UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Request for a Waiver from Section 1, Paragraph 7 of Executive Order 13770

FROM: Kevin S. Minoli
Acting General Counsel and Designated Agency Ethics Official

THROUGH: Ryan Jackson
Chief of Staff

TO: Donald F. McGahn II
Counsel to the President
The White House

This memorandum requests a waiver from Section 1, paragraph 7 of Executive Order 13770 (January 28, 2017) for Jeffrey M. Sands, who will be the Senior Agricultural Advisor to the Administrator of the United States Environmental Protection Agency (EPA). In this position, he will be expected to advocate for a broad range of agricultural interests within EPA so it is vital that the incumbent is unfettered in his ability to ensure that agricultural interests are fully considered as the Administrator formulates his environmental policies. At present, Mr. Sands is serving as Manager of Syngenta's Federal Government and Industry Relations group and as Director of SyngentaPAC, a political action committee. As a federally registered lobbyist for Syngenta since 2015, Mr. Sands has been focusing on a wide range of agricultural issues including pesticides, food labeling, genetically modified organisms, biofuels and biotechnology and renewable fuels. EPA seeks to appoint Mr. Sands into a non-career SES position and, as such, will ask that he sign the Trump Ethics Pledge.

EPA requests this waiver to allow Mr. Sands to utilize the full range of his extensive knowledge and expertise in agriculture and related issues so that he can effectively and thoroughly advise the Administrator and other senior officials. His comprehensive understanding of the challenges and nuances of wide-ranging agricultural issues are critically needed to counsel and advise the Administrator and senior leadership in this vital area that affects all Americans. EPA seeks this waiver to permit Mr. Sands to work personally and substantially on all agriculture issues, including those on which he previously lobbied.

BACKGROUND

On January 28, 2017, President Trump signed Executive Order 13770, "Ethics Commitments by Executive Branch Appointees." All individuals appointed to political positions on or after January 20, 2017 are required to sign the ethics pledge, which sets forth the lobbying restriction at Section 1, paragraph 7:

> *If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.*

If appointed, Mr. Sands will sign this pledge. As a federally registered lobbyist for Syngenta within the preceding two years, he requires a waiver to work on agricultural issues for which he may previously have lobbied. Section 3 of Executive Order 13770 allows the President or his designee to grant a waiver of any restriction contained in the Ethics Pledge. Please note, however, that EPA is not requesting a waiver of Section 1, paragraph 6.

MR. SANDS' UNIQUE EXPERTISE

Mr. Sands began his higher education at Abraham Baldwin Agricultural College where he obtained an associate of science degree in environmental horticulture. He is a graduate of Valdosta State University in Valdosta, Georgia, where he obtained both a bachelor's degree in organizational communication and a masters in public administration. He served as Agricultural Assistant to Congressman Tom Marino and, in this capacity, assisted in developing agricultural related legislation, including the Farm Bill in 2011 and 2012. Following his congressional service, Mr. Sands was named the Director of Public Policy for the Agricultural Retailers Association, which represented more than 10,000 individuals throughout the agriculture retail industry. In this position, he worked assiduously to build and develop personal relationships among Members of Congress, their staff and agency officials to raise awareness of agricultural interests.

Since 2015, Mr. Sands has served as the Manager of Federal Government and Industry Relations at Syngenta, a multi-billion dollar agribusiness company. This position has allowed Mr. Sands to complement his congressional and trade association experience with the unique private sector perspective. Taken together, he has a breadth of knowledge and experience in all facets of agricultural concerns. His demonstrated expertise in an impressive range of agricultural issues through his years of experience will greatly benefit EPA and the Administrator as Mr. Sands works to develop consensus with affected constituencies to build broad coalitions in support of legislation or regulatory reform.

The EPA Administrator needs to be able to utilize Mr. Sands' subject-matter expertise in all aspects of agricultural issues as he formulates policies at the EPA. Because the EPA does not yet have a Deputy Administrator, General Counsel, or any other Presidentially Appointed Senate confirmed political appointees, the Administrator needs to be able to rely confidently on his agricultural advisor. For his part, Mr. Sands must be free to provide his advice to the EPA's top policy-makers and share the unique perspective and expertise he has obtained through the diverse range of positions he has held with distinction throughout his career. His invaluable knowledge and experience will assist the Administrator and the Agency with respect to agricultural issues, which affect all of EPA's environmental programs.

REQUEST FOR A WAIVER

EPA does not seek this waiver lightly. The Administrator still lacks the senior members of his political team and must be able to rely upon his policy advisors. He has identified Mr. Sands as a valuable addition to his team, but needs for him to be able to work on the full range of agricultural issues to the maximum extent possible. For the reasons set forth above, EPA respectfully requests a waiver of the provisions of Section 1, paragraph 7 of the Executive Order to enable Jeff Sands to effectively carry out duties as the Senior Advisor for Agriculture and advise the EPA Administrator accordingly. He will otherwise fully comply with the requirements imposed by the President's Ethics Pledge and with all applicable federal ethics laws and regulations. In particular, Mr. Sands will remain restricted by the Executive Order, Section 1, paragraph 6, from participating in any particular matter involving specific parties that is directly and substantially related to his former employer, Syngenta.

Please feel free to contact the EPA Chief of Staff, Ryan Jackson, at (202) 564-4700 or Jackson.Ryan@epa.gov or me at (202) 564-8040 or Minoli.Kevin@epa.gov if you have any questions.

MEMORANDUM

TO: KEVIN S. MINOLI
ACTING GENERAL COUNSEL AND
DESIGNATED AGENCY ETHICS OFFICIAL
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

FROM: DONALD F. MCGAHN II
COUNSEL TO THE PRESIDENT
THE WHITE HOUSE

SUBJECT: Waiver of Section 1, Paragraph 7 of Executive Order 13770

Official: Jeffrey M. Sands to be appointed as Senior Advisor for Agriculture to the EPA Administrator

After reviewing your limited waiver request memorandum, I hereby waive the requirements of Section 1, paragraph 7 of Executive Order 13770 to Mr. Jeff Sands to allow him, upon his appointment, to advise the Administrator of the United States Environmental Protection Agency and other senior Agency officials with respect to agricultural issues. I have determined that it is in the public interest to grant this waiver because of Mr. Sands' extensive expertise in this area and in various entities, programs and policies. His deep understanding of agricultural issues forged through his previous service with Congress, a trade association and a company make him an ideal person to assist the Administrator and his senior leadership team to make EPA and its agriculture programs more efficient and effective.

In light of the importance of the aforementioned efforts to the Trump Administration and to the United States Environmental Protection Agency, a waiver of the provisions of paragraph 7 of the Ethics Pledge (contained in Section 1 of Executive Order 13770) is justified for Mr. Sands in the event of his appointment so that he can ably advise the EPA Administrator. Accordingly, I authorize Jeff Sands to be able to participate personally and substantially in matters regarding agricultural issues, including those on which he previously lobbied. I understand that he will otherwise fully comply with the remainder of the requirements imposed by the President's Ethics Pledge and with all applicable federal ethics laws and regulations.

Dated: 2 OCTOBER 2017

Donald F. McGahn II
Counsel to the President