Questions for the Record

Hearing on the U.S. Environmental Protection Agency's Fiscal Year 2025 Budget Request
Before the U.S. House Committee on Energy and Commerce,
Subcommittee on Environment, Manufacturing, and Critical Materials
Administrator Michael S. Regan
May 15, 2024

The Honorable Earl L. "Buddy" Carter

1. In the Energy Policy Act of 2005, Congress was very clear that taxpayer supported projects may not be used by EPA as the basis for establishing whether a technology was adequately demonstrated for Section 111 of the Clean Air Act. EPA recognized this fact during the Obama Administration when issuing its Clean Power Plan. During the hearing, you made reference not only to DOE supported projects, but to massive amounts of taxpayer funding in the IRA to support a "runway" to demonstrating the Carbon Capture and Sequestration (CCS) technology for commercial powerplants would be adequately demonstrated.

    a. Is it your view that taxpayer subsidized commercial technology should be treated the same as privately deployed commercial technology?

    b. At what level of subsidization do you consider that such technologies are not representative of private, commercially deployed technologies?

EPA RESPONSE: In its May 2024 final rule establishing greenhouse gas (GHG) emission standards for new and existing power plants, EPA carefully considered and followed the provisions of the Energy Policy Act of 2005 (EPAct 05) in evaluating carbon, capture, and sequestration (CCS) technology as a best system of emission reduction (BSER) for certain new natural gas-fired combustion turbines and existing steam electric generating units.

As EPA has recognized in prior rulemakings, EPAct 05 did not enact a general prohibition on considering "taxpayer supported projects" in determining BSER. Rather, in the 2015 Greenhouse Gas (GHG) New Source Performance Standards (NSPS; 80 Fed. Reg. 64,510)), the EPA recognized that EPAct 05 places certain constraints on considering projects that received financial support under that statute in determining whether technology is adequately demonstrated for the purposes of Clean Air Act section 111. EPAct 05 does not affect how EPA may consider CCS projects that did not receive support under EPAct 05 when determining BSER. Further, under EPA's 2015 interpretation of EPAct 05, "[EPAct05] . . . preclude[s] the EPA from relying solely on the experience of facilities that received [EPAct05] assistance, but [does] not . . . preclude the EPA from relying on the experience of such facilities in conjunction with other information." As part of the final 2024 rule, the EPA adhered to this long-standing interpretation with respect to the appropriateness of considering facilities that received EPAct05 assistance in determining whether CCS is adequately demonstrated.

Accordingly, EPA's 90% capture determination for CCS in the 2024 rule is based on significant evidence of progress from existing large scale utility projects and projects in other industries, including projects not supported by EPAct 05. EPA's determination that CCS is the "best system" is based on an extensive technical record that shows CCS meets the statutory criteria (including that it is "adequately demonstrated" and cost-reasonable), rests on evidence from existing large-scale projects (including projects not supported by EPAct 05), and is aligned with major Congressional investments and enactments in Inflation Reduction Act (IRA) and Bipartisan Infrastructure Law (BIL).

2. During the hearing, you said that EPA had "adequately demonstrated evidence" that CCS technology for commercial powerplants could perform at high-efficiency rates and "there is time to develop a pathway" to reaching the level of the power sector standards.

    a. What is the time frame for the pathway or runway for large, commercial powerplants to demonstrate compliance in sustained operations with the EPA standard?

    b. When do units have to demonstrate 90% capture in sustained operation?

    c. What information does EPA have that shows CCS manufacturers will warrant that commercial powerplants can sustain 90% capture during commercial operations between standard maintenance outages?

    d. If manufacturers will not warrant 90% capture rates in sustained operations on powerplants of a certain size or in certain regions or using certain fuel sources, will EPA consider that technology adequately demonstrated for those units?

EPA RESPONSE: These rules address greenhouse gas (GHG) emissions from existing coal-fired power plants and from new natural gas-fired combustion turbines, ensuring that all long-term coal-fired plants and new baseload gas-fired combustion turbine plants control 90 % of their carbon pollution while providing ample lead time to plan for and install the controls needed to meet these standards. EPA's determination that 90% carbon capture and sequestration (CCS) is the best system of emission reduction (BSER) for those sources is based on significant evidence of progress from existing large scale utility projects and projects in other industries. Under Clean Air Act section 111, EPA establishes the BSER that has been demonstrated to improve the emissions performance of the sources, taking into account costs, energy requirements, and other factors. The BSERs for the longest-running existing coal-fired units and the most heavily utilized new gas-fired turbines are based on 90% carbon capture and sequestration/storage (CCS) – an available and cost-effective control technology that can be applied directly to power plants and will significantly limit CO_2 emissions. To provide utilities ample time to plan for and install controls to cut CO_2 from these units, the carbon pollution standards will be phased in over time. Compliance with a standard based on 90% capture would not have to be met until 2032. We have great confidence in the ability of industry to meet and exceed these levels in that timeframe because vendors are currently offering CCS technology that captures 90% or more of carbon emissions. The adequate demonstration of CCS is corroborated by the

240 MW Petra Nova project at an existing coal-fired plant in Texas, which achieved over 90 percent capture during a 3-year period.

Lower costs and continued improvements in CCS technology, alongside tax incentives from the Inflation Reduction Act (IRA) that allow companies to largely offset the cost of CCS, represent recent developments in emissions controls that informed EPA's determination of what is technically feasible and cost reasonable. The Bipartisan Infrastructure Law also includes billions of dollars to advance and deploy CCS technology and infrastructure. EPA's determination for 90% CCS is based on significant evidence of progress from existing large-scale utility projects and projects in other industries. This timeframe is reasonable. The final rule does include certain implementation flexibilities relevant to CCS installation. In response to comments on the proposed rule, EPA included provisions in the final rule to allow states and electric utility generating units (EGUs) to extend the compliance date by no more than 1 year for EGUs that are installing a control technology and that encounter a delay in implementation of that technology due to factors outside their control. In addition, under certain circumstances, EPA's implementing regulations for section 111(d) of the Clean Air Act allow states to provide variances from the presumptively approvable standards of performance for individual EGUs based on remaining useful life and other factors.

3. Powerplants operating in all economic environments require certainty that a holistic, lifecycle CCS regime – which may include CO_2 pipelines and Class VI wells – can be successfully completed before investing in carbon capture technology at the point of production.

    a. Would you agree it would be financially irresponsible for powerplant owners to make capital intensive investments on turbines if the CO_2 cannot be transported off their property and ultimately stored in a geologically appropriate repository?

    b. Would you agree it would be unreasonable for EPA to dismiss the real world needs and challenges created by a rulemaking that may occur outside the narrow scope of its statutory authority, e.g. outside the fence line of a facility?

    c. Given the limits of EPA's authority, do you believe it would be appropriate for a power plant owner to successfully capture carbon at the rate directed in your rule, transport the captured carbon to the "fence line" of its property, and vent the carbon into the atmosphere? If not, explain why you believe affected parties can reasonably be able to overcome the real-world hurdles and difficulties of implementing a system of CCS in time to meet the requirements under your powerplant rules.

EPA RESPONSE: The deep saline geologic formations necessary for permanent CO_2 storage are broadly available throughout the United States. As a result, the vast majority of affected existing coal-fired steam generating units are nearby potential storage areas. Moreover, new base load combustion turbines may be preferentially located at sites with favorable geology. Therefore, in both cases, the BSER determination is not premised on the buildout of a national, trunkline pipeline network, but instead on point-to-point pipelines, many of which would be short and within a single state. When determining the compliance date, EPA carefully considered the steps necessary to deploy CCS, including permitting,

engineering, and construction across the components of capture, transport, and storage. When making this determination, EPA consulted with other experts in the field and evaluated the record of timelines for planned and completed projects for CCS. Furthermore, EPA worked with the U.S. Department of Energy and determined the resources and workforce that are available are more than sufficient to meet the associated requirements for deploying CCS. And finally, the standards of performance for affected EGUs included in a state plan must be quantifiable, verifiable, permanent, and enforceable. The Underground Injection Program, the GHG Reporting Program, and other regulatory requirements comprise a detailed regulatory framework for geologic sequestration in the United States. Per the recordkeeping and reporting requirements of the rule, if an affected EGU captures CO_2 to meet the applicable standard of performance, the owner or operator must either: report in accordance with the requirements of 40 CFR part 98, subpart RR, or subpart VV, if injection occurs on-site; or transfer the captured CO_2 to a facility that reports in accordance with the requirements of 40 CFR part 98, subpart RR, or subpart VV, if injection occurs off-site; or transfer the captured CO_2 to a facility that has received an innovative technology waiver from EPA.

4. During the hearing, I asked you about the impact of the new PM 2.5 air quality standards on preconstruction permitting for new or expanded manufacturing in areas that are in attainment of the standards. Available information shows large areas of the country—upwards of 89% of counties-- will not have the so-called headroom in attainment areas to permit new or expanded PM2.5 emission sources. For example, the background concentration in my district is 7.3 μg/m3, sufficient to comply with the new standards. Yet Hyundai estimates that it will increase concentrations by 2.5 μg/m3, which would threaten noncompliance and therefore would not likely receive a permit under the new standard. This would be the case for new manufacturing around the nation in attainment areas and raises serious questions about the impact of your new standard on PSD permitting for new manufacturing. You failed to address this question and instead talked about EPA modeling that 99% of counties would meet the standard sometime in the future, which not only was off topic, but served to distract from the very important question I raised. The question concerned counties that actually meet the standard, but would be unable to attract new manufacturing.

    a. Please confirm that you were briefed on the new PM 2.5 standard's impact on PSD permitting in attainment areas.

    b. What is your estimate for the impacts on the ability of new or expanded manufacturing to receive preconstruction permits under the PSD permitting process under the standard?

    c. What is EPA doing to update its modeling and air monitoring to improve accuracy of background air concentration estimates and to minimize unnecessary impacts on new manufacturing permits in the PSD process?

EPA RESPONSE: I appreciate this opportunity to provide more detailed information about the $PM_{2.5}$ standard and PSD permitting. Particle pollution is one of the most dangerous forms of air pollution. The stronger annual health-based standard of 9 ug/m3

will save lives and avoid illnesses. Clean air and economic growth have always gone hand-in-hand, and EPA fully expects that to continue as we implement this new $PM_{2.5}$ NAAQS.

Most projects, including those that involve new facilities and those that involve modifications or expansions of existing facilities that increase $PM_{2.5}$ emissions, will be able to obtain required PSD permits using available tools and program flexibilities. Permit applicants and state and local permitting authorities, which issue most PSD permits, are familiar with the program requirements and the flexibility it provides to locate and design projects that can successfully obtain permits, providing for economic growth while protecting air quality. There are many project-specific variables that can be modified to align a new project with clean air requirements, including the use of cost-effective control technologies.

EPA has taken several steps to help ensure that permitting will continue under the revised $PM_{2.5}$ NAAQS with the most accurate data and without significant disruption. EPA is committed to working with permit applicants and states (or other permitting authorities), to address challenges in PSD permitting and to help identify where flexibilities and discretion exist under the existing regulations and policies, clarify the best ways to use key tools and guidance, and engage early in the permitting process to ensure solution-based approaches.

