Harper (R-Miss.): "Says Pruitt is the victim of "bloodsport." (Twitter, 04/26/18)

Rep. Kevin Cramer (R-ND): "I never cease to be impressed by the level of detail you know." (Twitter, 04/26/18)

http://usenvironmentalprotectionagency.cmail20.com/t/d-i-ourltud-l-o/

<image001.png>



U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

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To: Bowman, Liz[Bowman.Liz@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Abboud, Michael[abboud.michael@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Konkus, John[konkus.john@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Block, Molly[block.molly@epa.gov]; Daniell, Kelsi[daniell.kelsi@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]
From: Wilcox, Jahan
Sent: Thur 4/26/2018 4:50:04 PM
Subject: APPROVAL:

No pictures from this release. Thoughts

From: EPA Press Office [mailto:press=epa.gov@cmail20.com] **On Behalf Of** EPA Press Office
Sent: Thursday, April 26, 2018 12:49 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>

WHAT THEY ARE SAYING ...

Coverage From The House Energy And Commerce Hearing

***The Wall Street Journal* Headline: "Pruitt Says Attacks Are Driven By Opposition To Trump"** (The Wall Street Journal, 4/26/18)

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EPA Administrator Scott Pruitt Vowed To Fight For President Trump's Agenda And Not Let It Be Derailed. "Those who have attacked the EPA and attacked me are doing so because they want to derail the president's agenda. I'm not going to let that happen." Pruitt said. "A lie doesn't become true just because it appears on the front page of the newspaper." (The Washington Post, 4/26/18)

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WHAT THE HILL IS SAYING ...

Rep. Steve Scalise (R-LA): "Frankly I think Scott Pruitt has done a great job of reinstating sanity in the rulemaking and regulating process at EPA." (CNN, 04/26/18)

Rep. Joe Barton (R-TX): "Explaining why EPA employees who favor Paris climate accord have leaked unflattering info about Pruitt: 'if you can't debate the policy you attack the personality'" (Twitter, 04/26/18)

Rep. Bill Johnson (R-Ohio): "It's shameful today that this hearing has turned into a personal attack hearing and a shameful attempt to denigrate the work that's being one at the EPA." (Twitter, 04/26/18)

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Rep. Kevin Cramer (R-ND): "I never cease to be impressed by the level of detail you know." (Twitter, 04/26/18)

http://usenvironmentalprotectionagency.cmail20.com/t/d-i-ourltud-l-o/

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U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Palich, Christian
Sent: Thur 10/12/2017 8:42:13 PM
Subject: Wehrum QFR's
FINAL Wehrum QFRs 10.12.2017.pdf
Wehrum QFRs - Attachment 1.pdf

Hi Mandy,

Attached are Bill's final QFR's we sent in to EPW, thought you might want to have them for your records. Really appreciate all the help you and Alex did to help us and Bill complete these on time.

Have a terrific evening!

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Affairs

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Dominguez, Alexander[dominguez.alexander@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]
From: Palich, Christian
Sent: Fri 10/6/2017 11:35:00 PM
Subject: FW: Senate Committee on Environment and Public Works: Witness Invitation
Wehrum Formal QFR letter.pdf
Wehrum All QFRs 10.04.2017.docx

Hi Mandy and Alex,

Attached are Bill Wherum's QFR's. 139 total.

Have a great weekend!

Christian R. Palich

Deputy Associate Administrator

Office of Congressional & Intergovernmental Affairs

U.S Environmental Protection Agency

O: 202.564.4944

C: 202.306.4656

E: Palich.Christian@epa.gov

From: Olsen, Elizabeth (EPW) [mailto:Elizabeth_Olsen@epw.senate.gov]
Sent: Friday, October 6, 2017 6:26 PM
To: 'wwehrum@hunton.com' <wwehrum@hunton.com>
Cc: Palich, Christian <palich.christian@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Senate Committee on Environment and Public Works: Witness Invitation

October 6, 2017

William L. Wehrum Jr.

2200 Pennsylvania Ave NW

Washington, DC 20037

Dear Mr. Wehrum:

On behalf of the Senate Committee on Environment and Public Works, we would like to thank you for testifying before the Committee on Wednesday, October 4, 2017, at the hearing entitled, *"Hearing on the Nominations of Michael Dourson, Matthew Leopold, David Ross, and William Wehrum to be Assistant Administrators of the Environmental Protection Agency, and Jeffery Baran to be a Member of the Nuclear Regulatory Commission."* The Committee greatly appreciates your attendance and participation in this hearing.

In order to maximize the opportunity for communication between you and the Committee, follow-up questions have been submitted by the members. To comply with Committee rules, please e-mail a copy of your responses to Elizabeth_Olsen@epw.senate.gov or deliver one hard copy by COB Thursday, October 12, 2017. Responses should be delivered to the EPW Committee at 410 Dirksen Senate Office Building, Washington, DC 20510.

If you have any questions about the requests or the hearing, please feel free to contact Staff Director, Richard Russell in the Majority Office at (202) 224-6176 or Staff Director, Gabrielle Batkin in the Minority Office at (202) 224-8832.

Sincerely,

John Barrasso, M.D.

Chairman

Thomas R. Carper

Ranking Member

Elizabeth "Lizzy" Olsen, J.D.

Majority Director of Operations

Senate Committee on Environment and Public Works

C: (202) 407-3841

O: (202)224-6176

From: Olsen, Elizabeth (EPW)
Sent: Thursday, September 28, 2017 5:31 PM
To: 'wwehrum@hunton.com' <wwehrum@hunton.com>
Cc: 'palich.christian@epa.gov' <palich.christian@epa.gov>; 'lyons.troy@epa.gov' <lyons.troy@epa.gov>
Subject: RE: Senate Committee on Environment and Public Works: Witness Invitation

September 28, 2017

William L. Wehrum Jr.

2200 Pennsylvania Ave NW

Washington, DC 20037

Dear Mr. Wehrum:

On behalf of the Senate Committee on Environment and Public Works, we would like to invite you to testify before the Full Committee on Wednesday, October 4, 2017, beginning at 10:00 a.m. in Room 406 of the Dirksen Senate Office Building. The purpose of this hearing is to consider the nominations of Michael Dourson, Matthew Leopold, David Ross, and William Wehrum, to be Assistant Administrators of the Environmental Protection Agency, and Jeffery Baran to be a Member of the Nuclear Regulatory Commission.

In order to maximize the opportunity to discuss this matter with you, we ask that your oral testimony be limited to five minutes. Your written testimony can be comprehensive and will be included in the printed record in its entirety, together with any other materials you would like to submit.

Please email a copy of your testimony to Elizabeth_Olsen@epw.senate.gov and deliver 50 hard copies, 48 hours in advance of the hearing. Please include a brief biography with photo. If you plan to use or refer to any charts, graphs, diagrams, photos, maps or other exhibits in your testimony, please include an electronic or hard copy in your advance submissions. Exhibits or other materials that are not provided to the Committee by this time cannot be used for the purpose of presenting testimony. Testimony should be delivered to the Environment and Public Works Committee at 410 Dirksen Senate Office Building, Washington, DC 20510.

If you have any questions about this invitation or the hearing, please feel free to contact

Richard Russell, Majority Staff Director, at (202) 224-6176 or Gabrielle Batkin, Minority Staff Director, at (202) 224-8832.

Sincerely,

John Barrasso, M.D.
Chairman

Tom Carper
Ranking Member

Elizabeth "Lizzy" Olsen, J.D.

Majority Director of Operations

Senate Committee on Environment and Public Works

C: (202) 407-3841

O: (202)224-6176

From: Olsen, Elizabeth (EPW)
Sent: Thursday, September 14, 2017 11:31 AM
To: 'wwehrum@hunton.com' <wwehrum@hunton.com>
Cc: 'palich.christian@epa.gov' <palich.christian@epa.gov>; 'lyons.troy@epa.gov' <lyons.troy@epa.gov>
Subject: Senate Committee on Environment and Public Works: Witness Invitation

September 14, 2017

William L. Wehrum Jr.

2200 Pennsylvania Ave NW

Washington, DC 20037

Dear Mr. Wehrum:

On behalf of the Senate Committee on Environment and Public Works, we would like to invite you to testify before the Full Committee on Wednesday, September 20, 2017, beginning at 10:00 a.m. in Room 406 of the Dirksen Senate Office Building. The purpose of this hearing is to consider the nominations of Michael Dourson, Matthew Leopold, David Ross, and William Wehrum, to be Assistant Administrators of the Environmental Protection Agency, and Jeffery Baran to be a Member of the Nuclear Regulatory Commission.

In order to maximize the opportunity to discuss this matter with you, we ask that your oral testimony be limited to five minutes. Your written testimony can be comprehensive and will be included in the printed record in its entirety, together with any other materials you would like to submit.

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If you have any questions about this invitation or the hearing, please feel free to contact Richard Russell, Majority Staff Director, at (202) 224-6176 or Gabrielle Batkin, Minority Staff Director, at (202) 224-8832.

Sincerely,

John Barrasso, M.D.

Chairman

Tom Carper

Ranking Member

Elizabeth "Lizzy" Olsen, J.D.

Majority Director of Operations

Senate Committee on Environment and Public Works

C: (202) 407-3841

O: (202)224-6176

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Dimitri.Karakitsos@hklaw.com
Sent: Wed 4/18/2018 3:20:04 PM
Subject: Following up
CEERT - Draft Invitation Singapore LCFS trip backgrounder v2.docx

Good running into you both last night. Per our brief conversation here is a document that gives some detail to the Singapore trip which will be July 15-22 and some additional details below. Let me know if there is anything I can help with!

