

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

July 13, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt,

I am writing to request information regarding efforts by the U.S. Environmental Protection Agency (EPA) to comply with ethical standards of conduct for federal employees. Executive Order 13770 requires “[e]very appointee in every executive agency appointed on or after January 20, 2017” to be “contractually committed to” an “Ethics Pledge.”¹ But, under certain circumstances, EPA ethics officials may grant waivers to allow its employees to work on issues where they could have a real or apparent conflict of interest.²

On June 7, 2017 the Office of Government Ethics (OGE) released responsive documents provided by agencies.³ Based on this release, it appears that EPA did not provide OGE with any

¹ Exec. Order No. 13770, 82 Fed. Reg. 9333 (Feb. 3, 2017).

² Memorandum from Walter M. Shaub, Jr., Director, U.S. Office of Government Ethics to Chief of Staff to the President, Agency Heads, Designated Agency Ethics Officials, Inspectors General, and Appointees (Apr. 28, 2017).

³ U.S. Office of Government Ethics, Certain Waivers and Authorizations Issued Between May 1, 2016 – April 30, 2017 (www.oge.gov/Web/OGE.nsf/Resources/Certain+Waivers+and+Authorizations+issued+between+May+1,+2016+-+April+30,+2017). On April 28, 2017, OGE issued a request for certain waivers and authorizations to the White House Chief of Staff, Agency Heads, Designated Agency Ethics Officials, Inspectors General, and Appointees. The request applied to the following types of waivers and authorizations: 1. Waivers issued or approved under Executive Order 13770; 2. Waivers issued or approved under Executive Order 13490; 3. Waivers issued or approved under 18 U.S.C. § 208(b)(1); 4. Authorizations issued or approved under 5 C.F.R. § 2635.502(d); and 5. Waivers issued or approved under 5 C.F.R. § 2635.503(c). *See supra* note 2. On May 17, 2017, Office of Management and Budget (OMB) Director Mick Mulvaney asked

responsive records.⁴ However, the growing list of appointees at EPA with what appear to be potential conflicts of interest raises serious concerns of impartiality and questions as to why EPA failed to submit responsive documents to OGE's request.

The Ethics Pledge stipulates that an Administration appointee is prohibited for two years from the date of their appointment from participating "in any particular matter involving specific parties that is directly and substantially related" to their "former employer or former clients, including regulations and contracts."⁵ Additionally, Executive Order 13770 states that appointees who were registered lobbyists in the two years prior to their appointment "will not for a period of 2 years after the date of [their] appointment participate in any particular matter on which [they] lobbied within the 2 years before the date of [their] appointment or participate in the specific issue area in which that particular matter falls."⁶ Other federal regulations, including 18 U.S.C. 208 and 5 C.F.R. 2635.502(d), and OGE guidance further govern potential conflicts of interest.⁷

Given the requirements of Executive Order 13770 – "Ethics Commitments by Executive Branch Appointees" and other federal ethics regulations, it is unclear if EPA's appointees are in compliance with applicable regulations and standards. Accordingly, I am concerned that EPA appointees could perform their duties in a manner inconsistent with federal ethics rules and

On May 17, 2017, Office of Management and Budget (OMB) Director Mick Mulvaney asked OGE to stay this request. Letter from Mick Mulvaney, Director, Office of Management and Budget to Walter Shaub, Jr., Director, U.S. Office of Government Ethics (May 17, 2017). That request was described as an apparent effort to hide from the American people information about whether current Administration appointees are complying with ethics requirements. *White House Moves to Block Ethics Inquiry Into Ex-Lobbyists on Payroll*, New York Times (May 22, 2017). The following week, Director Mulvaney revised this position in a letter authorizing agencies to respond to OGE's request. *White House Backs Down on Keeping Ethics Waivers Secret*, New York Times (May 26, 2017).

⁴ See U.S. Office of Government Ethics, Certain Waivers and Authorizations Issued Between May 1, 2016 – April 30, 2017 (www.oge.gov/Web/OGE.nsf/Resources/Certain+Waivers+and+Authorizations+issued+between+May+1,+2016+-+April+30,+2017), *supra* note 4.

⁵ Exec. Order No. 13770, 82 Fed. Reg. 9333 (Feb. 3, 2017).

⁶ *Id.*

⁷ U.S. Office of Government Ethics, Employees Entering Government (www.oge.gov/web/oge.nsf/Resources/Employees+Entering+Government). Employees are required to consider whether their involvement would cause a reasonable person to question the employee's impartiality. Additionally, "[i]f the employee concludes that participation in such matter would cause a reasonable person to question the employee's impartiality, the employee should not work on the matter pending possible authorization from the appropriate agency official."

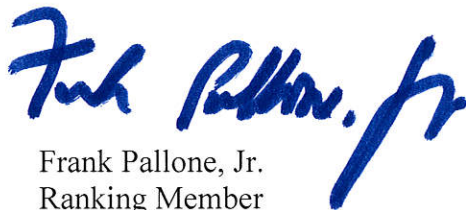
without appropriate, prerequisite ethics waivers and authorizations. Further, even had such waivers and authorizations been issued, I have serious concerns as to why EPA responded to OGE with “[n]o responsive records.”⁸

I therefore request the following for all current EPA appointees:

1. A completed and signed “Ethics Pledge.”
2. All Executive Branch Personnel Public Financial Disclosure Reports and any supplemental materials.
3. A list of all issues on which the individual has worked and is permitted to work, and a list of all issues on which the individual is prohibited from working.
4. All ethics agreements, recusals, memoranda of understanding or other pertinent documents that detail the issues on which the individual is permitted to work and on which the individual is prohibited to work.
5. The statutory hiring authority and the type of appointment occupied (i.e. Senior Executive Service, Schedule C, Administratively Determined).

I also request that you provide the Committee on Energy and Commerce copies of any subsequent ethics waivers, issued to EPA appointees within seven days of their issuance. Thank you for your prompt and complete response by July 21, 2017. Should you have any questions, please contact Jon Monger with the Committee on Energy and Commerce at (202) 225-3641.

Sincerely,



Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce

⁸ See U.S. Office of Government Ethics, Certain Waivers and Authorizations Issued Between May 1, 2016 – April 30, 2017 (www.oge.gov/Web/OGE.nsf/Resources/Certain+Waivers+and+Authorizations+issued+between+May+1,+2016+-+April+30,+2017), *supra* note 4.