5. The Toxic Substances Control Act's (TSCA's) final fee rule states that EPA's Personnel Compensation and Benefits (PC&B) Cost Estimates Calculated for TSCA Sections 4, 5, 6 and 14 is $90,692,000. EPA then calculates indirect costs of 20% of its direct costs, but in its indirect cost calculation, EPA specified $159,064,400 in direct costs.

    a. Which is correct $90 million or $159 million?

EPA RESPONSE: EPA's PC&B Cost Estimate Calculated in the final fees rule published on February 21, 2024, for TSCA sections 4, 5, 6 and 14 is $70,792,187. Both amounts referenced in the question (i.e., $90,692,000 and $159,064,400) were published in a November 16, 2022, supplemental notice of proposed rulemaking and are not final estimates (*see* 89 FR 12961).

The indirect costs included in the estimates for TSCA sections 4, 5, 6 and for collecting, processing, reviewing, and providing access to and protecting confidential business information (CBI) from disclosure as appropriate under TSCA section 14 were calculated by multiplying the appropriate indirect cost rates for FY 2024 by the estimated direct costs. Indirect cost rates are calculated each year by the Office of the Controller, using the EPA's current indirect methodology. On an annual basis, each program office is provided with an independent rate, expressed as a percentage, for use in calculating indirect costs. For direct TSCA section 4, 5, 6 and 14 costs, an indirect cost rate of 16.28 percent was applied. Under the 2024 final rule, total indirect costs included in the overall TSCA sections 4, 5, 6 and 14 cost estimates total approximately $20,546,580. See Table 3 of the final technical support document. The final rule Technical Support Document can be found here: https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0493-0118.

6. In the fee rule, EPA did not explain the basis for its estimates of the FTEs needed. Rather EPA asserted that it needs a certain number of FTEs (e.g., in Table 6 of EPA's technical support document).

    a. Please provide the basis for EPA's FTE estimates in tables 6 and 8.

EPA RESPONSE: In response to comments on the 2021 proposed rule and 2022 supplemental notice, EPA's Office of Pollution Prevention and Toxics (OPPT) engaged in a thorough review of the anticipated workload for fiscal years (FY) 2024, 2025, and 2026. As a result of this effort, EPA published a bolstered description of the estimated costs for TSCA sections 4, 5, 6 and 14 activities in the technical support document associated with the final rule (Docket ID: EPA-HQ-OPPT-2020-0493-0118). EPA's comprehensive budget analysis included updates to TSCA activities, the resources necessary for contractor support, as well as the payroll costs associated with the federal workforce. In addition, to illustrate how EPA derived these estimates, the tables in section III.D (Tables 4 through 11) show both the FY 2023 costs, which were the starting point for EPA's analysis, and the projected increase or decrease of non-pay, pay, and full-time equivalents (FTEs). This analysis resulted in a reduction of over 19% in EPA's total estimated program costs from the estimate in the 2022 supplemental notice. The reduced costs estimate was reflected in the 2024 final rule. Total FTE estimates were based on the FY 24 President's Budget request, which includes the FY 23 as a starting point plus additional appropriations requested, as mentioned above, and also included additional TSCA fee funded FTE estimates, the total amount of which is needed so the EPA can fully implement TSCA as intended in the law.

The final rule Technical Support Document can be found at: https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0493-0118.

7. Please provide an explanation of the difference between the estimates in the final fee rule and the EPA Office of Inspector General (OIG) audit of TSCA fees in which the OIG concluded "TSCA fees collected adequately offset the actual or projected costs of administering the provisions of TSCA for the three-year period."?

EPA RESPONSE: The October 2023 report titled, "*Audit of the EPA's Fiscal Years 2021 and 2020 Toxic Substances Control Act Service Fee Fund Financial Statements*," which appears to be quoted in the above question, is focused on the TSCA Service Fee Fund financial statements for fiscal year 2021 and 2020, which the OIG found to be "fairly presented."

The OIG user fee analysis of the 2018 final fees rule (83 FR 52694) found that "TSCA fees collected adequately offset the actual or projected costs of administering the provisions of TSCA for the three-year period." Specifically, the report states that "during the three-year period, relevant TSCA expenses were $135.3 million, and the EPA collected approximately $33.1 million of relevant TSCA service fees, which defrayed 24.47 percent of costs."

Although fee revenue offset close to 25% of EPA costs as estimated by the OIG, the revenue for FY 2021 was significantly higher than other FYs at approximately $28 million. This is due to the one-time payment of risk evaluation fees in FY 2021 which are the largest of the TSCA fees by far. Revenue in other years from FY 2019 to FY 2023 (other than FY 2021) ranged from $2.7 million to $5.5 million per year, representing significantly less than 25 percent of costs. The lower revenue will continue until the collection of the next round of risk evaluation fees, which is not expected until late FY 2025. Until then, fee collections will continue to be significantly less than 25% of implementation costs, even under the 2024 TSCA Fees Rule.

Furthermore, the OIG compared fee revenue to actual expenses, not anticipated TSCA implementation costs, as was done in the 2024 TSCA Fees Rule. The 2024 TSCA Fees Rule estimated what it would cost the Agency to implement amended TSCA in the manner Congress envisioned and directed, and those estimates are higher than what EPA has spent.

8. I understand that for each step in EPA's TSCA new chemical review process, a contractor prepares a report. EPA staff then review each report.

    a. How does EPA ensure that both the contractor and EPA staff follow the policies and procedures of the new chemicals program?

EPA RESPONSE: The New Chemicals Program has standard procedures for contractors and EPA staff to ensure the development and review of work products follow policies and procedures. The New Chemicals Program has prioritized the development of science policies, guidance and standard operating procedures (SOPs) to ensure new chemical reviews are standardized and consistent and apply the best available science and tools. Contractors are required to follow EPA-provided specific technical direction for all work products and EPA-approved Quality Assurance Program Plans. The New Chemicals Program is in the process of updating its SOPs and policies and guidance, following through on an Office of Inspector General (OIG) commitment to develop a plan to review and revise internal and external SOPs.

    b. If the contractor fails to follow those policies and procedures, does EPA insist that the contractor redo the work without further cost to EPA?

EPA RESPONSE: Yes, if a contractor failed to follow policies and procedures, the New Chemicals Program would direct the contractor to redo the work without incurring additional costs, engaging the EPA Office of Acquisition Solutions as necessary.

    c. Approximately how much time does each EPA staff person spend reviewing a contractor report?

EPA RESPONSE: The New Chemicals Program follows the Agency's Scientific Integrity policies and procedures and the Quality Assurance policies and procedures and has a two-tier Quality Control process in place for contractor work products. The contractor reports

may, for example, consist of compiled data, literature and database reviews, and/or estimated data from running models. EPA review time varies depending on the length of a report and the complexity of the subject matter, e.g., 15 minutes for a one-page chemistry report on a low-complexity chemical to over 40 hours for a complex toxicity report that includes publicly available or company-submitted monitoring studies.

d. If the EPA employee does not follow policies and procedures, what are the consequences to that employee?

EPA RESPONSE: The New Chemicals Program has the necessary policies and procedures in place and required training for EPA employees. If an EPA employee were to not follow policies and procedures, the New Chemicals Program would follow the appropriate Agency policies and procedures for disciplining employees with conduct and/or performance issues.

e. How frequently does EPA find that either a contractor report or an initial review by an EPA employee has to be redone because it did not comport with EPA policies and procedures?

EPA RESPONSE: The New Chemicals Program does not frequently find initial work products to not comport with EPA policies or procedures. The New Chemicals Program's contracts contain contractor performance standards to address quality issues. EPA employees follow standard operating procedures and quality assurance steps as described above.

9. Are there any potential budgetary downsides to taking a very precautionary approach to regulations?

a. If EPA makes a very conservative assumption about Chemical A and commits substantial agency staff time and money to reduce exposures to Chemical A beyond what best available science says?

EPA RESPONSE: In the absence of specific information informing hazard and exposure around a particular substance being evaluated, EPA sometimes uses some conservative assumptions when developing the risk evaluation in order to be protective of exposed populations. This is in keeping with accepted scientific practice. Risk evaluations are peer reviewed by EPA's Science Advisory Committee on Chemicals (SACC) to ensure that processes and best available science are used. If unreasonable risk is identified in the risk evaluation, TSCA directs the Agency to address that risk to the extent necessary so that it is no longer unreasonable. When promulgating risk management rules, TSCA directs EPA to apply one or more of several requirements outlined in section 6(a) to the extent necessary to address the unreasonable risk, including regulating a manner or method of use via a Workplace Chemical Protection Program and prohibition of certain uses. These requirements do not go beyond what the risk evaluation has concluded about unreasonable risk. Therefore, resources are not expended managing unreasonable risks that were not clearly delineated and evaluated in the risk evaluation using the best available science.

b. What if EPA decides that it must reduce exposures to Chemical A to zero, but the best science suggests that exposure at 10 is safe. While it is true that people will be protected at 0, isn't it also true that EPA is mis-prioritizing its limited resources by going beyond what is necessary?

EPA RESPONSE: EPA uses the best available science to assess hazards and exposures to existing chemicals. If the risk evaluation suggests that exposure at 10 (in the provided example) presents no unreasonable risk, then the EPA rule would allow for that use to continue at or below 10 (in the provided example). However, if EPA determined that those conditions could not be met by the typical regulated entity performing the condition of use, the Agency could consider other means of addressing the unreasonable risk including engineering controls, a prohibition or a workplace chemical control plan (WCPP).

Existing Chemical Exposure Limits (ECELs) are developed during the rulemaking process. The starting point for developing any regulatory level is the risk-based calculations and analysis in the risk evaluation; non-risk factors, such as technical feasibility and economics, are also considered during the rulemaking process. Chemical risk management rules under TSCA do not set limits, such as ECELs, below levels that were evaluated and described in the risk evaluation. However, if EPA has evidence that an ECEL could not be met by a specific sector, EPA could also address the unreasonable risk through a prohibition.

10. As part of its recently finalized drinking water regulation for certain PFAS, EPA regulated four PFAS through a Hazard Index.

    a. The term "Hazard Index" does not appear in the Safe Drinking Water Act. Under what authority does EPA believe it can promulgate a national primary drinking water regulation in the form of a Hazard Index, rather than a maximum contaminant level or a treatment technique?

    b. Has EPA ever previously issued a national primary drinking water regulation under SDWA through a Hazard Index?

    c. How would you respond to concerns that EPA's use of a Hazard Index in the national primary drinking water regulation is an example of regulatory overreach and is not based in powers granted to the agency by Congress?

EPA RESPONSE: In the development of the PFAS National Primary Drinking Water Regulation, the EPA followed the requirements of the Safe Drinking Water Act (SDWA) and promulgated both a Maximum Contaminant Level Goal (MCLG) and a Maximum Contaminant Level (MCL) of 1 for mixture combinations of four PFAS expressed as a Hazard Index to protect against the additive health concerns of these PFAS when present in mixtures in drinking water. The SDWA does not dictate that the MCLG or the MCL take a particular form. The Hazard Index is the most practical and health-protective approach that meets the statutory requirements outlined in SDWA Section 1412(b)(1)(A) and determines the maximum level at and below which there are no known or anticipated adverse human health effects with an adequate margin of safety while considering both the

dose additive health concerns and co-occurrence of these PFAS mixtures in drinking water. The EPA's use of the Hazard Index under SDWA is well supported and consistent with past application in other contexts.