This intimate, invitation-only workshop is an educational seminar combining technical and policy discussions around how to meet the growing demand for low-carbon, renewable fuel supplies on the West Coast, Canada and globally.

The workshop, sponsored by the Center for Energy Efficiency and Renewable Technologies (CEERT), will be based at Neste's offices in downtown Singapore. This will be complemented by site visits to Neste's renewable diesel fuel refinery and a local palm mill.

This will allow for an examination of: 1) The logistics used in the tracking of separate feedstock inputs (e.g. waste fats and oils versus palm kernel oil) when using a continuous (as opposed to batch) processing of material inputs; and 2) Sustainability best practices and protocols for international palm, palm waste and other feedstock uses.

Invited participants include government and NGO low-carbon fuel policy specialists from California, Oregon, British Columbia, the USA and Canada.

It is CEERT's intention to obtain funding from outside sources to cover your travel-related-expenses: airfare, hotel and meal accommodations. Neste, the world's largest producer of renewable diesel fuel, has offered to serve as the workshop host.

We'd be honored to have you as our guest. Our budget is limited, so this means we need to know very soon if you plan to attend. Please check your calendars for the week of July 15-22.

Please contact Kimber West (Kimber@ceert.org; 916-442-7785) or Tom Fulks (tfulks@mightycomm.com, 916.508.3837) if you have any questions or if you'd like to join us. Your participation is what will make this workshop a success.

Please see the attachment for more information about the workshop. Please also feel free to contact either V. John White (vjw@ceert.org) or Dayne Delahoussaye (dayne.delahoussaye@neste.com) with your questions.

Dimitrios Karakitsos | **Holland & Knight**
Partner
Holland & Knight LLP
800 17th Street N.W., Suite 1100 | Washington, DC 20006
Phone 202.469.5132 | Fax 202.955.5564
dimitri.karakitsos@hklaw.com | www.hklaw.com

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NOTE: This e-mail is from a law firm, Holland & Knight LLP ("H&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of H&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to H&K in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of H&K, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

To: Myron Ebell[Myron.Ebell@cei.org]
From: Myron Ebell
Sent: Wed 5/31/2017 10:06:19 PM
Subject: Cooler Heads Coalition next meeting and action alert on Paris Climate Treaty

The Cooler Heads Coalition will hold its June strategy meeting on Monday, 12th June, beginning at 3 PM at CEI, 1310 L Street, N. W., Seventh Floor. Note the time: 3 PM.

Please e-mail me with agenda items and questions. With any luck, President Trump will have announced his decision on Paris by then and we can move on to other issues.

Axios reported this morning that they had multiple confirmations from inside the administration that the President had decided to cancel the Paris Climate Treaty. That may be true, but until the decision is announced, I think we need to keep pushing. In addition, I think we need to keep advocating for the best ways to pull out.

ACTION ITEM #1

Please let the White House know through public and private communications that you support the President in keeping his campaign promise to cancel Paris. He and the White House staff need to be reminded constantly until a decision is announced that the conservative movement is united against Paris.

Global warming alarmists are so desperate to keep the U. S. in Paris that they have concocted the concession that of course the U. S. can withdraw its NDC and submit a less ambitious one. This is directly contrary to the language in Article 4 (https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_a and it was also contradicted by Todd Stern in a talk at the Brookings Institution the week after COP-21 concluded in December 2015 (start at

5:58 at https://www.brookings.edu/events/unpacking-the-paris-climate-conference-a-conversation-with-todd-stern/).

Why are alarmists so desperate to keep the U. S. in Paris? Because they hope that President Trump will eventually follow the same policy as President George W. Bush—ignore the problem and it will go away. After eight years, President George W. Bush went away, and the problem popped back up immediately at COP-15 in Copenhagen in December 2009. If Trump does not withdraw, then his presidency will be merely another delay in the long march to climate nirvana. Keep in mind that the Paris treaty is perpetual and requires new NDCs to be submitted every five years.

ACTION ITEM #2

Please urge the President to cancel Paris either by sending the treaty to the Senate for its advice and consent or by withdrawing from the underlying UN Framework Convention on Climate Change. To withdraw by the third route—by following the procedures specified in the treaty—gives legitimacy to President Obama's illegitimate joining of the treaty by executive fiat, which is a terrible precedent. Moreover, it means that a future president can rejoin Paris by executive fiat.

Here's a tweet from CAGW that sums up both action items: https://twitter.com/GovWaste/status/869941555448164353. President Trump's Twitter handle is @realDonaldTrump.

The Greenwire story pasted below deserves wide circulation. Gina McCarthy and Todd Stern should be the kiss of death for Paris. These are the people President Trump was running against when he said he wanted to drain the Swamp.

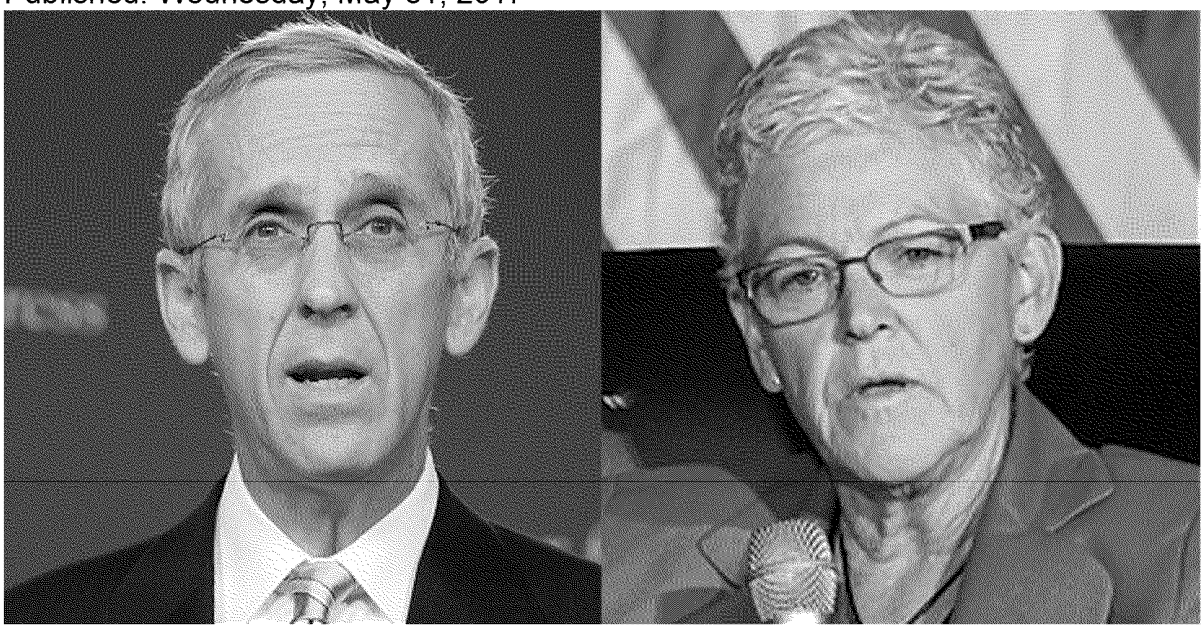
Greenwire

PARIS AGREEMENT

Todd Stern, Gina McCarthy make final pleas

Hannah Hess, E&E News reporter

Published: Wednesday, May 31, 2017



(Left to right) Former U.S. Special Envoy for Climate Change Todd Stern and former U.S. EPA Administrator Gina McCarthy separately warned President Trump against pulling the United States out of the Paris Agreement. Center for American Progress/Flickr(Stern) and Interior Department (McCarthy)

The Trump administration's withdrawal from Paris would be read as a kind of "drop dead" to the rest of the world, Todd Stern, the former U.S. special envoy for climate change, warned today.

In a piece for *The Atlantic*, Stern predicts "bitterness, anger, and disgust would be the wages" if Trump chooses to join Syria and Nicaragua on the sidelines of the international climate agreement.

Stern's last-ditch attempt to influence the decision — which President Trump could announce as early as today — notes that an exit would "fly in the face of business

leaders," including major oil and gas CEOs, who have urged Trump not to defect.

Stern wrote Trump "seems prepared to follow his own misguided calculus and, in the coming days, could render a decision that is indefensible," and offered his take on why and what should happen next.

The nearly 200 other countries that are part of the accord will work to build it into a regime that will enable the globe to meet the climate challenge, Stern predicted. He will encourage them to do so in a manner that would pave the way for re-entry by a future White House.

Blue states, such as California and Washington, and New England will examine whether there is still more they can do on climate, he added. Many more states, including red areas like Iowa, are charging ahead in development of wind and solar energy. Stern is also looking to U.S. cities to step up and work with the U.N. Framework Convention on Climate Change, the parent body for the Paris accord.

Stern urged businesses and investors not to "bet on a go-slow, 'Trump' phase," but to "keep their eyes on the prize and not get distracted by the ideological wars of Washington."

Stern, who was the State Department's top climate diplomat under President Obama, also encouraged political engagement and activism.

"If America leaves the Paris Agreement, the Trump administration will have thrown down the gauntlet. And we will need to take up the challenge," he concluded.

McCarthy: 'Lean in' on climate

Former U.S. EPA Administrator Gina McCarthy also weighed in today. Writing in *Foreign Policy*, McCarthy described the U.S. track record of expanding the economy while cutting greenhouse gas emissions.

