



MEMORANDUM

March 7, 2021

To: Subcommittee on Oversight and Investigations Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on “The Path Forward: Restoring the Vital Mission of EPA”

On Wednesday, March 10, 2021, at 10:30 a.m. (EST) via Cisco WebEx online video conferencing, the Subcommittee on Oversight and Investigations will hold a hearing entitled, **“The Path Forward: Restoring the Vital Mission of EPA.”**

I. BACKGROUND

The stated mission of the Environmental Protection Agency (EPA) is to protect human health and the environment.¹ It works to ensure clean air, land, and water for all Americans by developing and enforcing protections, making grants to build state and local environmental capacity, conducting and funding critical scientific research, and educating the public.² For 50 years, under both Democratic and Republican administrations, EPA has implemented and enforced protections authorized by key public health laws such as the Clean Air Act and Safe Drinking Water Act.³ Over the course of its history, EPA has also acquired new responsibilities, including administering the Superfund program to clean up toxic waste sites and enforcing the Oil Pollution Act in the wake of the catastrophic *Exxon Valdez* oil tanker spill.⁴

Significant benefits to public health, the environment, and the economy have materialized since, and are largely attributable to the creation of EPA. An EPA study estimating the benefits

¹ U.S. Environmental Protection Agency, *Our Mission and What We Do* (www.epa.gov/aboutepa/our-mission-and-what-we-do) (accessed Mar. 2, 2021).

² *Id.*

³ U.S. Environmental Protection Agency, *Overview of the Clean Air Act* (www.epa.gov/clean-air-act-overview) (accessed Mar. 2, 2021); U.S. Environmental Protection Agency, *Summary of the Safe Drinking Water Act* (www.epa.gov/laws-regulations/summary-safe-drinking-water-act) (accessed Mar. 2, 2021).

⁴ U.S. Environmental Protection Agency, *Superfund: CERCLA Overview* (www.epa.gov/superfund/superfund-cercla-overview) (accessed Mar. 2, 2021); U.S. Environmental Protection Agency, *Summary of the Oil Pollution Act* (www.epa.gov/laws-regulations/summary-oil-pollution-act) (accessed Mar. 2, 2021).

of clean air regulations between 1990 and 2020 found that the economic benefits of EPA regulations (including avoided premature deaths, hospitalizations, and lost work days) exceeded the regulatory costs by approximately 30 to one.⁵ From 1970 to 2019, total emissions of six of the most common air pollutants were reduced by over 77 percent, while the U.S. gross domestic product grew by over 285 percent.⁶

II. CHALLENGES FOR TODAY'S EPA

EPA continues to face a number of significant and complex environmental and public health challenges. Among its responsibilities, EPA must regularly review national air pollution standards, continually updating its scientific understanding to ensure that its standards are sufficiently protective of human health and the environment.⁷ Additionally, EPA oversees or carries out complex cleanups at the vast majority of the 1,327 sites currently on the Superfund's National Priorities List. This is a particularly significant responsibility given that 53 million Americans live within three miles of a Superfund site.⁸ Holding polluters accountable for violations of the many laws implemented by EPA requires a consistent and comprehensive enforcement and compliance program for dispersed industries across the United States.

EPA's responsibilities on climate change also affect many different sources and sectors that contribute to greenhouse gas pollution. Additionally, under recent reforms to the Toxic Substances Control Act and requirements of other laws, EPA is responsible for addressing threats and contamination from chemicals, including a class of long-lasting and widely used chemicals—perfluorinated or “PFAS” compounds.⁹ EPA is also responsible for addressing the continuing and cumulative health impacts that disproportionately affect low-income communities, communities of color, and fence-line communities situated near industrial plants.¹⁰

⁵ U.S. Environmental Protection Agency, *The Benefits and Costs of the Clean Air Act from 1990 to 2020* (Apr. 2011).

⁶ U.S. Environmental Protection Agency, *50th Anniversary of the Clean Air Act* (www.epa.gov/clean-air-act-overview/50th-anniversary-clean-air-act) (accessed Mar. 2, 2021).

⁷ U.S. Environmental Protection Agency, *NAAQS Implementation Process* (www.epa.gov/criteria-air-pollutants/naaqs-implementation-process) (accessed Mar. 2, 2021).

⁸ U.S. Environmental Protection Agency, *Superfund: National Priorities List (NPL)* (www.epa.gov/superfund/superfund-national-priorities-list-npl) (accessed Mar. 2, 2021); Environmental Protection Network, *EPA's Core Work: Superfund Cleanups* (www.environmentalprotectionnetwork.org/wp-content/uploads/2019/03/Superfund-3-8-19.pdf) (accessed Mar. 2, 2021).