11. Congress provided $10 billion in the Infrastructure Investment and Jobs Act for treatment of emerging contaminants .

    a. Can you tell me how much of that $10 billion has been committed? How much has been distributed?

    b. Of the funds that have already been committed and/or distributed, do you know how much has been allocated for treatment of PFAS, as opposed to other emerging contaminants like manganese?

EPA RESPONSE: The Bipartisan Infrastructure Law (BIL) provided $5 billion for the State Revolving Loan Funds—$4 billion for the Drinking Water SRF and $1 billion for the Clean Water SRF—specifically to address emerging contaminants, including PFAS. These funds are apportioned to EPA over five fiscal years, 2022 through 2026. As of mid-October 2024, EPA has awarded a total of about $2.25 billion of BIL SRF emerging contaminants funding to states and territories. The EPA estimates that states have matched funding of approximately $500 million and placed those funds into SRF funding agreements with recipients that address PFAS.

BIL also provided $5 billion to the EPA for the Emerging Contaminants in Small or Disadvantaged Communities grant program, which focuses on projects in which the primary purpose is to address the challenges of PFAS in drinking water. The EPA has been apportioned $3 billion of this funding to date which was released in two allotments. Of the nearly $2 billion released in February 2023, the EPA has awarded approximately $1.4 billion to 36 of the 55 eligible states and territories. Twenty-six of these states described projects that address PFAS in their funding applications; some projects address more than one emerging contaminant such as manganese, dieldrin, and 1,4, dioxane in addition to PFAS. Of the additional $1 billion released in April 2024, 13 states and territories have received awards totaling approximately $218 million. These states and territories plan to use all the funding for projects that address PFAS only.

12. Analyses, like the one done by the American Water Works Association, have estimated much higher costs for compliance with the new PFAS drinking water standards than EPA's cost analysis, and these findings have been confirmed as more examples of costs to communities to install treatment for PFAS come to light.

    a. Please help me understand the discrepancies between EPA's cost analysis for the PFAS drinking water standards and drinking water experts?

EPA RESPONSE: The EPA conducted a rigorous cost analysis for the proposed rule, which utilized peer reviewed engineering models, underwent interagency review, and was informed by public notice and comment. EPA provided a detailed analysis of the AWWA

report in the rulemaking preamble and response to comment and explained why EPA's cost analysis provides a more accurate estimate of costs attributable to the PFAS drinking water rule. After considering public comments and all available information and making corresponding adjustments to inform the EPA's cost and benefit estimates, the EPA reaffirmed the Administrator's determination made at proposal that the rule benefits justify the costs. The EPA estimates the costs for public water systems to implement this regulation are approximately $1.5 billion per year. As public water systems seek to determine the best way to address contamination that they identify, the EPA will continue to work with states, Tribes, communities, and other partners to identify sources of funding, facilitate access to the funding, and provide technical assistance water systems and communities may need to make appropriate long-term investments to protect our nation's drinking water from the harmful effects of PFAS.

13. EPA's PFAS drinking water regulation estimated that the margin of net benefit is just 0.07% of the total investment required from communities.

    a. Did EPA consider how this investment might increase consumer water rates or divert funding from other public health priorities, like lead service line replacement and updating aging infrastructure to avoid water main breaks?

EPA RESPONSE: When proposing a National Primary Drinking Water Regulation (NPDWR), the EPA Administrator must publish a determination as to whether the benefits justify, or do not justify, the costs based on the analysis conducted under Safe Drinking Water Act (SDWA) section 1412(b)(3)(C). For the proposed rule, the Administrator determined that the quantified and nonquantifiable benefits of the proposed PFAS NPDWR justified its costs. While the quantified net benefits are nearly at parity with costs, EPA's quantified benefits significantly understate the total benefits of the rule due to the large share of nonquantifiable benefits, that are also expected to be realized as other avoided adverse health effects. Additionally, when developing a NPDWR, to the extent that implementation overlaps with other rules, the EPA cannot consider costs that result from compliance with other regulations (see SDWA Section 1412(b)(3)(C)(i)(III)).

14. The President's budget request includes roughly 2,000 additional full-time equivalents (FTE) for EPA.

    a. Can you share how many additional FTEs, if any at all, have been requested to support EPA's PFAS CERCLA Enforcement Discretion Policy?

EPA RESPONSE: EPA's Office of Enforcement and Compliance Assurance requested an additional 4.3 FTE in the FY 2025 President's Budget to support EPA's PFAS Enforcement, which includes the implementation of the PFAS CERCLA Enforcement Discretion Policy.

    b. If no additional FTEs are requested/appropriated, how will this affect EPA's capacity to execute the Enforcement Discretion Policy?

EPA RESPONSE (OECA): As noted above, EPA has requested additional appropriated FTE in the FY 2025 President's Budget to support EPA's PFAS enforcement.

15. In 2012, EPA developed an integrated planning framework to give utilities more flexibility in implementing multiple federal mandates at once under the Clean Water Act.

    a. Has EPA considered a similar approach for drinking water utilities under the Safe Drinking Water Act, given new mandates for lead and copper, PFAS, and others?

EPA RESPONSE: The Safe Drinking Water Act (SDWA) already affords significant flexibilities to states to consider challenges that individual water systems may face in implementing a National Primary Drinking Water Regulation (NPDWR). For example, under SDWA section 1412(b)(10), a state may, for a promulgated NPDWR with a three year effective date, allow an additional two years for an individual water system to comply with a regulation if additional time is necessary for capital improvements – a flexibility that EPA used in the PFAS NPDWR to allow regulated public water systems a full five years (until 2029) to comply with the MCLs. A state may also utilize the exemptions authority under SDWA section 1416 to allow eligible systems, such as small systems and those serving disadvantaged communities, additional time to achieve and maintain regulatory compliance with new NPDWRs, while continuing to provide acceptable levels of public health protection.

16. EPA designated PFOA and PFOS as "hazardous substances" under Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). EPA simultaneously released an "enforcement discretion" policy that outlines EPA's "intent" to not pursue claims against passive PFAS receivers like water and wastewater systems, farmers, municipal landfills, municipal airports, and local fire departments.

    a. Will this administration, as well as future ones, be bound by the terms of the "enforcement discretion" policy, or could it be modified or ignored at any time?

    EPA RESPONSE: CERCLA is a discretionary statute, and decisions are made on a site-by-site basis based on whether releases from the site pose unacceptable risk to human health or the environment. "Passive receivers" is not a defined term, nor a concept under CERCLA.

    EPA has a proven track record of developing and applying enforcement discretion policies that are effective and well-received. Examples can be found at: www.epa.gov/enforcement/unique-parties-and-superfund-liability.

    b. The policy states that EPA will "use CERCLA statutory authorities when appropriate to enter into settlements that provide contribution protection from third party claims."

        i. Does this mean that EPA will need to reach individual CERCLA settlements with each and every individual entity in order to fully protect against liability claims?

EPA RESPONSE: No, EPA will not "need to reach individual CERCLA settlements with each and every individual entity." For example, EPA may protect certain non-settling parties when the Agency enters settlement agreements with major potentially responsible parties (PRPs), securing a waiver of rights providing that the major PRP cannot pursue contribution against certain non-settling parties.

ii. If so, has EPA estimated the time and expense of administrative work necessary to reach all of these settlements?

EPA RESPONSE: See response to question above, answering in the negative.

c. EPA's enforcement discretion policy further states that when negotiating CERCLA settlements with potentially responsible parties, the agency "will seek to require those settling parties to waive their rights to sue" other entities like passive receivers of PFAS. EPA claims would prevent PRPs from being able to pursue contribution claims against passive receivers.

i. Are these protections dependent on individual PRPs agreeing to these future lawsuit restrictions as part of the terms of their own settlements?

EPA RESPONSE: Yes. For example, if EPA settles with a PFAS manufacturer, EPA may secure an expanded waiver of rights providing that the PFAS manufacturer cannot pursue contribution against certain non-settling parties to that settlement for the matters addressed in the settlement.

ii. Might EPA have to negotiate other concessions to PRPs in order to secure protections against the PRP pursuing contribution claims against other parties?

EPA RESPONSE: EPA cannot speculate on future negotiations, but waiver of claims is common in CERCLA settlements.

iii. If EPA is unsuccessful in its attempt to "seek" to get a PRP to waive its right to pursue a contribution claim against a passive receiver, will EPA not settle with that PRP?

EPA RESPONSE: Enforcement decisions are made on a case-by-case basis after considering the specific circumstances related to the parties, and the settlements are made in the best interest of the United States.

iv. Does EPA's enforcement discretion policy offer the passive receiver any protection against contribution claims under CERCLA?

EPA RESPONSE: "Passive receivers" is not a defined term, nor a concept, under CERCLA. EPA's Enforcement Discretion Policy makes clear that EPA will focus its CERCLA enforcement on parties who significantly contributed to the release of PFAS chemicals into the environment, including parties that have manufactured PFAS or used PFAS in the manufacturing process, federal facilities, and other industrial parties. The Policy also provides that EPA does not intend to pursue entities where equitable factors do not support CERCLA responsibility, such as farmers, water utilities, airports, or local fire departments, much as EPA exercises CERCLA enforcement discretion in other areas. The Policy further outlines circumstances where EPA may enter into settlements with these parties which would provide protection from contribution claims by other liable parties as per the CERCLA statute. Entities must continue to follow all applicable laws and regulations.

17. EPA's proposed modifications to the Consumer Confidence Report Rule would prohibit community water systems from telling customers that their water is "safe," even if the water complies with all applicable drinking water standards.

    a. Do you believe the drinking water provided by community water systems across the country, that meets all state and EPA drinking water quality standards, should be considered "safe"?

        i. If yes, then why is EPA attempting to prohibit community water systems from telling their customers that their water is safe?

        ii. If not, do you recommend that the public drink bottled water instead?

    EPA RESPONSE: On May 15, 2024, the EPA announced the final Consumer Confidence Report Rule Revisions to make annual drinking water quality reports more understandable and accessible to the public. These reports are an important tool that drinking water systems use to inform residents about water quality and any contaminants that have been found in the water. Starting in 2027, the final rule will ensure that these reports are easier to read and support access to translations in appropriate languages while enhancing information about lead in drinking water. The EPA is also taking steps to streamline the delivery of reports by encouraging electronic methods. The final revised Consumer Confidence Report rule supports public education by more clearly communicating important information in water quality reports and improving access to the reports.

<u>The Honorable Dan Crenshaw</u>

1. Rather than objectively pursue carbon emissions reduction, the EPA has finalized several rules targeting baseload power generation in an attempt to phase out natural gas and coal

usage. We know that power demand is going to continue to significantly increase in the coming decades.

a. Are you concerned about the adverse impacts that will occur because EPA regulations on power plants will result in more than 155,000 megawatts of dispatchable electricity likely being retired?

EPA RESPONSE: In April, EPA finalized four separate rules that reduce pollution from fossil fuel-fired power plants, protect communities from pollution and improve public health, all while supporting the long-term reliable supply of the electricity needed to power America forward. EPA has an excellent, longstanding track record of delivering public health and environmental protections while supporting grid reliability. EPA performed a sensitivity analysis of the combined effect on the power sector of the carbon pollution, air toxics, and water rules, and EPA's recent rules for the transportation sector as well as examining a high demand scenario with the power sector carbon standards rule.[1] The projections show that the EPA regulations will not adversely impact the sector's ability to meet growing demand for electricity and provide affordable electricity at the same time as it reduces pollution in accordance with these rules to protect health and the planet.