McCarthy noted that although climate diplomacy may be "less relevant under this administration's regressive brand of scorched-earth leadership," no one person can stop the trend toward a lower-carbon economy.

"The train to our clean-energy future has left the station," McCarthy wrote, echoing her final sentiments at the helm of the agency (*E&E News PM*, Nov. 21, 2016).

McCarthy, now a fellow at Harvard University, argued the United States must "lean into climate action, not away from it."

https://www.eenews.net/greenwire/2017/05/31/stories/1060055361

Myron Ebell

Director, Center for Energy and Environment

Competitive Enterprise Institute

1310 L Street, N. W., Seventh Floor

Washington, DC 20005, USA

Tel direct: (202) 331-2256

Tel mobile: (202) 320-6685

E-mail: Myron.Ebell@cei.org

Stop continental drift!

From: Loving, Shanita
Location: WJC-N 5400
Importance: Normal
Subject: Bonn Climate Change Meeting (COP23) November 6 - 17
Start Date/Time: Fri 10/13/2017 4:00:00 PM
End Date/Time: Fri 10/13/2017 5:00:00 PM
Meeting Request Acting AA Sarah Dunham (COP23).docx
COP23 Overview for OAR and OA 10-13-17.docx

To: Dunham, Sarah; Lewis, Josh; Gunasekara, Mandy; Harvey, Reid; Nishida, Jane; Gunning, Paul; Irving, Bill; Krieger, Jackie; Harlow, David; Ferland, Henry
Cc: Murphy, Tina

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bowman, Liz
Sent: Mon 4/24/2017 3:24:15 PM
Subject: Paris?

Can we talk about Paris today? Let me know when you have a few minutes.

Liz Bowman

U.S. Environmental Protection Agency (EPA)

Deputy Associate Administrator for Public Affairs

Office: 202-564-3293

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: EPA Press Office
Sent: Tue 6/6/2017 5:05:00 PM
Subject: Pruitt: President Trump Is Focused On Growing Our Economy

Pruitt: President Trump Is Focused On Growing Our Economy

WASHINGTON – Earlier today, EPA Administrator Scott Pruitt was on Fox Business where he discussed President Trump's decision to leave the Paris Accord and how the President is focused on growing our economy.

As Fox Business reports:

Click Here To Watch The Interview

BACKGROUND

Pruitt On The Paris Accord …

ADMINISTRATOR PRUITT: "When the Paris Accord was cut, the head, father of climate science, James Hanson, former NASA scientist, called the Paris Accord a fake and a fraud. The Sierra Club's general counsel criticized the deal, because China and India didn't have to take any steps under the deal until 2030. India conditioned all of their activity on two and half trillion dollars in aid that would pass through the green climate fund. . . … This whole process in Paris was all about talk. The previous administration talked a good game, but they did very little. What the President is doing now is saying let's [get] focused on what we achieved as a [country,] export [that] to the rest of the world and engage in true discussions [on] how to reduce co2."

Pruitt On Trump's Vision To Grow Our Economy …

ADMINISTRATOR PRUITT: "Absolutely, we should be focused upon using the greatest innovative technology to keep emission levels low in all areas and also growing an economy."

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U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004
Unsubscribe

To: Wehrum, Bill[Wehrum.Bill@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Dunham, Sarah
Sent: Fri 12/15/2017 5:41:22 PM
Subject: FW: Note to Yamada
Follow-up to RY-AM discussions.docx

I am forwarding below and attached a document ORD prepared to answer some questions Richard Yamada had – it sounds like it was developed very much for internal ORD purposes, but given the interactions between these questions and answers and other conversations that may be ongoing, I thought you should see what ORD staff is providing to Richard.

From: Gunning, Paul
Sent: Friday, December 15, 2017 12:02 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: FW: Note to Yamada

Sarah –ORD reached out to our folks yesterday to flag that they are providing the attached to their management in response to some questions they have been asking. We did have a very short window to provide some technical input and are comfortable with the information that is being provided. As Andy notes below, this is very informal and part of internal ORD discussion. Given the sensitivity of these issues, however, I just wanted to make sure you are aware.

Paul

From: Miller, Andy
Sent: Friday, December 15, 2017 11:51 AM
To: Gunning, Paul <Gunning.Paul@epa.gov>
Subject: Note to Yamada

Paul:

As we discussed, this was developed in response to a very informal discussion I had with Richard, as a way to provide him with background information in an "off the record" way. It was not an official request on his part.

Andy

C.A. (Andy) Miller

Associate Director for Climate

Air, Climate, and Energy Research Program

US EPA Office of Research and Development

Los Angeles, CA

Miller.andy@epa.gov

(213) 244-1809

(919) 699-3072 (cell)

To: Mandy Gunasekara[mandy.gunasekara@gmail.com]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Byers, Dan
Sent: Mon 4/24/2017 3:05:49 PM
Subject: RE: Pruitt's link between carbon rule and Paris deal draws scrutiny

One more:

Clinton could issue 'Clean Power Plan 2.0' -- consultant

A more attractive option for environmentalists would be for Clinton to use the Clean Air Act's international provision to put in place an economywide carbon reduction program. Section 115 allows EPA to compel states to reduce air pollution emissions that contribute to health or welfare problems in other countries -- if those other countries reciprocate with like protections.

Supporters of using the section to impose a carbon dioxide program argue that the Paris climate deal fulfills the reciprocity requirement (***Greenwire***, Jan. 15).

"It is the silver bullet de jour of the enviros, and they are dead serious about this," Bookbinder said. "There is no doubt that the environmental community is pushing this on the Clinton people right now and will lay it down as one of their markers."

From: Byers, Dan
Sent: Monday, April 24, 2017 11:04 AM
To: 'Mandy Gunasekara'; 'Gunasekara.mandy@epa.gov'
Subject: RE: Pruitt's link between carbon rule and Paris deal draws scrutiny

In case you haven't seen:

Center for American Progress: How The Paris Climate Agreement Super-Charges The Clean Air Act

A group of leading law professors who work on climate have published a game-changing new

legal analysis. It finds that the Paris climate agreement unlocks a previously unused Clean Air Act provision that enables broad authority to use market-based mechanisms to reduce carbon pollution nationwide.

This is also good:

https://twitter.com/Chris_C_Horner/status/855041417231695872

From: Mandy Gunasekara [mailto:mandy.gunasekara@gmail.com]
Sent: Tuesday, April 18, 2017 7:23 PM
To: Byers, Dan
Subject: Re: Pruitt's link between carbon rule and Paris deal draws scrutiny

Thank you! So you have it, my EPA contact info is Gunasekara.mandy@epa.gov.

This is great. Not sure where this all ends up but we are doing our best.

Sent from my iPhone

On Apr 18, 2017, at 10:54 AM, Byers, Dan <DByers@USChamber.com> wrote:

Hi Mandy,

I hope is well at EPA. I don't have your work email address yet so sending to the Gmail you shared before leaving EPW. I thought the story below was a little confusing, but to the extent I understand where Administrator Pruitt is coming from, I wanted to share with you this exchange between then-Rep Pompeo and Gina McCarthy in 2013.

In my opinion, McCarthy makes the case that the Administrator is making with the WH, which is that the Obama Administration **explicitly** said the purpose of the Climate Action Plan, NSPS/CPP etc was to "leverage international action" ie get other countries to sign on to Paris.

I've always kept this in my back pocket because I think it was a moment of incidental candor that exposes both Paris and the Climate Action Plan. Video and relevant transcript below.

https://youtu.be/hVRbldAGsag?t=2m

McCarthy: "I think that the President was very clear. What we're attempting to do is put together a comprehensive climate plan across the administration that positions the U.S. for leadership on this issue, and that will prompt and leverage international discussion and action.

Pompeo: "So you're putting regulations in place for the purpose of leadership, and not to impact the indicators that you, the EPA, says are the indicators of climate change. I'm deeply puzzled by that."

Good luck!

Dan

From: POLITICO Pro Energy [mailto:politicoemail@politicopro.com]
Sent: Monday, April 17, 2017 6:37 PM
To: Byers, Dan
Subject: Pruitt's link between carbon rule and Paris deal draws scrutiny

Pruitt's link between carbon rule and Paris deal draws scrutiny

By Eric Wolff and Alex Guillén

04/17/2017 06:26 PM EDT

EPA Administrator Scott Pruitt's effort to pull the U.S. out of the Paris climate pact is part of his strategy to ensure the administration has a clear path to killing the Clean Power Plan — but experts say there is no clear legal link between the two climate change actions.

President Donald Trump's top advisers, including Pruitt, are expected to convene on Tuesday to decide whether to recommend that Trump withdraw from the agreement struck by nearly 200 countries in December 2015. Trump is expected to announce a position on the Paris deal before the G-7 meeting in late May.

While some Trump advisers are pushing to remain in the deal but to weaken the U.S. commitment to reduce carbon emissions, Pruitt has emerged as a force for exiting the Paris agreement, calling it "a bad deal for America" in an interview last week. White House sources have said that, privately, Pruitt has cited another reason for wanting to pull out of Paris: So that it cannot interfere with his effort to halt litigation over the Clean Power Plan and repeal the regulation.

The idea that the Paris agreement and the Obama administration's carbon rule — or the Endangerment Finding underpinning EPA's climate regulation — are legally connected appears to be novel even among conservatives who opposed the international pact.