⁹ U.S. Environmental Protection Agency, *EPA Per- and Polyfluoroalkyl Substances (PFAS) Action Plan* (Feb. 2019).

¹⁰ U.S. Environmental Protection Agency, *Office of Environmental Justice in Action* (Sept. 2017) (www.epa.gov/sites/production/files/2017-09/documents/epa_office_of_environmental_justice_factsheet.pdf).

Adding to these challenges are the prior Administration's elimination or weakening of more than 170 environmental protections,¹¹ many developed by EPA, which have impaired the agency's ability to address pressing environmental challenges. Certain major EPA rule rollbacks included the repeal of the Clean Power Plan limiting greenhouse gases,¹² elimination of methane requirements for the oil and gas industry,¹³ and scaled-back protections against coal ash pollution from power plants.¹⁴

Finally, continuing budget and staffing pressures also are impacting EPA's capacity. Despite having fewer programs to administer at the time, EPA's budget in 1980 was fifty percent higher in inflation-adjusted dollars than it is today.¹⁵ Between fiscal years 2015 and 2018, staffing levels at EPA declined by nearly 2,500 full-time equivalent positions.¹⁶ Significantly more departures may occur in the coming years, with nearly 40 percent of the agency now eligible for retirement.¹⁷

III. FORMER ADMINISTRATORS CONTINUE TO ADVOCATE FOR EPA

In April 2019, seven former EPA Administrators sent a letter to the Energy and Commerce Committee and other congressional committees, which underscored the importance of EPA's mission and urged congressional oversight of the agency.¹⁸ The letter was signed by

¹¹ *Tracking Biden's environmental actions*, The Washington Post (updated Mar. 1, 2021).

¹² Environmental Protection Agency, *Repeal of the Clean Power Plan; Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units; Revisions to Emission Guidelines Implementing Regulations*, 84 Fed. Reg. 32520 (July 8, 2019) (final rule).

¹³ U.S. Environmental Protection Agency, *Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review*, 85 Fed. Reg. 57018 (Sept. 14, 2020) (final rule); U.S. Environmental Protection Agency, *Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration*, 85 Fed. Reg. 57398 (Sept. 15, 2020) (final rule).

¹⁴ U.S. Environmental Protection Agency, *Steam Electric Reconsideration Rule*, 85 Fed. Reg. 64650 (Oct. 13, 2020) (final rule).

¹⁵ Environmental Protection Network, *Resetting the Course of EPA: Recommendations from the Environmental Protection Network* (Aug. 2020) (calculated using historical tables for agency budget outlays prepared by the Office of Management and Budget).

¹⁶ U.S. Environmental Protection Agency, Office of Inspector General, *EPA's Fiscal Year 2020-2021 Top Management Challenges*, at 20 (Jul. 21, 2020) (No. 20-N-0231).

¹⁷ *Id.*

¹⁸ Letter from Hon. Carol Browner, Hon. Lisa Jackson, Hon. Gina McCarthy, Hon. William Reilly, Hon. William Ruckelshaus, Hon. Lee Thomas, and Hon. Christine Todd Whitman to Rep. Frank Pallone, Jr., Chairman, House Committee on Energy and Commerce and Rep. Greg Walden, Ranking Member, House Committee on Energy and Commerce, et al. (Apr. 8, 2019).

former EPA Administrators who had served in both Democratic and Republican administrations and were collectively in office for more than half of EPA’s history.¹⁹

In June 2019, four of the former EPA Administrators who signed the April letter testified at a hearing before the Oversight and Investigations Subcommittee. The bipartisan panel expressed concern that the agency had been compromised by actions in recent years which undermined scientific integrity, diminished the U.S. international leadership on climate change, and reversed key public health and environmental protections.²⁰

More recently, in August 2020, the former Administrators followed their April 2019 letter with a public letter urging EPA to address present and future public health and environmental challenges.²¹ They wrote, “the time has come to reset the future course for EPA in a new, forward-looking direction to address the environmental challenges we face today and those that lie ahead.”²² Their recommendations included that EPA reaffirm the agency’s public health and environment mission; conduct its work with the highest ethical and scientific standards; comprehensively incorporate environmental justice; and collaborate with states, tribes, local governments, and stakeholders to build a resilient system of public health and environmental protections.²³ The former Administrators also underscored that in order to effectively meet current and future environmental challenges, EPA would need additional resources.²⁴

IV. RECENT EXECUTIVE ACTIONS IMPACTING EPA

Upon taking office, President Biden took action to address climate change and reverse some of the previous administration’s most significant environmental actions by signing a series of Executive Orders (EOs) and taking other actions, many of which impact EPA’s mission. For example, on January 20, 2021, the President signed EO 13990, which directs executive departments and agencies including EPA to immediately review climate-related rules and other actions issued by the previous administration.²⁵ One week later, President Biden signed EO

¹⁹ *Id.*

²⁰ House Committee on Energy and Commerce, *Critical Mission: Former Administrators Address the Direction of the EPA*, 116th Cong. (2019).