It is also worth noting that the Carbon Pollution Standards do not require any retirements. Individual owners and operators will decide how best to meet the requirements laid out in the rule. The estimates presented in the EPA's Regulatory Impact Analysis (RIA) for the Carbon Pollution Standards reflect EPA's illustrative analysis of the final standards. States are afforded flexibility to implement the final carbon pollution rule in state plans, and thus the impacts could be different to the extent states and power companies make different choices than those assumed in the illustrative analysis.

2. Germany, which has adopted many of the green policies that this administration is trying to emulate, was the worst performing major economy last year. Now, Germans pay more than double for electricity compared to Americans.

a. If this administration is pursuing similar policies to Germany as it relates to electricity generation, what makes you confident it won't lead to similar adverse outcomes as those seen in Germany?

EPA RESPONSE: Congress has enacted numerous laws that require EPA to protect Americans' air, water, and land. EPA takes action based on the law, the science, and our mission to protect public health and the environment. EPA actions are not based on policies undertaken by Germany.

3. One component of the finalized power plant rule is that existing coal plants planning to operate past 2039 and new baseload natural gas plants must capture and store 90% of their

[1] For details of EPA's sensitivity analyses, please see "Technical Memo - IPM Sensitivities Final" available at: https://www.regulations.gov/document/EPA-HQ-OAR-2023-0072-8917.

CO2 emissions. One of the legal requirements for these new standards is that the best system of emissions reduction is adequately demonstrated. Yet the only U.S. power plant that operates the carbon capture technology that the EPA will now require is the coal-fired Petra Nova plant which has never operated at or near 90% efficiency.

a. Please state your justification that the technology has been adequately demonstrated when it has never been demonstrated at the level that will be regulatorily required moving forward?

b. How long will it take to deploy this carbon capture and storage technology nationally for it to be a real option?

EPA RESPONSE: Experience with carbon capture and sequestration (CCS) to date has demonstrated that it is technically feasible for electric power plants. Improvements in the cost of CCS technology, alongside tax incentives from the Inflation Reduction Act that allow companies to offset the cost of CCS, also informed EPA's determination that CCS is cost-effective for new baseload combustion turbines and for existing long-lived coal plants. The Infrastructure Investment and Jobs Act (IIJA) also known as the Bipartisan Infrastructure Law (BIL) also includes billions of dollars to advance and deploy CCS technology and infrastructure. EPA projects that the sector can comply with the standards with negligible impact on electricity prices, thanks to cost declines in CCS and the other emissions-reducing technologies that the rule relies on.

Compliance based on 90% capture would not have to be met until 2032. We have great confidence in the ability of industry to meet and exceed these levels in that timeframe because vendors are currently offering CCS technology that captures 90% of carbon emissions. EPA's 90% capture determination for CCS is based on the experience of existing large scale utility projects and projects in other industries. The adequate demonstration of CCS is corroborated by the 240 MW Petra Nova project at an existing coal-fired plant in Texas, which achieved over 90 percent capture during a 3-year period.

4. I understand that the EPA supports the commercialization and deployment of carbon capture technology and equipment, and views CCS as an effective mitigation measure for interested utilities and manufacturers. Despite the EPA's stated goal of reviewing Class VI well applications and issuing permits within 2 years, there are currently multiple permits submitted that have been awaiting approval for longer than two years. As a result of the EPA's lengthy approval process, the number of approved permits to store CO2 is far less than that of the demand.

a. Do you think that the EPA could implement a more efficient process to expedite Class VI permit applications?

b. If so, what actions is the EPA taking to increase the efficiency of its class VI permitting program?

c. Does the EPA, as part of its class VI application process, have a prioritization process that it uses when reviewing permit applications?

d. If not, has the EPA considered implementing such a process?

EPA RESPONSE: The EPA aims to review complete Class VI applications, and issue permits when appropriate, within approximately 24 months of receiving a complete application. Of approximately 150 active permit applications as of October 2024, all but 11 are still within the 24-month review timeline, and several of those are on applicant-requested holds. Upon receiving an application for a Class VI well permit, the EPA first conducts a Completeness Review to ensure all required components are included. Once the application is deemed complete, the EPA conducts a Technical Review in which the Agency thoroughly reviews the application to understand the project and ensure it will not endanger any underground source of drinking water.

The estimated Technical Review period depends on the complexity and quantity of requests for additional information needed to evaluate the application and receiving timely responses from the applicant. Ensuring applicants understand and address the UIC Class VI permit application requirements in 40 CFR Part 146 Subpart H and the technical complexity of UIC Class VI projects are major challenges in the timeline for permit reviews. In many cases, more detailed information is needed to enable the EPA to evaluate the application than is supplied; this necessitates requests for additional information from applicants. The EPA is working to ensure timely permit reviews and to mitigate delays caused by long applicant response times to requests for additional information and has established a practice across all EPA regional offices of requesting that the applicant respond to requests for additional information within 30 days. Applicants may request an extended timeframe to respond, with the understanding that an extension will impact the permitting decision timeframe. To support applicants, the EPA has provided tools and resources including a regulations table listing the authorities that may be relevant to a carbon capture and storage project, a permit application outline, a permit application completeness checklist and, in coordination with the Department of Energy, a rules and tools crosswalk compendium.

5. What is the EPA's expectation for the length of time it should take for a state to go from start to finish in receiving a primacy designation for Class VI wells under Section 1422 of the Safe Drinking Water Act (SDWA)?

    a. Is that length of time, from initial application to grant of delegated primacy, longer, shorter, or the same under SDWA section 1425 than it is under SDWA section 1422?

EPA RESPONSE: Phase I of the EPA's four-phased UIC primacy approval process begins when the EPA first engages with a State (i.e., a state, Tribe, or territory) interested in applying for UIC primacy. During this phase, the EPA may support the State in identifying available resources and may work with them to review draft UIC

statutes and regulations prior to the State's official primacy application. The EPA's goal with Phase I is to help States develop a high-quality submission that can be quickly reviewed, approved and codified during Phases II-IV (see below). The EPA does not set an expectation for the length of time it should take for States to develop a submission during Phase I, as it is largely dependent on State-controlled factors. Individual States may begin from different organizational or structural positions (e.g., having or not having statutes and regulations in place for authority to implement permitting of other UIC well classes). States can have different statutory and regulatory development and approval processes, which can significantly influence a state's ability and time it takes to make changes to their proposed UIC program.

Once a State submits a UIC primacy application to the EPA, the EPA conducts a completeness review (Phase II), evaluates the application, publishes a proposed rule (Phase III), conducts public participation processes, and publishes a final rulemaking approving, or disapproving, the State's UIC primacy application (Phase IV). These steps can take 18 months to complete. This length of time is generally the same whether a State applies for primacy under section 1422 or 1425 of the Safe Drinking Water Act. However, it should be noted that UIC Class VI primacy can only be granted under section 1422 of the SDWA. Additional information is available at: https://www.epa.gov/uic/primary-enforcement-authority-underground-injection-control-program-0.

6. The Biden Administration and the EPA continue to claim that their EV mandate will create jobs, but the current trends in EV sales tell a different story. While your Agency believed EV sales would increase exponentially, we are actually in the midst of an EV sales slowdown.

    a. What considerations have been given to providing 'off-ramps' for industry if the market does not conform to the assumptions this rule is based upon?

EPA RESPONSE: It is incorrect to describe the light and medium-duty vehicle rule or the heavy-duty rule as electric vehicle (EV) mandates. They establish performance-based emissions standards under which manufacturers may choose to comply through a range of technologies including not only EVs but also advanced gasoline vehicles, hybrid vehicles, and plug-in hybrid vehicles.

Consumer demand for light-duty EVs remains strong as EV sales increased 50 percent in 2023 – over 1.4 million EVs and plug-in hybrid electric vehicles (PHEVs) were sold in 2023 alone – and sales continue to grow. Through the end of the 2024 second quarter, total EV sales are up 7 percent compared to the same period in 2023. EPA's vehicle rules provide significant lead time and a range of flexibilities which support manufacturers in making any necessary product planning adjustments.

7. Polling data shows that 60% of 2024 voters oppose your Agency's policy that would require an EV transition.[2] That opposition includes 61% of Independents. Even a majority of Democrats are opposed or unsure.

    a. Do you believe that this *de facto* gas car ban is in line with what American families want when it comes to consumer choice in the vehicles market?

    EPA RESPONSE: As noted in the previous response, the light and medium-duty vehicle rule neither mandates EVs nor bans gasoline cars; it establishes performance-based emissions standards under which manufacturers choose the technologies they believe are best suited for their fleets to meet the standards. We expect that manufacturers will choose to produce a wide range of vehicles, including gasoline vehicles, hybrids, plug-in hybrid electrics, and electric vehicles – ensuring consumers continue to have a wide range of clean vehicle choices.

8. EPA's tailpipe emissions rule will inevitably increase costs for American taxpayers. The Congressional Budget Office (CBO) initially estimated that EPA's tailpipe emissions rule would add $224 billion to the national deficit, but I believe EPA has tried to conceal the program's real costs from Congress and the American people.[3] EPA analysis estimated a lower cost by utilizing faulty assumptions. For example, they assumed that without the rule, battery electric vehicles sales would reach 39% of the vehicles market in 2030.

    a. Please state whether the multi-pollutant rule for light-duty vehicles cost-benefit analysis accounts for the first 39% of battery electric vehicles sold?

    b. Considering that EPA ignored a huge portion of the costs associated with forced EV adoption, does that mean this cost-per-consumer number should actually be significantly higher?

    EPA RESPONSE: The cost-benefit analysis for this rule follows the guidance from OMB to account for the evolution of markets and external factors affecting markets when developing an analytic baseline. More specifically, EPA has accounted for factors such as the substantial incentives provided by the Bipartisan Infrastructure Law and the Inflation Reduction Act and ongoing growth of the charging infrastructure that will make battery electric vehicles (BEVs) more affordable and convenient for consumers. As a result of those factors, EPA's analysis projects BEV penetrations to reach 39 percent in 2030 absent the new standards. This projection falls well within the range of estimates by third-party experts and in fact is lower than many third-party projections. EPA also considered a range of alternative baselines to account for uncertainty in future projections, consistent with OMB guidance.

[2] Ahead of CARS Act vote, national survey finds majority oppose EPA tailpipe proposal | American Fuel & Petrochemical Manufacturers (afpm.org).
[3] Biden's New EPA Tailpipe Rule Penalizes American Energy Independence | The U.S. House Committee on the Budget - House Budget Committee.

9. In the Inflation Reduction Act, Congress directed EPA to create and implement a methane waste emissions charge (WEC) and to revise EPA's greenhouse gas database for oil and natural gas systems (Subpart W) to allow greater use of empirical data for a more accurate inventory upon which the WEC would be assessed in order to incentivize emission reduction. EPA chose to promulgate these rules separately from one another but, in both rulemakings, EPA acknowledged Subpart W and the WEC are interwoven.

    a. Why did neither the proposed WEC rule nor the final Subpart W rule include analysis of the impacts of the two proposals together as part of the Regulatory Impact Analysis?