"Nothing in the Paris Agreement is dependent on either the Endangerment Finding by U.S. EPA or on the Clean Power Plan," wrote Sheila Harvey, Jeff Merrifield, and Meghan Claire Hammond, all attorneys in the energy practice at the law firm Pillsbury Winthrop Shaw Pittman, wrote in a memo published last week.

Scott Segal, who leads the policy division of Bracewell, said in a memo released on April 7 that the Paris agreement "is silent on what mechanisms" countries can use to reduce their emissions, and therefore neither the Clean Power Plan nor the endangerment finding are mandated by the agreement.

"In short, the Paris Agreement imposes no enforceable obligations on the United States that would require particular regulatory outcomes or strategies," he writes.

Pruitt's legal argument surprised legal experts when POLITICO reported it on Friday.

Nick Loris, an energy and environment fellow for the conservative Heritage Foundation, which has called for Trump to pull the U.S. out of Paris, said he hasn't seen anyone else raise that concern. Even environmental groups have not cited a link between the power plant regulation and the Paris deal in their attempts in recent weeks to keep the CPP lawsuit alive, essentially guaranteeing the court won't factor it into their decision.

Some experts said Pruitt's argument appears to have significant flaws.

For starters, the Clean Power Plan was conceived well before the Paris deal was struck, and has a legal justification based on Section 111 of the Clean Air Act, which requires EPA to take action on pollutants not addressed elsewhere in the act — including carbon dioxide.

In addition, the carbon reduction commitments in the Paris deal are not legally binding in large part because international negotiators knew any binding treaty would be blocked in

the Senate by Republicans.

The agreement also falls under the "non-self-executing treaty doctrine," meaning Congress or the president have to take action to put it into effect. Without such action, courts are unlikely to take the deal into account, said Dan Bodansky, law professor and expert in international climate law at Arizona State University's Sandra Day O'Connor School of Law.

Sean Donahue, an attorney who is helping greens to defend the Clean Power Plan, agreed while it was not directly tied to the Paris deal, repealing the carbon rule would affect the U.S. pledge to lower emissions under the Paris framework, he added.

"There's not a formal legal link between Paris and CPP, but the CPP is an important part of the United States' Paris commitment, the emissions reductions," Donahue said. "So if you are going to abandon the CPP, you would need to find those big emissions reductions somewhere else."

Trump made withdrawal from the international agreement to combat climate change one of his campaign promises, but White House aides have been divided on the issue, with chief Trump adviser Steve Bannon and Pruitt at odds with Secretary of State Rex Tillerson and Jared Kushner, who are said to favor remaining in the pact.

Still, Pruitt's position has a few allies. Mike McKenna, a former member of Trump's transition team, released a lengthy statement over the weekend pressing the case for withdrawal.

"Remaining in Paris poses a significant and ongoing legal risk," he said. "The Agreement requires signatories to routinely increase the level of greenhouse gas reductions. There is little doubt that if left in place, the Agreement will be used both in litigation (immediately) and by the next Democratic Administration (at some point) to argue for and justify expanding new and aggressive regulatory regimes."

This isn't the first time that the Paris deal and the Clean Power Plan have been connected.

In December 2015, just as the Paris talks kicked into high gear, the Obama administration urged the court not to freeze the regulation. It included a statement from Todd Stern, then the State Department's climate negotiator, saying the Clean Power Plan was helping the global pact come together by demonstrating America's resolve.

A group of utilities that support the regulation briefly cited the Paris talks in urging the Supreme Court not to stay the rule.

Clinton-era Secretary of State Madeleine Albright later brought up the climate deal in April 2016 when she filed a brief arguing that the rule's "successful implementation will support U.S. efforts to ensure that others follow through on those commitments" made under the Paris deal.

It remains unclear to what extent, if any, the judiciary was persuaded by those arguments. The D.C. Circuit did not explain its decision not to stay the rule, nor did the Supreme Court when it did stay the rule, which has left experts in the dark about precisely what legal justifications the justices relied upon.

To view online:
https://www.politicopro.com/energy/story/2017/04/pruitts-link-between-carbon-rule-and-paris-deal-draws-scrutiny-155368

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This email was sent by: **POLITICO, LLC**
1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Hale, Michelle
Sent: Fri 6/2/2017 4:12:11 PM
Subject: FW: How will Trump remove the U.S. from the Paris Accord?

From: Joseph Bast [mailto:JBast@heartland.org]
Sent: Friday, June 2, 2017 12:02 PM
Subject: How will Trump remove the U.S. from the Paris Accord?

Friends,

I was very pleased to receive the invitation to attend President Trump's Rose Garden presentation announcing the U.S. withdrawal from the Paris Accord. I'm not a big fan of traveling to Washington DC, or showing up at political events, or of politicians generally or specifically, but it was a historic moment and a touching gesture to be invited to attend. Thank you to all who made it possible and made me feel welcome there.

Christopher Monckton wrote to a group of us:

One question not answered in Trump's speech was whether the U.S. had given, or would give, formal notice to the French Government as depositary state of the Paris treaty, or (preferably) to the U.N. as depositary state of the Framework Convention. Giving one year's notice under the Framework Convention gets us out of Paris too. Giving notice under Paris takes three years and still leaves us in the Convention. But I'm afraid it's far from clear that Trump has done or will do either. - Christopher

The Viscount Monckton of Brenchley
Hobbit Court, Dyrham, Chippenham, SN14 8HE
Tel. 0117 937 4155: cell +44 7814 556423
monckton@mail.com

Perhaps someone on the bcc line of this message can answer the implied question.

President Trump and Administrator Pruitt were emphatic that the U.S. is leaving the accord and will stop implementation immediately. Since there are no enforcement mechanisms in the agreement, stopping implementation should not result in any sanctions, at least not sanctions arising from the accord itself.

I wonder… what if President were now to submit a letter withdrawing from the UNFCCC?

Since he left unclear exactly how the U.S. would withdraw, he could simply say that he and his advisor decided withdrawal from UNFCCC was the fastest and best way to withdraw from the Paris Accord, a position many of us have advocated for. It would be consistent with his public remarks. For 99% of the public, the difference between withdrawing from the UNFCCC and Paris Accord is high weeds and just more blah, blah, blah. It would produce huge legal and tactical advantages down the road, helping make possible implementation of the America First Energy Plan.

No doubt the left, including legacy media and the political class in the U.S. and abroad, would go crazy over such an announcement… for a week or two. They would spend a lot of time trying to explain the difference between UNFCCC and the Paris Accord, why it matters, etc. etc. In politics, if you are explaining, you are losing. And they've already "shot their wad," as we like to say here in the Heartland, by going nuclear over yesterday's announcement. So what else can they throw at this president?

Is it possible? There is a fine line, I suppose, between brilliant and insane.

Joe

Joseph Bast

President

The Heartland Institute

3939 N. Wilke Road

Arlington Heights, IL 60004

Phone 312/377-4000

Email jbast@heartland.org

Web site http://www.heartland.org

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bowman, Liz
Sent: Tue 6/6/2017 4:33:25 PM
Subject: FW: question on Scott Pruitt MTP appearance

Does the provision on "racketing up" answer this question?

With regard to the targets, please see Article 4.3 and Article 11. These are the racket up provisions.

http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf

From: Lori Robertson [mailto:lori.robertson@factcheck.org]
Sent: Tuesday, June 6, 2017 11:50 AM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: question on Scott Pruitt MTP appearance

Hi Liz,

We were looking at this claim by Scott Pruitt on NBC's "Meet the Press" on Sunday:

Pruitt: "We were going to take steps, front loading our costs while the rest of the world waited to reduce their CO2 footprint. That's the reason it put us at a very much an economic disadvantage internationally."

But the "rest of the world" wasn't waiting to reduce carbon emissions. Several countries set targets of reducing emissions. The European Union, for example, set a goal of a 40 percent reduction in greenhouse gas emissions by 2030 below its 1990 level.

Later in the same interview, Pruitt said: "The reason they said those things Chuck, is because the rest of the world, China and India, the largest two polluters that we have on the planet did not have to take any steps until after 2030, and the United states front loaded their costs through things like the clean Power Plan, other rules here domestically, that contracted our economy."

China and India – and other developing countries – delayed an absolute reduction, but why does Pruitt say "the rest of the world" waited to reduce their emissions?

Thanks,

Lori

Lori Robertson

FactCheck.org

Washington, D.C., office

202-486-5857

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Wood, Jeffrey (ENRD)
Sent: Mon 5/8/2017 4:30:43 PM
Subject: Paris

Got a few minutes to touch base today? From RJ, I understand that our bosses spoke this weekend…

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Randy Hughes (rhughes@indepmo.org)[rhughes@indepmo.org]; 'randy-hughes@comcast.net'[randy-hughes@comcast.net]
From: Sal Pagano
Sent: Mon 6/19/2017 7:48:51 PM
Subject: Popular Deceptions, the Book
Popular Deceptions Executive Summary with graphs--UPDATED FINAL.docx

Good Afternoon Mandy –

By way of introduction, my name is Sal Pagano and I'm a longtime friend of Randall Hughes, author of "Popular Deceptions". I live in Midland, Texas and am a semi-retired engineer, having spent my entire career in various capacities in the oil and gas industry. I've taken a genuine interest in Randall's book to the point where I assisted him in developing a "Cliff's Notes" condensed version. I have attached it for your review and use -- it can be read in about an hour or so. I had hoped that the condensed version of the book would allow us to reach a number of people, who are in positions of importance that are directly dealing with these issues, much faster than the book itself.