²¹ Environmental Protection Network, *Letter from Former EPA Administrators: Bipartisan Support to Reset the Course of EPA* (Aug. 12, 2020) (www.environmentalprotectionnetwork.org/reset/bipartisan-administrators-support-to-reset-the-course-of-epa/) (accessed Mar. 2, 2021).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Exec. Order No. 13990, 86 Fed. Reg. 7037 (Jan. 20, 2021). *See also* White House, *FACT SHEET: List of Agency Actions for Review* (Jan. 20, 2021) (press release).

14008, which outlines significant actions on a range of climate issues,²⁶ and he also issued a memorandum setting a policy to strengthen scientific capacity and make decisions guided by the best available science and data.²⁷

As the federal agency charged with protecting public health and the environment, EPA's new responsibilities under the recent EOs and other executive actions include:

- **Climate Change:** Conduct a review of the previous administration's climate-related actions (including regulations that revised fuel efficiency standards for cars, failed to require reductions in greenhouse gas emissions from airplanes, and removed direct regulation of methane emissions from oil and gas facilities); identify internal actions EPA can take to minimize the agency's carbon footprint; and help support a government-wide approach to climate change.²⁸
- **Environmental Justice:** Establish a community notification program to inform the public of current environmental pollution; identify agency program funds to support the Justice40 initiative, which aims to deliver 40 percent of the overall benefits of clean energy and other climate-related investments to disadvantaged communities; and promote a whole-of-government approach to address current and historical environmental injustices by supporting the new White House Environmental Justice Advisory Council.²⁹
- **Enforcement:** Strengthen enforcement of environmental violations with disproportionate impacts on vulnerable communities and support the development of a new environmental justice enforcement strategy coordinated by the Department of Justice.³⁰
- **Scientific Integrity:** Strengthen scientific capacity and ensure its decisions are evidence-based and use the best available science; update as appropriate EPA's scientific integrity policy; and review changes to cost-benefit analyses for air regulations.³¹

²⁶ Exec. Order No. 14008, 86 Fed. Reg. 7619 (Jan. 27, 2021).

²⁷ President Joseph R. Biden, *Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking*, 86 Fed. Reg. 8845 (Jan. 27, 2021) (Presidential Memorandum).

²⁸ Exec. Order 14008, 86 Fed. Reg. 7619, at 7623-7628 (Jan. 27, 2021); Exec. Order No. 13990, 86 Fed. Reg. 7037, at 7037-7038 (Jan. 20, 2021); White House, *FACT SHEET: List of Agency Actions for Review* (Jan. 20, 2021) (press release).

²⁹ Exec. Order 14008, 86 Fed. Reg. 7619, at 7629-7632 (Jan. 27, 2021).

³⁰ *Id.* at 7631.

³¹ President Joseph R. Biden, *Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking*, 86 Fed. Reg. 8845, at 8847-8848 (Jan. 27, 2021) (Presidential Memorandum); White House, *FACT SHEET: List of Agency Actions for Review* (Jan. 20, 2021) (press release).

- **Clean air and water:** Review clean air and water regulations for consistency with national climate policy, including actions of the prior administration addressing mercury and air toxics, fine particle and ozone pollution, and drinking water standards for lead and copper.³²

V. WITNESSES

The following witnesses have been invited to testify:

The Honorable Christine Todd Whitman

Administrator (2001-2003)
U.S. Environmental Protection Agency

The Honorable Carol Browner

Administrator (1993-2001)
U.S. Environmental Protection Agency

Gwendolyn Keyes Fleming

Former Chief of Staff and Region 4 Regional Administrator
U.S. Environmental Protection Agency

Wendy Cleland-Hamnett

Former Principal Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency

John Deskins, Ph.D.

Director
Bureau of Business & Economic Research
West Virginia University

³² White House, *FACT SHEET: List of Agency Actions for Review* (Jan. 20, 2021) (press release).