    EPA RESPONSE: Although related, the WEC and GHGRP Subpart W revisions affect separate regulatory programs and, appropriately, the two rules were promulgated as separate regulations with their respective analyses of regulatory impacts. As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and Agency's guidelines for economic analyses.

    b. Isn't the lack of a combined regulatory impact analysis on Subpart W and WEC in conflict with this Administration's recently updated Executive guidance (OMB Circular A-4) for such analysis?

    EPA RESPONSE: The updated Circular A-4 does not require a combined regulatory impact analysis for related regulations. It states that where there are related regulations, "the baseline should attempt to reflect relevant final rules … and proposed rules that the Agency is reasonably certain will be finalized before the rule under consideration is finalized." For more details, you may wish to consult Section 8.1 of the final Regulatory Impact Analysis of the Waste Emissions, "Sensitivity on GHGRP Calculation Methods" here: https://www.epa.gov/system/files/documents/2024-11/wec-ria-final_11-2024.pdf. Also, both proposed rules were issued prior to the effective date of the OMB guidance. The effective date of the Circular A-4 update is March 1, 2024, for regulatory analyses sent to OMB in support of proposed rules, and January 1, 2025, for regulatory analyses sent to OMB in support of final rules. The Subpart W proposed rule was published in the *Federal Register* on August 1, 2023, and the WEC proposed rule was published in the *Federal Register* on January 26, 2024. date,

    c. As a component of good governance, should the public have the opportunity to understand the impacts of significant rules as well as be allowed to comment on them?

    EPA RESPONSE: The EPA agrees with the importance of transparency and the opportunity for public notice and comment, both of which are integral elements of

the EPA's rulemaking process. The GHGRP Subpart W and WEC rulemakings have both followed this well-established process.

d. Will you commit to providing this committee with analysis of EPA's proposed WEC program as it would look under EPA's Subpart W proposal before promulgating a final WEC regulation?

EPA RESPONSE: As in the proposed Waste Emissions Charge, the EPA in the final rulemaking undertook sensitivity analyses regarding potential interactions between the WEC and GHGRP Subpart W (among other relevant policies) in its final Regulatory Impact Analysis for the Waste Emissions Charge.

10. TSCA section 8 requires manufacturers and processors to report to EPA on the chemicals that they make and the quantities in which they produce them. EPA recently finalized the TSCA section 8(a)(7) reporting rule which requires any manufacturer of PFAS or those importing PFAS to report into to EPA's Central Data Exchange later this year. There are reports from industry that the database may not be ready to accept the volume of reports it is likely to receive. In addition, the database will not be able to protect Confidential Business Information (CBI) and trade secret information, creating major economic security issues for American companies and aiding industrial espionage by state-backed companies.

a. Are you aware of these concerns?

EPA RESPONSE: On September 5, 2024, EPA published a direct final rule to change the beginning of the data submission period from November 12, 2024, to July 11, 2025, with a corresponding change to the end of the submission period. The rule explains that due to FY 2024 budget constraints, EPA was forced to make difficult choices in prioritizing its information technology (IT) efforts supporting the implementation of TSCA. By the time EPA was able to undertake development of the data submission tool for the TSCA 8(a)(7) rule in spring 2024, it was apparent that insufficient time was available to complete this task by the original opening date of the data reporting period. Because EPA did not receive adverse comment on the direct final rule, it went into effect on November 4, 2024. By taking this action, EPA is ensuring that the TSCA 8(a)(7) data submission tool will function as intended upon its release and that the reporting community will have sufficient time to report.

b. Please state whether addressing them is a priority and, if so, what plans are in place to address the issue?

EPA RESPONSE: Ensuring that adequate data submission tools are available and confidential information is secure is a priority for EPA. EPA is addressing the challenge of developing a TSCA 8(a)(7) data submission tool by changing the dates of the reporting period as described in the response to question (a).

c. Please report back to this committee on how the agency plans to resolve these concerns and including a written assurances to the committee that the database will not

in any way compromise CBI or trade secrets through this reporting process or the storage of this information on EPA systems?

EPA RESPONSE: EPA will provide the requested report and written assurance by Q3 FY 2025.

d. Based on the severity of this situation, does the agency need a statutory directive to delay the reporting requirements so that it can have the time necessary time to get the database ready to receive and protect this information?

EPA RESPONSE: No, a statutory directive is not needed. As described above, EPA has taken action to allow sufficient time to develop and test the data submission tool for the TSCA 8(a)(7) rule.

The Honorable Rick W. Allen

1. I have heard from farmers that under EPA's new Endangered Species Act (ESA) proposals, such as the Herbicide Strategy, they would incur significant, costly new regulatory burdens to continue using pesticides they need to protect their crops and maintain important conservation practices. Some farmers may go broke trying to comply with these new restrictions, but others would not even have that choice. They lack sufficient options to comply with the proposals, which means they may have to stop using tools essential to their farming operations.

   a. Please detail how EPA plans to make these proposals workable for agriculture so that they do not put family farms out of business?

   EPA RESPONSE: The final Herbicide Strategy is not self-implementing. It identifies mitigation measures as options that EPA would consider applying in registration and registration review actions. Where the range of options are applied, they can greatly reduce the impact of mitigation measures on growers. Most all of these options are practices that many farmers are familiar with, and some are already implementing (e.g., cover crops, wind breaks, and berms around fields).

   EPA identified these options for growers through its collaborations with U.S. Department of Agriculture (USDA) under its February 2024 interagency Memorandum of Understanding and through over two dozen meetings and workshops with agricultural groups in 2024 alone. For example, to reduce potential impacts to listed species from pesticide spray drift, EPA historically required a buffer and such buffers could be quite large. In the strategy, EPA has identified buffers as effective mitigation that is expected to be needed in some cases, but also numerous other mitigation options to reduce those buffer distances. The strategy also includes a significantly expanded menu of other mitigation options to reduce impacts to Endangered Species Act listed species from run-off/erosion.

Second, when implemented through pesticide labeling, these mitigation options will allow applicators who have already implemented measures identified to count those toward their compliance with the labeling. The measures include cover crops, conservation tillage, windbreaks, and adjuvants. Further, some measures, such as berms, can be enough to fully address runoff concerns.

Third, the mitigation options considered in the strategy recognize that applicators who work with a runoff/erosion specialist or participate in a conservation program are more likely to effectively implement mitigation measures. These conservation programs include the USDA's Natural Resources Conservation Service practices and state or private stewardship measures that are effective at reducing pesticide runoff. Working with such experts would reduce the level of mitigation needed for applicators who employ a specialist or participate in a program.

Fourth, the strategy provides for options that would reduce the level of mitigation needed in counties with moderate or low potential for pesticides to run off fields—specifically, areas with flat lands or with minimal rain such as western U.S. counties that are in the driest climates. As a result, in many of those counties, a grower may need to undertake few or no additional runoff mitigations for some herbicides.

In total, many growers in the United States will face few additional mitigation requirements to address pesticide runoff when the herbicide strategy is implemented through pesticide labeling. For other growers, EPA is working with other agencies and stakeholders on other approaches to minimize impact.

b. Is EPA willing to work with stakeholders and delay implementation of these proposals until they are workable for agriculture?

EPA RESPONSE: The final strategy itself does not impose any requirements or restrictions on pesticide use. Rather, EPA will use the strategy to inform mitigations for new active ingredient registrations and registration review of conventional herbicides. As part of the registration review process, EPA issues a Proposed Interim Registration Review Decision (PID) or Proposed Final Registration Review Decision (PFD) with proposed mitigation measures before issuing an Interim Registration Review Decision (ID) or Final Registration Review Decision (FD). Stakeholders can comment on proposed decisions that would include proposed mitigation measures, including those that will be informed by the final Herbicide Strategy and other strategies. After comments received on the PID or PFD are considered, EPA would adjust what was proposed, as appropriate, before issuing any ID or FD.

EPA understands and appreciates that some of the spray drift and runoff mitigation options from the strategy can be complicated for some pesticide users to adopt for the first time. EPA has also developed a document that details multiple real-world examples of how a pesticide applicator could adopt the mitigation from this strategy when those measures appear on pesticide labels. The document is available at https://www.regulations.gov/document/EPA-HQ-OPP-2023-0365-1139. To help

applicators choose from available mitigation options, EPA has developed a mitigation menu website and EPA also plans to periodically update it with additional mitigation options, allowing applicators to choose from the most up-to-date available mitigation options without requiring pesticide product labeling to be amended each time new measures become available. EPA is also developing a calculator that applicators can use to help choose from the available mitigation measures. EPA will also continue to develop educational and outreach materials to inform the public and help applicators understand mitigation needs and where descriptions of mitigations are located.

2. The EPA has done work on the ESA workplan. I have concerns that EPA's proposed mitigations in the workplan will severely impact my farmers ability to produce the food and fiber Americans are dependent on. The mitigations that EPA has proposed are costly and time intensive for growers to implement. In helping me understand EPA's position and the workplan could you explain:

    a. EPA is applying the mitigations using the FIFRA framework, not under the ESA. The courts have chided EPA for not going through a full-blown ESA consultation. Why do you feel proposing mitigations under FIFRA – mitigations that EPA is unsure of the benefits, will satisfy the courts frustrations over ESA? Is there a risk that you are making it harder and more expensive for growers while achieving no relief to your litigation challenges?

    EPA RESPONSE: For decades, EPA had not been meeting most of its ESA obligations for most pesticide actions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which resulted in litigation against the Agency and uncertainty for users about the continued availability of many pesticides. More recently, EPA has improved in this area. However, the pesticide-by-pesticide, species-by-species approach is very slow and costly. At the beginning of 2021, EPA faced almost two dozen lawsuits covering thousands of pesticide products due to its longstanding failure to meet ESA obligations for pesticides. Some of these lawsuits resulted in courts removing pesticides from the market until EPA ensured the pesticides comply with the ESA. Now, all but one of those lawsuits has been resolved. Unlike EPA's historic approach to meeting ESA obligations, the Herbicide Strategy identifies protections for hundreds of listed species up front and will apply to thousands of pesticide products as they go through registration or registration review, thus allowing EPA to protect listed species, while providing flexibility and more certainty to growers.

    Further, EPA has worked closely with the U.S. Fish and Wildlife Service (FWS) in developing the ESA strategies. Through this coordination, EPA is confident that the mitigation measures from the strategies even though they are adopted under FIFRA will also make future section 7(a)(2) consultations with FWS more efficient.

    b. Since EPA is pursuing this process under FIFRA and not under ESA, FIFRA requires a risk analysis and a cost -benefit analysis. Will EPA be complying with these

provisions and complete analysis of the ESA mitigations before growers are asked to implement?

EPA RESPONSE: As described above, EPA will use the Herbicide Strategy to inform mitigations for registration review of conventional herbicides through its FIFRA actions. Under FIFRA, EPA considers the risks and benefits of the use of a pesticide and determines if there are mitigations that can address any risks while considering the impacts of mitigation on pesticide users. EPA will use the strategy's mitigation framework to determine the amount of mitigation, if any, needed to address the population-level impacts to listed species under FIFRA. Then any remaining risks to other non-target organisms are weighed against the benefits of the pesticide. If the benefits outweigh the remaining risks, EPA can move forward with the action.

c. It is my understanding that these are FIFRA based mitigations but then EPA will send to the services for consultation under ESA. If the services find that under ESA there is no benefit achieved to threatened or endangered species by EPA's approved mitigation practices, will EPA act quickly to remove restrictions?