Industry in the U.S. is hit with a myriad of regulations – I believe some are worthy and some are a matter government overreach that are politically motivated. When I read about Popular Deceptions, I was particularly impressed by the fact that it was an objective look at both sides of the global warming argument. I strongly advocate a review of the regulations from a viewpoint on their effectiveness as supported by scientific evidence. This book would be a great resource in that effort. The book has over 300 references to mostly scientific reports that refute the concept that man is the major cause for recent warming trends.

Nearly all scientists on both sides of the fence agree that the globe is warming and man is contributing. But science has determined that 95+% of the cause is mother nature – not man induced! We never hear about this from the press. Scientific evidence should prevail over political agendas and this book, with all its references, can be considered a **handbook** for those researching and responding to the often inaccurate and incomplete "green" claims. I believe that the extraordinary amount of money spent by government and industry on trying to control emissions that are doomed to Mother Nature's upper hand would be better invested on improving the human life experience. In the process, we should be able to bring some jobs back to the U.S. I'm hopeful that this administration will take a responsible approach using science as the guiding force for making decisions in changing policy, and will maintain those regulations that are genuinely beneficial.

I hope the attached is of some help to you. I wish this administration much success in properly educating the public on this very important matter……Best Regards……Sal Pagano – Midland, TX

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Greaves, Holly
Sent: Fri 8/11/2017 6:07:19 PM
Subject: QFRs - due today
SAC QFRs for EPA with answers for policy team review.docx

Hi Mandy/Sarah/Lee,

Just a reminder that QFRs are due COB today. If you won't be able to meet this deadline please let me know when I can expect them over the weekend. I am happy to consolidate your edits before Monday, but do need to give Liz a version for review first thing after the weekend.

Thanks!

Holly

To: Mandy Gunasekara[mandy.gunasekara@gmail.com]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Byers, Dan
Sent: Mon 4/24/2017 3:04:25 PM
Subject: RE: Pruitt's link between carbon rule and Paris deal draws scrutiny

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To: Byers, Dan
Subject: Re: Pruitt's link between carbon rule and Paris deal draws scrutiny

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Good luck!

Dan

From: POLITICO Pro Energy [mailto:politicoemail@politicopro.com]
Sent: Monday, April 17, 2017 6:37 PM
To: Byers, Dan
Subject: Pruitt's link between carbon rule and Paris deal draws scrutiny

Pruitt's link between carbon rule and Paris deal draws scrutiny

By Eric Wolff and Alex Guillén

04/17/2017 06:26 PM EDT

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Clinton-era Secretary of State Madeleine Albright later brought up the climate deal in April 2016 when she filed a brief arguing that the rule's "successful implementation will support U.S. efforts to ensure that others follow through on those commitments" made under the Paris deal.

It remains unclear to what extent, if any, the judiciary was persuaded by those arguments. The D.C. Circuit did not explain its decision not to stay the rule, nor did the Supreme Court when it did stay the rule, which has left experts in the dark about precisely what legal justifications the justices relied upon.

To view online:
https://www.politicopro.com/energy/story/2017/04/pruitts-link-between-carbon-rule-and-paris-deal-draws-scrutiny-155368

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This email was sent by: **POLITICO, LLC**
1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Myron Ebell[Myron.Ebell@cei.org]
From: Myron Ebell
Sent: Mon 5/8/2017 4:09:32 PM
Subject: Cooler Heads Coalition alert: corrected version on Paris letter and related items
Joint letter from 42 groups to President Trump on Paris Climate Treaty, 8 May 2017.pdf

Please use this corrected version of the joint letter. I carelessly left off the Capital Research Center and Steve Allen in the version sent around earlier.

Also note two quite different fantasies about Paris that came out today:

217 institutional investors sent a letter to G7 leaders supporting the Paris Climate Treaty: http://investorsonclimatechange.org/200-global-investors-managing-15-trillion-assets-urge-g7-stand-paris-agreement-drive-swift-implementation/

The Wall Street Journal today published an op-ed by Rep. Kevin Cramer (R-ND) on why the U. S. should stay in Paris: https://www.wsj.com/articles/remake-the-paris-deal-to-promote-americas-energy-interests-1494187641

Myron Ebell

Director, Center for Energy and Environment

Competitive Enterprise Institute

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Tel mobile: (202) 320-6685

E-mail: Myron.Ebell@cei.org

Stop continental drift!

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bowman, Liz
Sent: Wed 5/31/2017 9:01:34 PM
Subject: TRUMP_ Paris Facts.docx
TRUMP_ Paris Facts.docx

To: Bowman, Liz[Bowman.Liz@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Ferguson, Lincoln
Sent: Fri 6/2/2017 2:25:44 PM
Subject: Briefiing
Paris Briefing.docx

Attached is a compilation of SP's "go-to" talking points when it comes to Paris. These will be points he can pivot to throughout the briefing today. Mandy – do you mind looking through these to ensure they are accurate? I know it's a lot of the same stats he's used over and over again, but just want to confirm.

Going to start putting together list of possible questions he may receive.

Lincoln Ferguson

Senior Advisor to the Administrator

Office of Public Affairs

U.S. EPA

(202) 564-1935

To: Rupert Darwall[rupert@darwall.com]
From: Rupert Darwall
Sent: Tue 1/9/2018 12:50:43 PM
Subject: Trump's Energy Policies and Macron's Vanity Project - post on NRO

http://www.nationalreview.com/article/455240/donald-trump-energy-policy-drill-baby-drill

Trump's Energy Policies and Macron's Vanity Project

How Trump is changing the global weather

By Rupert Darwall — January 9, 2018

Republicans start 2018 with two big economic accomplishments under their belts. The first is passing the $1.5 trillion tax-reform package. The second is withdrawing from the Paris climate treaty and rolling back the Obama administration's Clean Power Plan, in effect repealing an Obama tax hike that would have cost Americans $1.3 trillion over eight years.

Cutting taxes is what successful Republicans do. Every Republican president since 1980 who subsequently won reelection cut taxes in his first term. By contrast, President Trump's pro-growth energy policies are very much his own idea. Perhaps others in the field of 17 primary contenders in 2016 would have acted similarly (such as Ted Cruz), but others would not (such as Jeb Bush), and it's hard to imagine any of them appointing Scott Pruitt to head the EPA, who has turned out to be one of the stars of the Trump administration.

The potential economic gains are colossal. According to Heritage Foundation's Kevin Dayaratna, over the next eight years ending the war on hydrocarbon energy will generate 900,000 jobs, add $1.9 trillion to the economy, and cut electricity prices and household energy bills with negligible effects on the climate and sea level. Fully taking advantage of fracking and America's vast hydrocarbon reserves to 2035 would increase GDP by $3.7 trillion — equivalent to America's adding two and a quarter Texas-size economies — and make an average family of four over $40,000 better off, all with a temperature change of less than three thousandths of a degree Celsius and a sea-level rise of less than one hundredth of an inch. Like all the best policies, in retrospect, Trump's energy policies will appear obvious common sense.

While Trump is pushing hard on the gas pedal to accelerate the growth of the American economy, his opposite number in Paris is applying the brake. At President Macron's behest, in December, the French parliament passed a law banning all production of oil and gas in France and its overseas territories from 2040. Casting himself as savior of the planet, a week earlier, Macron hosted a One Planet summit, ostensibly to commemorate the second anniversary of the Paris climate accord.

A sycophantic promotional video of the event shows the planetary hero planning the summit lunch as an Elysée Palace flunky serves coffee from a silver tray, then hugging guests on their arrival. Like millions of visitors to Paris before them, they board a *Bateau Mouche* and view the sights of Paris as they sail down the Seine. Everyone looks bored as Macron speaks, apart from the hero's wife, Brigitte, and his lead supporters ("really good, really fantastic, congratulations," Arnold

Schwarzenegger tells him).

It all looks a bit stale. There's a roundtable with former secretary of state John Kerry. Michael Bloomberg, Bill Gates, and Richard Branson are given front-row seats. "We are in the middle of losing this battle," Macron tells them. There are, he claims, five, ten, 15 heads of governments whose nations will disappear in 50 to 70 years' time. It's hardly an inspiring rallying cry.

The highlight of the One Planet conference turned out to be the speech by World Bank president Jim Yong Kim. Although the U.S. is the World Bank's largest shareholder, the institution has been entirely captured by the Europeans and their radical decarbonization agenda. To whoops and cheers, Dr. Kim announced that the bank would stop financing upstream oil and gas projects after 2019.

Applaud as the audience did, Kim's announcement masks a deep failure. The Paris climate conference two years earlier had agreed to work on defining a clear roadmap on ratcheting up climate finance to $100 billion a year by 2020, an amount first put on the table by Hillary Clinton at the failed 2009 Copenhagen climate conference. For developing countries, the promise of huge flows of climate finance was the sine qua non for their participation in the Paris Agreement. But the money's not there. The summit produced tiny dribbles of climate money, not the gusher they'd been promised, and the billionaires at Macron's summit didn't become billionaires by throwing their money into black holes. Instead of the hundreds of billions of climate dollars they were promised, they've ended up on the wrong end of a fossil-fuel financing ban from the World Bank.

Indeed, Macron's climate grandstanding is symptomatic of the decay of the U.N. climate-change cycle of annual climate conferences periodically punctuated by landmark climate treaties. The drama of negotiating brinkmanship and the presence of large numbers of world leaders generated news flow and extraordinary levels of media coverage, all of which are now being drained from the process, in part, because the architecture of the Paris Agreement does not require any further treaties.

This creates an opportunity for the U.S. to construct an alternative pole based on energy realism and attract countries that recognize that cheap hydrocarbon energy will remain essential to developing and growing their economies for the foreseeable future. The U.S. is uniquely able to do this: It is the only country that is withdrawing from the Paris Agreement. At the same time, its vast reserves of coal, gas, and oil make it a hydrocarbon superpower with the technological and business expertise that no country can match.

Macron's silver-tray, Davos-style approach to economic development is emblematic of what has been called the West's "carbon imperialism." In a lecture last August, Indian prime minister Narendra Modi's chief economic adviser, Arvind Subramanian, declared the time ripe for creating a "green and clean coal coalition." The Trump administration appears to be alive to the opportunity. At an energy summit in South Africa two months later, Energy Secretary Rick Perry said he backed the formation of a "global clean coal alliance" including the U.S., India, Australia, and South Africa.

It means that, for the first time, the U.S. is in a position to change the direction of the global energy debate, which up until now has been dominated by the push toward high-cost, low-dependability renewable energy. As his desultory speech implied, the Macron approach of trying to save the planet on the backs of the world's poor is foreordained to fail. Big developing nations such as India, the ASEAN bloc (which in August called for increased promotion and enhanced deployment of clean-coal technologies), and the countries of sub-Saharan Africa are not going to submit to Macron's vow of poverty. Approaching the end of his first year in the White House, President Trump can showcase his energy-policy accomplishments and offer the world a positive alternative to President Macron's losing climate battle and financing bans.

— *Rupert Darwall is the author of* Green Tyranny: Exposing the Totalitarian Roots of the Climate Industrial Complex.

To: Myron Ebell[Myron.Ebell@cei.org]
From: Myron Ebell
Sent: Thur 5/18/2017 4:05:14 PM
Subject: Reminder: next Cooler Heads Coalition meeting Monday, 22nd May, at noon at CEI

Reminder: the Cooler Heads Coalition will hold its monthly strategy meeting beginning at 12 noon on Monday, 22nd May, at CEI, 1310 L Street, N. W., Seventh Floor. Please e-mail or ring me at 331-2256 with agenda items or questions.

Pasted below is a news release on CEI's short but intense teevee advertising campaign this week on the Paris Climate Treaty:

CEI Launches Television Ad Campaign Urging President Trump to Withdraw from Paris Climate Agreement

May 18, 2017

WASHINGTON -- The Competitive Enterprise Institute (CEI) launched an aggressive advertising campaign this week that includes nearly 70 television spots over the course of three days aimed at urging President Trump to keep his campaign promise to American voters and withdraw from the harmful Paris Climate Agreement.

For more than a year, CEI has argued the Paris Climate Agreement would devastate the U.S. economy and impose higher energy prices on millions of Americans. Instead of following in President Obama's footsteps, President Trump should declare the Paris agreement a treaty, restore the Senate's Constitutional role in representing the will of the people, and allow members of Congress an opportunity to vote against the deal.

"**Keeping his campaign promise to withdraw from the Paris Climate Treaty is a prime opportunity for President Trump to listen to the people who elected him, reject the Washington Swamp, and restore the constitutional treaty process**," said Myron Ebell, director of CEI's Center for Energy and Environment. "**Staying in Paris threatens the President's energy agenda, which is a key part of his plan to increase economic growth.**"

The majority of CEI's ads will run on Thursday, May 18, before Trump leaves for his first foreign trip that concludes with the G7 Summit in Sicily. CEI also has a concurrent petition that can be found at: StopParisClimateTreaty.org.

>> **Watch CEI's TV Ad**

Myron Ebell

Director, Center for Energy and Environment

Competitive Enterprise Institute

1310 L Street, N. W., Seventh Floor

Washington, DC 20005, USA

Tel direct: (202) 331-2256

Tel mobile: (202) 320-6685

E-mail: Myron.Ebell@cei.org

Stop continental drift!

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bowman, Liz
Sent: Tue 6/6/2017 12:47:49 PM
Subject: FW: FYI ... Morning Joe (MSNBC) – EPA Administrator Scott Pruitt Interview

From: Wilcox, Jahan
Sent: Tuesday, June 6, 2017 7:59 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Konkus, John <konkus.john@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: FYI ... Morning Joe (MSNBC) – EPA Administrator Scott Pruitt Interview

Morning Joe (MSNBC) – EPA Administrator Scott Pruitt Interview

http://mms.tveyes.com/transcript.asp?PlayClip=FALSE&DTSearch=TRUE&DateTime=06%2F

WILLIE GEIST: welcome back to "morning joe". joining us now, epa administrator mr. scott pruitt.

ADMINISTRATOR SCOTT PRUITT: good morning, gentlemen.

GEIST: you've seen reaction around the world from the withdrawal from the paris agreement. could you summarize to our viewers the decision made to pull out and why we did it?

ADMINISTRATOR PRUITT: it put this country, our country at a disadvantage economically, despite the fact that we had taken several steps with respect to

reducing the co2 footprint. we're at pre1994 levels with our co2 footprint. from 2000 to 2014, w reduced it by 18%. what paris represented was a commitment to achieve things that were unachievable. the previous administration, with every step they took still fell 40% short of those 26 to 28% targets. what the decision was about was simply sending the message we're leading with action, not with words. we're going to make sure we put america first with respect to these decisions and continue to export our innovation and technology to the rest of the world with respect to how to reduce the co2 footprint.

GEIST: it's true, is it not, that more jobs are created by solar energy, next wave than by the coal jobs you've cited?

ADMINISTRATOR PRUITT: i think what's important is that the epa and u.s. government should not be in the business of picking winners and losers. all jobs matter. when you look at the coal sector and our power grid, energy security is a big deal. when you look at the ability to store solid hydrocarbons on site to generate electricity, draw down coal at 30% today, that creates vulnerability. attacks on infrastructure.

GEIST: do you believe broadly that clean energy creates more jobs than coal?

ADMINISTRATOR PRUITT: the last seven months we've had a growing job market including coal. fourth quarter last year in the mining sector, including coal. we see actually optimism in that sector. here is the deal. we have to focus on the security of our grid and make sure as companies generate electricity, they generate it from a variety of diverse sources to maintain that security.

GEIST: the coal industry generated 4 million jobs and last quarter 17 so where do you get your numbers? including several industries here?

ADMINISTRATOR PRUITT: last i checked you mine coal. other mining industries, too,s a broad section in the mining sector. but, willie, there's optimism in that sector. there's investment taking place. when you look at japan, they have 45 ultra critical coal generation facilities. we have one. we need to focus on that as a nation. again, to focus on energy security and stability.

GEIST: you said just a couple of days ago, and repeated again you haven't had a chance to talk to the president of the united states about whether or not he believes climate change is real or whether or not humans have impacted it. have you had a chance to talk to him about that?

ADMINISTRATOR PRUITT: i said our conversations have been on the merits and demerits of the paris deal.

GEIST: in your conversations you've never talked to him about whether climate change is real or impact bid humans?

ADMINISTRATOR PRUITT: the focus of our discussions was and has been on the merits and demerits of the paris accord. and the reason for that is, look, he took input from a variety of his cabinet, very informed, thoughtful approach. it took weeks of ooh evaluating this. he put america first with respect to this decision.

GEIST: and climate change never came up in those meetings?

ADMINISTRATOR PRUITT: i want to say this to you. he also emphasized in his speech thursday the importance of engagement. that's what's being missed in this. the president did not exit paris. he exited paris because it's a bad deal and we're going to continue engagement on co2 reduction, part of the ccc as you know. we

led the world with respect to look at the decision made in paris, russia, india, china -- india didn't have to take any steps until they received $2.5 trillion of aid. chien ra didn't take any steps until the year 20306789 we front loaded all of our costs, costing up to 400,000 jobs.

GEIST: o at its core it's about climate change and the human impact on it.

ADMINISTRATOR PRUITT: the focus of the discussion was on the merits and tee merits of what paris sought to achieve. what'sdiscussion, when you look at what was achieved.

JOE SCARBOROUGH: mr. pruitt, it's a simple question. mr. pruitt, it's a simple question. have you ever talked to the president about whether rhe believes climate change is real? does he still believe it was a hoax launched in china?

ADMINISTRATOR PRUITT: i think, joe --

SCARBOROUGH: wouldn't you like to know?

ADMINISTRATOR PRUITT: i think what's important, joe, is that the president has said when you make decisions on environmental decisions internationally that we put america's interest first.

SCARBOROUGH: i understand that. and i agree with that. i agree with that.

ADMINISTRATOR PRUITT: the president said the climate is changing.

confirmation process --

SCARBOROUGH: we're just trying to get an answer from you. i agree, we should always put america first i disagree with getting out of paris because it's voluntary. the goals set were voluntary. but i just want -- it's important for americans to know -- it's important for americans to know whether their president believes that global warming was hatched as a conspiracy theory in china. doesn't that matter to you?

ADMINISTRATOR PRUITT: with respect to the voluntary contributions you're talking about, the 26 to 28%, we, when you look at domestically third party lawsuits, you've heard about the litigation where the epa has sued and compels regulatory response.

SCARBOROUGH: right.

ADMINISTRATOR PRUITT: with the framers of the paris accord understood is that america would take regulatory steps to carry out that 26 to 28% reduction. when we're withdrawing energy independent order, that creates a gap of almost 60%. it created exposure with respect to obligations.