EPA RESPONSE: Application of this strategy should greatly increase the efficiency of future pesticide consultations with the U.S. Fish and Wildlife Service (FWS). EPA focused this strategy on species listed by FWS because herbicides generally impact those species. EPA has coordinated with FWS on developing the strategy. EPA and FWS expect to sign an MOU that formalizes their collective understanding of how this strategy can inform future biological evaluations and consultations. Thus, implementing the Herbicide Strategy through FIFRA actions would provide earlier mitigation measures to protect the listed species most impacted by herbicides even before ESA effects determinations are made or consultations are triggered (and if so, completed). This will accelerate EPA's work toward meeting its ESA obligations for all conventional herbicides and continue the availability of these pesticides.

Because EPA has coordinated with FWS to develop this strategy, EPA does not expect that the mitigations from the strategy are unnecessary for listed species. In fact, many of the measures are based on those from prior pesticide consultations with the Service. However, in the extremely unlikely chance that a measure from the strategy is unnecessary, EPA has experience working with pesticide registrants to quickly to remove/modify restrictions. For example, during consultation for Enlist One and Enlist Duo, EPA learned that for a handful of the over one thousand listed species it evaluated, EPA had required more restrictions than FWS determined were needed in its Biological Opinion. In response, EPA approved amended labeling within a couple of months of the Biological Opinion in 2024.

3. I am very worried that the aggressive deadlines EPA agreed to in the mega-settlement are unrealistic and rushes both the scientific and public comment process. Due to the highly technical and precedent setting nature of the Draft Herbicide Strategy, will EPA revise the Draft Herbicide Strategy to incorporate public comment and then subject the revised Draft

Herbicide Strategy to peer review, ensure coordinated interagency review, and further public comment?

EPA RESPONSE: The final strategy incorporates a wide range of stakeholder input, ensuring EPA not only will protects species but also will consider a wide range of mitigation options for farmers and growers to employ. EPA released the draft Herbicide Strategy for public comment on July 24, 2023. EPA received more than 18,000 comments from a variety of groups, including states, other federal agencies, the pesticide industry (e.g., pesticide companies, applicators), grower groups, environmental groups, academics, and individuals. EPA received approximately 250 unique comments, with the remainder being from mail-in campaigns that either supported or opposed the draft strategy. In general, commenters reiterated the importance of protecting listed species from herbicides. Commenters also identified concerns with specific aspects of the draft strategy and suggested revisions.

In addition to addressing public comment on the draft Herbicide Strategy, the final strategy incorporates information and suggestions that EPA gathered during meetings with growers and grower groups, pesticide applicators, environmental groups, extension agents, registrants, mitigation measure providers, and certified crop advisors. EPA has also been working with the State FIFRA Issues Research and Evaluation Group (SFIREG) and the Association of American Pesticide Control Officials (AAPCO), to discuss, among other things, potential implementation challenges. EPA also hosted or participated in various conferences and workshops including an Interagency Workgroup Group Roundtable Meeting in February 2024 to obtain input on EPA's efforts to comply with the ESA for pesticide decisions, and a May 2024 Mitigation Workshop (which EPA co-hosted with USDA) to identify other effective and practical measures for growers of different crops in different parts of the country to add to the mitigation menus. The end result is that nearly all of the numerous changes that EPA made to the draft strategy were to accommodate suggestions from agriculture.

4. According to the U.S. Department of Agriculture (USDA), huanglongbing (HLB) or citrus greening disease, is in their words the "greatest threat" to the $2.5 billion U.S. citrus industry, of which has a significant presence in my state. It is spread by the Asian Citrus Psyllid (ACP) insect, which transmits the bacteria to citrus trees when feeding on new shoots. The disease has either already devastated, or threatened to devastate, much of the citrus crops across the southeast. In Florida alone just south of my state, it has resulted in a 90 percent reduction in citrus production over the past decade. The resulting impacts are not only domestic job loss and economic decline in the south, but it also forces the U.S. to rely on more imports of citrus.

    a. Is EPA reviewing all available tools and options within its purview, along with the latest available science, to ensure citrus producers have the best tools available to fight the disease and curb further devastation caused by citrus greening?

EPA RESPONSE: EPA agrees that Huanglongbing (HLB) is a catastrophic problem for the U.S. citrus industry and is doing everything in its purview to assist with

combating it. The EPA is in active dialogue with the Florida Department of Agriculture & Consumer Services (FDACS), citrus grower organizations such as the Florida Fruit and Vegetables Association (FFVA), and industry to evaluate the best available options for growers. For example, the EPA has repeatedly authorized Florida's Section 18 emergency exemption requests to use clothianidin as a soil-drench treatment in young bearing citrus trees control the transmission of HLB disease. Additionally, EPA worked closely with the FDACS to register Special Local Needs (SLN) registrations under FIFRA Section 24(c), allowing products containing oxytetracycline hydrochloride to be injected into bearing and non-bearing citrus trees to control HLB in Florida.

Further, the Biopesticides and Pollution Prevention Division (BPPD) of EPA's Office of Pesticide Programs (OPP) is at the forefront of emerging technology pesticides, including those to address citrus greening. BPPD also continues to consult with companies developing novel emerging technology pesticides to control pests causing citrus greening to provide guidance on the regulatory process.

EPA is also actively working with other federal agencies to combat citrus greening disease. For over ten years, since its conception in 2013, EPA has participated in USDA's unified emergency response framework, the HLB Multi-Agency Coordination (MAC) Group. This group helps to coordinate and prioritize Federally funded research with industry's efforts to bridge the gap between research and implementation, reduce unnecessary duplication, and more quickly provide practical tools for citrus growers to use. EPA provides expert opinion and advice on potential solutions that may involve pesticides, which helps conserve resources and focus the pesticide discussions on solutions that are both feasible and cost-effective.

The EPA understands the severity of this disease and will continue to work collaboratively with state lead agencies, other federal agencies, citrus grower groups, and industry to ensure citrus producers have the best chance to manage this difficult plant disease.

The Honorable Russ Fulcher

1. When it comes to Greenhouse Gas (GHG) Emissions and vehicles, I am concerned about unrealistic standards being put in heavy-duty trucks – imposing new vehicle emissions standards on 30-40% of all new trucks in just eight years (by 2032). These include 18-wheelers and other long-haul vehicles used to haul freight, delivery trucks, refuse haulers, dump trucks, public utility trucks, school buses, transit vehicles, and related vehicles.

   This is why I put forward a Congressional Review Act on this rule. I appreciate so many of my colleagues on this committee and in this chamber for their support. I also appreciated working with Senator Dan Sullivan's office who is running the Senate companion version.

While I appreciate the EPA showing some deference to industry by backing off the initially proposed rule, it remains a tremendous burden on trucking manufacturers, trucking and busing companies, producers and distributors, and consumers who buy the goods being hauled. And it lacks the practicality of working without putting our truckers, the grid, and others in jeopardy. That does not even account for the wear and tear on roads from heavier batteries or the safety risks to truck drivers and others from any accidents.

a. What is the EPA's plan to provide more flexibility in implementation?

EPA RESPONSE: The final performance-based heavy-duty carbon dioxide emission standards include Averaging, Banking and Trading (ABT) credit provisions, which give manufacturers flexibility in the design of specific vehicles and their fleet offerings, while allowing industry overall to meet the standards. In addition to flexibilities offered by the ABT credit program, EPA finalized additional transitional flexibilities to allow broader trading of credits to assist manufacturers in meeting the standards. The EPA is also retaining the advanced technology vehicle credit multipliers that range between 3.5 and 5.5 for plug-in hybrid electric vehicle (PHEV), battery electric vehicle (BEV), and fuel cell electric vehicle (FCEV) technologies through 2027, which will provide additional credits for manufacturers in the transition into the early years of the Phase 3 program, as manufacturers make practical business decisions on where to apply their resources to first develop products.

b. What is the EPA's response to the problem of forcing more trucks on the road despite fewer drivers?

EPA RESPONSE: The Agency's analysis related to BEVs was performed to ensure that HD BEVs considered would be capable of performing the same amount of work as internal combustion engine (ICE) vehicles without incurring additional trips – both in terms of typical daily miles traveled and in terms of payload capacity. If a specific vehicle is not capable of performing the work, then that was considered during the development of the standards. Our analysis for the final rule projects that a majority of the heavy-duty vehicles sold during the timeframe impacted by the rule will remain vehicles powered by ICE. ICE vehicles therefore would be available to accommodate those commodities for which maximum loads are needed, and that BEVs remain viable for those other commodities that do not require transport at maximum load.

c. What is the EPA's answer to creating more trips because the trucks cannot carry as much freight per trip when saddled with a 10,000 pound battery?

EPA RESPONSE: The Agency's analysis related to BEVs was performed to ensure that HD BEVs considered would be capable of performing the same amount of work as internal combustion engine (ICE) vehicles without incurring additional trips – both in terms of typical daily miles traveled and in terms of payload capacity. If a specific vehicle is not capable of performing the work, then that was considered

during the development of the standards. Our analysis for the final rule projects that a majority of the heavy-duty vehicles sold during the timeframe impacted by the rule will still be vehicles powered by ICE. ICE vehicles therefore would be available to accommodate those commodities for which maximum loads are needed, and that BEVs remain viable for those other commodities that do not require transport at maximum load.

d. What about the loss of highway trust fund revenues for vehicle miles that are more destructive to our highways and roads?

EPA RESPONSE: The federal highway trust fund's revenue will continue to be supported in part by the heavy-duty vehicle excise tax on truck sales, tire taxes, and heavy vehicle use tax.

e. What work is the EPA doing regarding the infrastructure demands for charging stations that will come with this rule?

EPA RESPONSE: EPA recognizes that charging and grid distribution buildout infrastructure for BEVs is necessary for successful deployment and adoption of BEV technologies. There are significant efforts already underway to develop and expand heavy-duty vehicle electric charging and grid distribution buildout infrastructure. The U.S. government is making large investments in these through the Bipartisan Infrastructure Law and the Inflation Reduction Act. Private investments will also play a critical role in meeting future infrastructure needs, and domestic manufacturing capacity of BEV charging equipment is also increasing. These important early actions and market indicators suggest strong growth in EV charging, refueling, and distribution infrastructure that will continue in the coming years.

f. What is EPA's plan for domestically getting and refining critical minerals so we can manufacture more of these batteries at home versus relying on countries like China?

EPA RESPONSE: EPA's analyses for the light- and medium duty rule and the Phase 3 rule indicated that there are more than enough critical minerals to make enough ZEVs to meet the standards, should manufacturers choose to comply in that way. All vehicles, including ICE vehicles, require some amount of critical minerals and other materials such as structural metals, plastics, electrical conductors, electronics and computer chips that are produced both domestically and globally. While other countries, including China, have invested more than the United States in mining and refining critical minerals in the past, the United States is making enormous investments in this area because these minerals are also critical to America's competitiveness in the global economy. In addition to taking steps to grow domestic supply, the United States is also securing existing and new mineral supply chains through free-trade partners and other countries that are economic allies of the United States.