SCARBOROUGH: so, i'm sorry, i'm sorry. i've got to stop. i want to stop it. this interview has to stop in its tracks until i just get a yes, no answer from you on whether you believe it's important that americans find out whether their president believes that climate change is a conspiracy theory based out of china.

ADMINISTRATOR PRUITT: the president has indicated, joe, that the climate is changing. i my confirmation process that there's a warming trend with respect to the climate. and, moreover there's a human contribution to it. measuring that with precision is very difficult. the real question is, what do we do about it? what we've

done as a country is lead through innovation and technology. as i indicated since the year 2000, a reduction of over 18% in that co2 footprint through hydraulic fracturing, horizontal drilling. you don't hear that from the environmental left. we ought to be exporting that so other nations can get to natural gas.

GEIST: the position you laid out is much different than climate change is a hoax by perpetrated by the chinese. so humans have a hand in it, and it's difficult to measure how much they've had a hand in it. is that what the president believes?

ADMINISTRATOR PRUITT: the president has indicated the climate is changing. i think you're trying to get away from the merits and demerits of the paris accord.

GEIST: not at all. no.

ADMINISTRATOR PRUITT: what we've done as a nation to address the co2 footprint, paris has almost become symbolic. it's mostly words. it truly is. this president is about leading with action not words. the past administration tried to regulate co2 and failed. it's not just about paris. you also repealed the clean power plan.

STEVE RATTNER: because it's not consistent with the clean air act. you come on this show and have been promoting coal as an alternative fuel. solid fuels.

ADMINISTRATOR PRUITT: diversifying.

RATTNER: touting the fact that you're increasing coal jobs even though it's smaller than what you're saying. you're promoting fuels and policies that would warm the planet, not stop the warming of the planet even as you agree that the

planet is warming and it is man made.

ADMINISTRATOR PRUITT: despite the fact that we've had more energy reduction and reduced the cod2 footprint. it is not a wise thing to limit the number of resources. it creates vulnerabilities. we need more diversity from coal, natural gas, oil, hydro, nuclear, across the board. what we ought to be talking about is how we burn coal, how we burn electricity using natural gas, using the latest technology, innovation to reduce emissions. that's what our example has been. we've reduced it 18 plus percent through actions not word.

http://mms.tveyes.com/transcript.asp?PlayClip=FALSE&DTSearch=TRUE&DateTime=06%2F

SCARBOROUGH: and we have. i think one of the great untold stories of what this country has done is the fact that we actually have actually made very good progress over the past two decades. we don't report about that enough. i don't think we have. but let's just say i agree with your -- barack obama's all of the above approach, we have to be diversified, that we have to look at every option in front of us. and i also agree that maybe paris, the impact of paris pulling out has been exaggerated. i personally think it's more of a diplomatic problem than anything else. what would you say, though, to the fact that of all the things that you're saying here that we agree and disagree with that only 28% of americans think it was a wise move to get out of the paris accord, according to an abc news/washington post poll? 28% support the decision. 59% oppose it. could that be that this administration is on the wrong side of history when it comes to the climate?

ADMINISTRATOR PRUITT: joe, what's interesting about it, there are several surveys. this is not recent. this goes back some time when you ask people to rank issues most important to them, this particular issue ranks way down the list. when you ask them are you willing to pay anything to do something about it, it ranks even lower. s that the decisions made in paris impact the regulatory response here, which impacts the cost of electricity to every american across the country. i mean, our price per kilowatt in this country is far better than europe, far better than germany.

SCARBOROUGH: why do so many americans oppose this, though?

ADMINISTRATOR PRUITT: i think it's what i said earlier, joe. it's been a belief that paris is symbolic of whether we're going to do anything about the co2 footprint. they don't know the facts that i talked about earlier. we are doing a lot already, reducing our carbon footprint through innovation and technology and they're not aware of what steps we're taking. i think that's the primary reason.

SCARBOROUGH: if you listen to steve rattner has been saying and what's being reported it appears that you all are moving away from steps that would actually help on the issue of climate change.

ADMINISTRATOR PRUITT: i'm not sure how. because we're still part of the framework convention. we're going to continue, and the president said last week, engagement matters. international discussion on this matters. and i think, joe, what the focus needs to be upon is really exporting what we know here, innovation and technology to assist those countries. short memory, i think, many times with respect to the environmental left, go back to 2015 when this deal was cut. the head of nasa scientist said that the paris accord was a fake and a fraud. the general counsel criticized the mistakes made in paris largely because china and india, the largest polluters in the world didn't have to take any steps while we did.

RATTNER: they also criticized it because it was a voluntary agreement. they wanted it to be a mandatory agreement. china and india are different cases, obviously. let's come back to the u.s. when you go around saying we're creating all these coal jobs, when you go around saying we repeal the clean power plan, when you go around talking about the use of fossil fuels fcenturies to come, you are, in effect, promoting global warming. that's what you're doing. all those things contribute to global warming. yes, we have reduced our co2 emissions but we need to reduce them a lot more. i don't hear you talking about that.

ADMINISTRATOR PRUITT: so what happens when germany goes all renewable? when they go away from nuclear and all the fossil fuels, what happens to the cost of electricity?

RATTNER: germany has a terrible -- look at their price per kilowatt. they have a terrible policy. i will agree with you in that.

ADMINISTRATOR PRUITT: growing economies in this world, we have nothing to be apologetic about. we have a strong, strong approach to reducing emissions and have demonstrated that for 15 -- 2000, 2014 as i indicated. we have nothing to be apologetic about. at times, the message is not really receive bid the american public that we have made tremendous progress.

RATTNER: we've made tremendous progress. you're talking about going the other way. using dirty fuels more than what we've been doing.

ADMINISTRATOR PRUITT: the past administration brought us a mind-set that we could not be pro-growth and also pro-environment. and that's just simply wrong. we've always, as a nation, embraced growth in jobs, growth in the economy, being a good steward of our environment. as an example since 1980 we've grown our gdp substantially in this country but also seen a 65% production in the pollutants that we regulate under the clean air act. we do it better than anybody in the world, growing the economy and being a good steward in our environment and can do that in this space as well.

GEIST: why do you think rex tillerson, secretary of state, former ceo, speaking of oil and gas of exxonmobil, supported staying in paris?

ADMINISTRATOR PRUITT: i think he, just like many voices across the cabinet, is therto make a decision. our job is to communicate to them that america is not going to be disengaged. we're going to engage. we're going to continue the discussion. we're going to continue to lead.

GEIST: don't you think the former ceo of exxonmobil knows what's good for the american economy?

ADMINISTRATOR PRUITT: "the new york times" had a piece over the weekend talking about the small business owners that were euphoric at the decision that the president made, representing about 99,000 jobs in this country. pro jobs, pro growth for this country. he said he's going to maintain engagement and we're going to do that and focus on innovation and technology as opposed to targets that can't be met.

GEIST: they're pulling you out of here to go. mr. pruitt, thank you.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: E. Calvin Beisner
Sent: Fri 4/14/2017 6:07:56 PM
Subject: RE: Meeting with EPA Administrator

Hello, Mandy. You asked me to let you know the next time I'll be in town in case Mr. Pruitt might be able to meet with me. I'll be attending a conference from 8 to 3 on Thursday, May 18, and hope to arrange for pre-screening of Cornwall Alliance's newest video documentary either that evening, the evening before, or the next morning. I've not yet made my flight arrangements for the trip but would happily come early enough to meet with Mr. Pruitt Tuesday or Wednesday the 16th or 17th or stay long enough to meet with him Friday the 19th if he can fit me into his schedule.

Please pass on to him my commendation for saying yesterday that the U.S. needs to pull out of the Paris climate agreement!

In Christ,

Cal

E. Calvin Beisner, Ph.D., Founder & National Spokesman

The Cornwall Alliance for the Stewardship of Creation

Home office (my usual location): Pembroke Pines, FL

Mobile: 954-547-5370 (for most calls); Home Office Land Line (radio interviews): 954-538-9502

Business office: 9302-C Old Keene Mill Rd., Burke, VA, 22015, Phone 703-569-4653

www.CornwallAlliance.org www.Facebook.com/CornwallAlliance Twitter @CornwallSteward

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Wednesday, March 29, 2017 3:20 PM
To: E. Calvin Beisner <Calvin@cornwallalliance.org>
Subject: RE: Meeting with EPA Administrator

All good points.

I wish I did, but I have no insight on the CEQ Chair process or who is up for consideration. I do know Mary Neumayr who is the current Chief of Staff at CEQ very well. She and I worked closely on the hill.

Best,

Mandy

From: E. Calvin Beisner [mailto:Calvin@cornwallalliance.org]
Sent: Wednesday, March 29, 2017 12:55 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: Meeting with EPA Administrator

By the way, you might want to see my op ed about yesterday's executive order: http://dailycaller.com/2017/03/28/trumps-energy-independence-order-a-boon-to-america-and-the-environment/. I've done two radio interviews about the EO so far and have six more scheduled through Friday—and will probably get some more. And Cornwall Alliance Senior Fellow Dr. Roy W. Spencer's blog about it is at http://www.drroyspencer.com/2017/03/trumps-rollback-of-epa-overreach-what-no-one-is-talking-about/.

On messaging, I think a key point to make, over and over, is that we don't have to choose between prosperity and a clean, healthful, beautiful environment: prosperity enables us to afford a clean, healthful, beautiful environment.