2. A number of years ago, the fertilizer industry did extensive technical work, which included a detailed risk assessment, to examine the use of phosphogypsum in building roads. Subsequently, a petition was filed by the fertilizer industry with EPA in 2019 to request approval for the potential uses of phosphogypsum in building roads. EPA approved this request in 2020.[4] On December 18, 2020, the Center for Biological Diversity (and other parties) filed a petition for EPA to reconsider this approval. Subsequently, EPA withdrew the approval effective July 2021.[5]

   As you know Administrator Regan, phosphogypsum is a by-product from the production of phosphoric acid. Phosphoric acid is the building block of phosphate fertilizers, which are critical for providing food security in our country. Recent geo-political conflicts have shown the vulnerabilities of mineral supply chains. President Biden, in a speech on May 11, 2022 discussed the importance of boosting domestic fertilizer production.

   a. Since it is vital for U.S. national security for the domestic phosphate fertilizer production to continue, what actions can EPA take to provide beneficial, but yet environmentally protective, uses for this by-product?

   EPA RESPONSE: EPA's Clean Air Act regulations (40 CFR Part 61, Subpart R) outline the authority and the process for the Agency's work to evaluate and approve beneficial uses of phosphogypsum by-product. These regulations allow the removal of phosphogypsum from stacks, under certain conditions and restrictions, for two uses: outdoor agricultural purposes and indoor research and development. Any other use of phosphogypsum requires prior approval from EPA. Requests for other uses of phosphogypsum must be submitted in a formal process as outlined in the regulations. EPA can approve a request for a specific use of phosphogypsum if it is determined that the proposed use is at least as protective of public health as placement of phosphogypsum in a stack.

   - **EPA evaluates potential risks from each requested other use of phosphogypsum on an individual, case-by-case basis. Each proposed use is reviewed based on how the phosphogypsum is being used, in what amounts, and any possible health risks to workers and the public, including risks from handling and transportation. Under EPA's regulatory process, applicants document the environmental and health risks associated with their request in a risk assessment document for that particular use.**
   - **EPA will only approve other uses of phosphogypsum that are at least as protective of public health as placement in a stack. The possible approval of an individual project does not imply approval of any other request. EPA's full review process, including risk assessment, must take place for each request for other use of phosphogypsum, and approvals are granted on a case-by-case basis.**

[4] https://www.epa.gov/newsreleases/epa-approves-use-phosphogypsum-road-construction#:~:text=WASHINGTON%20(October%2014%2C%202020),in%20government%20road%20construction%20projects. 85 Federal Register, 66,550-66,552 – October 20, 2020.
[5] https://www.federalregister.gov/documents/2021/07/07/2021-14377/withdrawal-of-approval-for-use-of-phosphogypsum-in-road-construction

- **EPA maintains a public website on alternative uses of phosphogypsum (https://www.epa.gov/radiation/phosphogypsum). This website includes application process resources, current information on applications under review, and information related to previous decisions such as the 2019 fertilizer industry application mentioned in your question.**
- **EPA is currently reviewing a request from The Mosaic Company for use of phosphogypsum in a road construction pilot project located on private property in Florida. On May 20, 2024, the EPA issued a letter to Mosaic communicating that the materials submitted by Mosaic meet regulatory requirements for a complete application. EPA is now conducting and working to complete its technical review.**

3. History has shown us that when businesses or plants close, they can leave behind a legacy of environmental degradation, particularly impaired waters, a situation that was common before the implementation of the Clean Water Act. Recognizing that each day these sites remain unaddressed is another day of environmental impact, I'd like to discuss redevelopment projects.

   Mining and other projects, designed to meet modern EPA standards, not only remediate these waters but also improve them significantly beyond their current conditions. This improvement would not occur without this redevelopment.

   a. Do you agree that these redevelopment efforts, particularly on old mine sites, offer a critical opportunity to merge economic development with substantial environmental restoration?

   b. Can we count on your commitment to work collaboratively to keep these vital projects, especially for critical mineral projects, on track?

   EPA RESPONSE: Abandoned mine lands are those lands, waters and surrounding watersheds where extraction, beneficiation or processing of ores and minerals has occurred. Abandoned mine lands can pose serious threats to human health and the environment. The EPA conducts and supervises investigation and cleanup actions at a variety of mine sites. The Agency has a range of resources related to the environmental risks and challenges present in investigating and cleaning up abandoned mine lands. The EPA also pursues opportunities to explore innovative reuse opportunities at mine sites. As part of EPA's commitment to finding innovative and effective solutions to the potential threats abandoned mine lands pose to human health and the environment, significant attention is being focused on potential future uses of these lands, and the economic, environmental, and social impact that reuse can provide. EPA recognizes that supporting reuse may serve as a catalyst for expediting environmental risk reduction.

4. I want to discuss safe drinking water and cybersecurity. Idaho National Laboratory's Water Security Test Bed (WSTB) tries to protect drinking water by developing ways to counter cyber and physical attacks that would contaminate the water supply or damage equipment by,

for example, sending incorrect readings on bacteria and other pathogen levels, making the operator think the water is safer than it really is.

In addition, the EPA's Office of Water administers its water security programs and is responsible for overseeing implementation and enforcement of section 1433 of the Safe Drinking Water Act (SDWA). The EPA works jointly with the Department of Energy in operation of the Water Security Test Bed (WSTB) at the Idaho National Laboratory to focus on improving America's ability to safeguard water systems, respond to contamination incidents, and design better, more resilient infrastructure.

INL wants to upgrade and expand its test facilities to stand up critical testing capabilities for the water sector and nation – this will require funding from EPA and DHS, along with being able to receive donated equipment from industry partners. With local water districts, INL has focused on providing training and recommendations on how to focus their investments to increase resilience of their systems.

For example, research at the WSTB can also support cybersecurity defense and mitigation approaches for water infrastructure operational technology.

a. Would you work with my office to help us in that upgrade effort?

b. Are there other facilities like the WSTB at INL to provide municipal and community water districts with access to this technology to be able to protect this part of our critical infrastructure?

EPA RESPONSE: Yes. The EPA would be interested in supporting, within its authorities and subject to available resources, efforts to upgrade the mentioned facility. We are not aware of other facilities.

5. Also, I have heard from municipal and community water districts of their concern over getting approval for cybersecurity standards from EPA. And yet, industry has standards supported by Homeland Security that can meet the safe drinking water requirements. My concern is over EPA, which is not charged with regulating for cybersecurity per se, creating or encouraging adoption of its own set of standards when there are cybersecurity standards that can already be met.

a. Would you commit to doing more with these local entities to ensure they can get through any obstacles, given they are trying to meet cybersecurity standards well established by industry and by other parts of the federal government?

EPA RESPONSE: The EPA has established *voluntary* cybersecurity standards for water and wastewater systems that are harmonized with Federal and private sector guidelines. The EPA's *Cybersecurity Checklist for Drinking Water and Wastewater Systems* is sector-specific and derived from CISA's *Cross-sector Cybersecurity Performance Goals* (CPGs), available at https://www.cisa.gov/ cybersecurity-performance-goals. The CPGs align with the National Institute of Standards and

Technology (NIST) *Cybersecurity Framework*. The Safe Drinking Water Act Section 1433, as modified by the America's Water Infrastructure Act of 2018, establishes minimal statutory standards for cybersecurity for community water systems serving over 3,300 people. These water systems must develop a risk and resilience assessment that includes *electronic, computer, or other automated systems (including the security of such systems)* and an emergency response plan *which shall include strategies and resources to improve the system's resilience, including the system's physical security and cybersecurity.* No mandatory cybersecurity standards apply to noncommunity water systems, community water systems serving 3,300 people or fewer, or wastewater systems.

6. The Federal government recently had to rescind an effort to address what it called "basic cybersecurity practices" over legal concerns that it short circuited regulatory requirements and exceeded the authority Congress gave to it. There were apparently conflicts over the rule's coverage of "equipment," "operations," and "the distribution of safe drinking water."

    a. What is EPA doing with the National Security Council's recent effort to request states regulate cybersecurity at water systems?

    b. Is EPA trying to be flexible in technical assistance and other grants for municipal and community water districts when it comes to following standards developed by government and industry to protect our critical water infrastructure?

EPA RESPONSE: In March 2024, EPA Administrator Michael S. Regan and National Security Advisor Jake Sullivan sent a letter to the nation's Governors asking each state to submit a water sector cyber resilience plan to the National Security Council. The EPA is providing subject matter expert review of the plans. As committed to in the letter to Governors, the EPA has moved forward with establishing a Cybersecurity Task Force in collaboration with the Water Sector Coordinating Council (which includes industry representatives) and Water Government Coordinating Council to identify near-term actions and strategies to reduce the risk of water and wastewater systems nationwide to cyberattacks.

The EPA strongly encourages all water and wastewater systems to implement basic cyber hygiene practices that can help utilities prevent, detect, respond to and recover from cyber incidents. EPA makes cybersecurity resources and tools that address cybersecurity assessments, planning, training, and response available online to all water and wastewater systems. The EPA promotes and welcomes opportunities to provide technical assistance including individual water system assessments and immediate virtual consultations to water and wastewater systems that request it. The EPA also provides information on the Agency's website at https://www.epa.gov/waterresilience/cybersecurity-funding about funding options available to support increasing cyber resilience, including the Clean Water and Drinking Water State Revolving Funds and other grant programs at EPA.

7. EPA recently announced a Federal Advisory Committee to review Clean Water Act provisions for CAFOs (Concentrated Animal Feeding Operations). Of the list of members, only Tom McDonald belongs to a cattle-regulated industry. And while there are a few other associations that are ag-related, this is not enough of a voice for the people and businesses impacted.

   EPA's Clean Water Act regulations can be enormously costly for farmers and businesses. In the past, EPA rules have often failed to understand the real-world impact on day-to-day operations. Will you commit to including more regulated entities on Federal Advisory Committees making recommendations for updates to regulations so the EPA is hearing directly from the people who would be most impacted?

Nominee[6]	**Affiliation**
James Pritchett (Chair)	Colorado State University
Alexis Andiman	Earthjustice
Mike Callicrate	Ranch Food Direct
Laura DiPietro	Vermont Agency of Agriculture, Food, and Markets
Steven Goans	Nebraska Department of Environment and Energy
Teena Gunter	Oklahoma Department of Agriculture, Food, and Forestry
Devon Hall	Rural Empowerment Association for Community Help ("REACH")
Tarah Heinzen	Food & Water Watch
William Higgins	Roeslein Alternative Energy
Chris Hoffman	Pennsylvania Farm Bureau
Kelly Hunter Foster	Waterkeeper Alliance
Rebecca Joniskan	Indiana State Poultry Association
Keith Larick	North Carolina Farm Bureau Federation
William Thomas "Tom" McDonald	Five Rivers Cattle Feeding, LLC
Rick Naerebout	Idaho Dairymen's Association, Inc.
Kevin Shafer	Milwaukee Metropolitan Sewerage District
Marguerite Tan	National Pork Board
Alicia Vasto	Iowa Environmental Council
Melissa Wilson	University of Minnesota's College of Food, Agriculture and Natural Resources

[6] https://www.epa.gov/faca/frrcc-0

Kent Woodmansey	South Dakota Department of Agriculture and Natural Resources
Terron Hillsman*	U.S. Department of Agriculture - Natural Resources Conservation Service

*Ex-officio / Non-voting

EPA RESPONSE: The goal of the Animal Agriculture and Water Quality (AAWQ) Subcommittee of Farm, Ranch, and Rural Communities Federal Advisory Committee is to provide recommendations that will inform the Agency's decisions regarding how to improve the implementation of the Clean Water Act National Pollutant Discharge Elimination System Concentrated Animal Feeding Operation permitting program to more effectively reduce nutrients and other types of water pollutants from Animal Feeding Operations, including determining whether any revisions to the regulations are warranted, and whether EPA can otherwise support the efforts of AFO operators to protect water quality. The AAWQ Subcommittee includes diverse representation from research institutions, local government, states, environmental and citizen groups, and the agricultural industry across industry sectors and across the geographic regions of the United States. The subcommittee's first meeting was held on May 30–31, 2024, at the EPA Headquarters in Washington, D.C., and the subcommittee's second meeting was held on August 8–9, 2024, in Lancaster, Pennsylvania. Smaller workgroups have been created by the subcommittee to delve into specific topics more deeply. The workgroups will report back to the full subcommittee.