A related subject: Do you know if CEQ chair has been appointed yet? I think Kathleen Hartnett White would be wonderful for the position, and I understand she's been under consideration. And if there's any way I can be of help to the Administration on environmental issues—especially as they relate to economic development—I'm eager to do so.

In Christ,

Cal

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Wednesday, March 29, 2017 12:47 PM
To: E. Calvin Beisner <Calvin@cornwallalliance.org>
Subject: Re: Meeting with EPA Administrator

I will reach out to him and thank you for that information!

Talk soon,

Mandy

Sent from my iPhone

On Mar 29, 2017, at 12:43 PM, E. Calvin Beisner <Calvin@cornwallalliance.org> wrote:

> Thanks, Mandy! I'll be sure to be in touch next time I'm headed to D.C. Nothing's on the calendar at the moment.
>
> By the way, Paul Balserak, formerly deputy director of the regulatory policy division in the Administrator's Office, where he tried long and hard to limit the damage done by Obama's EPA Administrators, is someone who might be very helpful in cleaning up the EPA. I've attached his contact card for you. Very fine man, and a friend. If you contact him, tell him I referred you.
>
> In Christ,
>
> Cal
>
> E. Calvin Beisner, Ph.D., Founder & National Spokesman
>
> The Cornwall Alliance for the Stewardship of Creation
>
> Home office (my usual location): Pembroke Pines, FL

Mobile: 954-547-5370 (for most calls); Home Office Land Line (radio interviews): 954-538-9502

Business office: 9302-C Old Keene Mill Rd., Burke, VA, 22015, Phone 703-569-4653

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From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Wednesday, March 29, 2017 12:27 PM
To: E. Calvin Beisner <Calvin@cornwallalliance.org>
Subject: Meeting with EPA Administrator

Hi Cal,

I was forwarded your earlier meeting request with Administrator Pruitt, since we were unable to work out the scheduling. I want to let you know that I am now here at EPA working in the Administrator's Office and would love to meet with you next time you are in town. Please give me a heads up when you'll be back and what times you are available.

On a different note, I appreciate all the work you did leading up to the Administrator's nomination hearing and the extra push after. As the former committee staffer, that goes a long way.

I look forward to touching base soon!

Best,

Mandy

<Paul Balserak.vcf>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Freire, JP[Freire.JP@epa.gov]
From: Bennett, Tate
Sent: Thur 5/18/2017 2:04:10 PM
Subject: Re: H. Sterling Burnett in the Detroit News: Escaping the Paris Climate Agreement

Thanks!

On May 18, 2017, at 9:59 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

For the list

Sent from my iPhone

Begin forwarded message:

From: "Hale, Michelle" <hale.michelle@epa.gov>
Date: May 18, 2017 at 9:56:38 AM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Subject: FW: H. Sterling Burnett in the Detroit News: Escaping the Paris Climate Agreement

fyi

From: Joseph Bast [mailto:JBast@heartland.org]
Sent: Thursday, May 18, 2017 9:34 AM
Subject: H. Sterling Burnett in the Detroit News: Escaping the Paris Climate Agreement

FYI.

http://www.detroitnews.com/story/opinion/2017/05/18/paris-climate/101815198/

Billy Aouste

Media Specialist

The Heartland Institute

3939 North Wilke Road

Arlington Heights, IL 60004

Detroit News
5/18/17

Escaping the Paris Climate Agreement

By: H. Sterling Burnett, the Heartland Institute

As a candidate for president, Donald Trump said he would withdraw the United States from the Paris climate agreement and called it a bad deal for America. In an April speech in Harrisburg, Penn., Trump reiterated this claim, saying the Paris climate agreement in its current form hurts America. Despite his continued opposition, however, it remains unclear whether a withdrawal is in the nation's future.

It's time for this administration to keep its promise, by getting the U.S. out of this flawed, costly agreement.

Some in Trump's team have reportedly said if the United States' commitments are restructured there might be a path to stay in the Paris climate agreement. While there may be a better deal to be had — after all, the Obama administration could hardly have negotiated a worse deal for Americans — there is no deal that would be good for the country. Even Trump can't put lipstick on this very ugly pig.

While our economic competitors, such as China and India, do not have to limit their

fossil-fuel use under the agreement, the U.S. is required to make steep cuts, which are estimated to cost our economy trillions of dollars over the life of the agreement without providing any appreciable environmental benefits. Additionally, a deal isn't possible without the U.S. paying into the political slush fund called the Green Climate Fund, which Trump promised to halt payments to. What is gained by staying in? Nothing.

The question is not whether Trump should keep his word and withdraw from the Paris agreement; it's simply a matter of choosing the best way to do so. There are three options.

The first way to cancel America's participation in the Paris climate agreement — and the one that most directly satisfies Trump's campaign commitment — is simply to withdraw the United States' signature entirely. Under the Paris agreement, any country can withdraw from the agreement by giving written notice of a decision to do so to the U.N. secretary general. Unfortunately, under the terms of the agreement, Trump can't give such notice until the agreement has been in place for three years, which means the earliest withdrawal date is Oct. 5, 2019.

Making matters worse, the withdrawal does not become effective until one year after the written notice is delivered. This means even if Trump determines to withdraw from the Paris agreement today, the country will remain stuck with its terms for a minimum of almost four years, and while America remains a party to the agreement, it is obligated to keep its commitments. Because the four-year withdrawal period will not run out until after Trump's first term is over, should he decide not to run for president again or should he run for re-election and lose, the next president could simply recommit the United States to the agreement with a simple signature.

The second way to scotch America's commitments under the Paris climate agreement would be for Trump to submit it to the Senate for formal approval as a treaty. This is what Obama should have done in the first place. To become a binding treaty, the Senate would have to approve the Paris climate agreement by a two-thirds vote. If the agreement loses the treaty vote — and it likely would in a full vote of the Senate — the deal is canceled.

However, nothing requires the Senate to hold an up-or-down vote on the Paris climate

agreement if Trump submits it to them. Using the Senate filibuster rules, Senate Democrats could block the treaty from ever coming up for a vote. Such a move is likely, since the vast majority of Democrats support the Paris agreement. Under this scenario, the treaty would remain pending, leaving a future Senate to decide its fate.

The easiest way for Trump to end U.S. participation in Paris and all international climate agreements would be for him to remove the country's signature from the U.N. Framework Convention on Climate Change (UNFCCC), signed by President George H.W. Bush in 1992. Article 25 of the UNFCCC allows any state party to the convention to withdraw, without further obligation, upon giving one year's notice. Withdrawing from UNFCCC would cancel the United States' obligations to all other United Nations-brokered climate agreements made subsequent to UNFCCC, because they are all built on it.

This would be the best and easiest way to get out of the Paris climate agreement, and it would help to prevent future burdensome climate agreements.

Mr. President, whichever path you choose, please keep your promise and withdraw the United States from the Paris agreement, placing it firmly in the dustbin of history — where it belongs.

H. Sterling Burnett, Ph.D., is a research fellow on energy and the environment at the Heartland Institute.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
Cc: Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Konkus, John
Sent: Fri 6/2/2017 1:46:56 PM
Subject: RE: Support
Statements of support for President Trump.docx

Team: Please see attached. Let me know if this is useful for the Administrator.

Thank you,

John

From: Gunasekara, Mandy
Sent: Friday, June 2, 2017 8:57 AM
To: Konkus, John <konkus.john@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: RE: Support

Maybe you already did this, but John can you put them on piece of paper so if the Admin needs to cite a few (the best ones) this afternoon, it is easily accessible.

From: Konkus, John
Sent: Friday, June 2, 2017 8:53 AM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: Support

Have been and we already sent a bunch in. We're doing well.

John Konkus

Environmental Protection Agency

Deputy Associate Administrator for Public Affairs

Mobile: (202) 365-9250

On Jun 2, 2017, at 8:50 AM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Can you please work with Amy Dewey and your team to track support statement s?

Sent from my iPhone

Begin forwarded message:

From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: June 2, 2017 at 8:37:16 AM EDT
To: "Bowman, Liz" <Bowman.Liz@epa.gov>, "Ferguson, Lincoln" <ferguson.lincoln@epa.gov>
Subject: Support

Is anyone from our team tracking the statements of support? It may be good to have a list for SP when he gets a question about "all the companies" that are angry we left Paris (ie Disney, Goldman Sachs, Exxon ….). I'd love for him to have a running list of companies that celebrated the decision.

One example is attached:

The Industrial Energy Consumers of America celebrated the announcement stating:

"The U.S. should never be a party to a global or bilateral agreement that does not provide a level playing field for manufacturing. The manufacturing sector has a significant incentive to reduce energy consumption and GHG emissions, it is called global competition."

<06.02.17_Paris Climate Accord Press Release.pdf>

From: Atkinson, Emily
Location: WJC-N 5400 + Dial: 202-991-0477; Participant Code: 680-2581
Importance: Normal
Subject: Update on the UNFCC and IPCC
Start Date/Time: Wed 2/7/2018 6:00:00 PM
End Date/Time: Wed 2/7/2018 7:00:00 PM
Meeting Request for William Wehrum_UNFCCC_IPCC.DOCX

To: Wehrum, Bill; Harlow, David; Gunasekara, Mandy; Woods, Clint; Dunham, Sarah; Gunning, Paul; Kocchi, Suzanne; Irving, Bill; Desai, Mausami; Fawcett, Allen; Alsalam, Jameel; Birnbaum, Rona