The EPA's selection of subcommittee members followed a formalized process that included a Federal Register notice that solicited nominations. The selected AWWQ subcommittee members cover a broad representation of the animal sector (as noted in the table). The EPA's federal advisory committees are meant to ensure that advice by the committees is varied, objective and accessible to the public. The EPA has no reason to believe that the current membership of the subcommittee would fall short of the objectivity and accessibility goals the Agency has for the subcommittee.

The Honorable H. Morgan Griffith

1. During the hearing, you stated that beneficially reused coal ash products have been "stripped" of "most of the toxins or potentially all of the toxins from it." Can you clarify what process you are referring to and specifically explain how the constituents of coal ash are removed when the material is beneficially reused?

EPA RESPONSE: Coal combustion residuals (CCR) may be used as feedstock in the making of several types of materials. Concrete makers, for example, will sometimes use fly ash as a replacement for some portion of cementitious components and combine it with various other materials according to relevant physical and performance standards and specific design criteria. The resulting fly ash concrete is an engineered material with a solid matrix that binds the CCR; this CCR application is referred to as encapsulated beneficial

use. CCR constituents are not physically or chemically removed from an encapsulated beneficial use, but their releases are minimized because CCR is bound into a solid matrix. Specifically, EPA evaluated environmental impacts associated with fly ash concrete.[7] The fly ash concrete that EPA assessed met relevant physical and performance standards and conformed to specific design criteria (e.g., less than or equal to a 40 percent fly ash replacement rate). EPA's evaluation concluded that environmental releases of constituents of potential concern from such engineered fly ash concrete, during use by the consumer, are comparable to virgin materials or below the Agency's health and environmental benchmarks.

2. During the hearing, you stated that "we know that coal ash is hazardous" but the EPA has not changed the subtitle D classification of coal ash waste. Can you explain why you continued to call it hazardous waste when the EPA regulates it as nonhazardous?

EPA RESPONSE: EPA has not changed the Subtitle D classification of coal ash waste. Produced primarily from the burning of coal in coal-fired power plants, coal combustion residuals (CCR) are one of the largest types of industrial waste generated in the United States and can contain harmful levels of contaminants, such as mercury, cadmium, and arsenic. Without proper management, these contaminants can pollute waterways, groundwater, drinking water, and the air. Based on this information, EPA has been working diligently to find the right solution to address the adverse effects of legacy coal ash on human health and the environment.

3. The EPA's new legacy coal ash rule is defective because it relies upon a flawed, nationwide risk assessment. Every coal ash site is different and possesses a different risk grade. Why does EPA not use a site-specific, data-driven approach to Coal Combustion Residuals (CCR) regulation?

    a. Why didn't EPA perform a risk assessment before it drafted the new requirements?

    b. How could EPA determine the appropriate requirements in the new rule before it analyzed the risk?

    c. Why did the EPA only attempt to prepare a risk analysis for the new legacy coal ash regulations after it drafted them?

    d. Why did the EPA only give the public 25 days to comment on this after-the-fact analysis?

    EPA RESPONSE: In EPA's 2024 Legacy Coal Combustion Residuals (CCR) Surface Impoundments and CCR Management Units Final Rule ("2024 Rule"), the Agency explained that it cannot proceed exclusively on the basis of site-specific assessments and forego a nationwide risk assessment, national requirements, or universal performance standards for CCR. When Congress amended the statute in 2016, it

[7] *Coal Combustion Residual Beneficial Use Evaluation: Fly Ash Concrete and FGD Gypsum Wallboard*, **U.S. Environmental Protection Agency, February 2014.**

added a permitting component but retained without revision the requirements in RCRA sections 1008(a)(3) and 4004(a) that EPA establish minimum national standards ("criteria") by regulation. See 89 Fed. Reg. 38927 (May 8, 2024) for further discussion.

EPA's risk characterization is informed by surveys of the real-world location, size, and design of landfills and surface impoundments, as well as studies on ash composition and leaching potential behavior. EPA also incorporated a range of site and regional data on factors, such as weather and soil type, to capture the potential variability of environmental conditions that may be present at each facility. EPA explained in the 2024 Rule that there are documented concerns about the quality and reliability of site-specific field data that has been generated by facilities since promulgation of the 2015 Rule. Inadequately designed and installed monitoring well networks can result in data that are incomplete or unrepresentative of relevant site conditions. As a result, reliance on these data would be unlikely to provide a reliable estimate of risk to human health and the environment over a national scale.

EPA based the requirements in the Legacy Rule proposal on the results of a 2014 Risk Assessment,[8] which the Agency considered to be equally applicable to legacy CCR surface impoundments and CCRMU. Many of these units are similarly constructed, manage the same types of ash, and are frequently located either at the same or nearby facilities as the surface impoundments and landfills regulated by the 2015 *Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals From Electric Utilities* rule (commonly referred to as the 2015 CCR Rule). Based on information provided in comments on the proposal, EPA became aware that smaller placements of CCR were frequently present at many facilities and had concerns with the potential for future risks beyond those modeled in 2014. Therefore, EPA conducted a supplemental risk assessment in part to address these additional exposure scenarios. EPA also incorporated previous model results for landfills and surface impoundments that had been conducted as part of the 2014 Risk Assessment. The model results, carried forward in the supplemental risk assessment (the 2024 Risk Assessment), primarily serve to reinforce the Agency's finding that the results of the 2014 Risk Assessment are equally applicable to the universe of legacy CCR surface impoundments and CCRMU.

EPA considered that 25 days was a sufficient amount of time for public comment on the supplemental risk assessment because the Agency believed that commenters were already familiar with the vast majority of the information. The supplemental risk assessment relied on the same methodology, and, in many instances, the same data as the 2014 Risk Assessment to evaluate groundwater contamination, and the public had multiple opportunities to comment on both the methodology and the data during the 2015 rulemaking. Additionally, EPA requested public comment on an assessment of the potential radiation risks that concluded that the risks are not distinguishable from background levels. EPA also solicited public comment on site-specific information on

[8] ***Human and Ecological Risk Assessment of Coal Combustion Residuals*. U.S. Environmental Protection Agency, December 2014.**

facilities that commenters on the May 2023 Legacy Rule proposal had suggested would be part of the regulated universe. EPA expected facility owners and operators could comment accurately on their facility information without doing further research.

4. Under EPA's new legacy coal ash rule, it is my understanding that if a coal ash site has been safely closed and managed, and is meeting groundwater protection standards, it may still have to be opened and re-closed.

    a. Does EPA intend to require companies to have to amend their closure plans, which were developed years ago, to meet the new rule even when the closed sites do not have any issues?

    b. Is EPA changing the way that all regulated facilities have to close their CCR units?

    c. Why would EPA force a utility to re-open a coal ash site and then move that material to a new location which will take decades to do and will create greater costs without greater protections?

    d. While I do not think that coal ash is inherently hazardous, you stated at the hearing you do believe it is hazardous, accordingly, wouldn't transferring coal ash to a new site create an unacceptable risk to the public?

EPA RESPONSE: The legacy rule does not require all closed coal ash sites to automatically reopen and move material to a new location. Facilities are required to evaluate whether their coal ash disposal units (i.e., coal combustion residuals (CCR) landfills, surface impoundments, and management units) meet the performance standards in the CCR regulations in 40 CFR 257.102. If the closed units meet the performance standards, the facility is only required to make that demonstration. In addition, if certain criteria are met, a facility can defer the closure requirements until a CCR permitting authority can evaluate whether the completed closure is "substantially equivalent" to the CCR closure requirements.

EPA notes that in the event that a facility cannot meet either of these options, the facility is not necessarily required to excavate or remove the CCR. Depending on the site conditions, facilities may be able to implement engineering measures to bring the closed unit into compliance with the regulations. The legacy CCR rule allows owners or operators of CCR units to choose between closing by removal or closing with waste in place, provided the closure meets the performance standards in 40 CFR 257.102. Under these regulations, a facility is only required to move the CCR to a new location if the facility cannot meet the standards necessary to ensure that leaving the CCR in place will protect human health and the environment. EPA requires CCR unit closure to comply with the closure standards in 40 CFR 257.102 to ensure protection of human health and the environment.

5. EPA concedes in the new rule that the quantified costs are greater than the quantified benefits. Please explain what the agency meant in the final rule when it said that "unquantified" benefits make the rule worth the cost when you don't know the amount of benefits?

EPA RESPONSE: EPA has good reason to believe that the quantified benefits of the rule significantly underestimate the total benefits from implementation of the rule. The monetized benefits in the RIA omit categories of benefits that are known to be significant. For example, EPA lacked the data necessary to quantify most of the human health benefits associated with the rule, which include reducing the instance of negative human health impacts such as cardiovascular mortality, neurological effects, and cancers (separate from the quantified cancer benefits) brought on by exposure to toxins found in coal ash. However, the results of a sensitivity analysis EPA conducted to estimate the benefits from certain avoided cases of lung and bladder cancers supports the conclusion that the quantified benefits significantly underestimate the total benefits. Inorganic arsenic is known to occur in CCRs and can leach into drinking water from leaking CCR disposal units. The RIA does not consider these avoided cancer benefits in the main analysis because the IRIS report underlying them is still draft and subject to revision. These benefits are instead monetized in a sensitivity analysis and are estimated to be $19 million per year when discounting at 2%. As these benefits are but two health endpoints from a single contaminant, they point to the possible true magnitude of benefits attributable to the final rule. In addition, EPA was not able to quantify ecosystem benefits, property value benefits, and land use benefits.

The Honorable Larry Bucshon, M.D.

1. What does EPA need – whether from Congress or from Class VI applicants – to better and more efficiently process Class VI well applications and ensure that a consistent 24-month timeline can be met?

EPA RESPONSE: Reviewing an Underground Injection Control Class VI permit application entails a multidisciplinary evaluation to determine whether the application includes the required information at 40 CFR Part 146 Subpart H; is technically accurate; and supports a risk-based determination that underground sources of drinking water will not be endangered by the proposed injection activity in accordance with the Safe Drinking Water Act. A wide variety of technical experts – from geologists to engineers to physical scientists – review permit applications submitted to the EPA. The EPA has increased the UIC Class VI team from just a few people to over 36 FTEs across our headquarters and regional offices. The EPA appreciates the funding Congress has provided in both the EPA's annual appropriation and the Bipartisan Infrastructure Law for UIC Class VI work. These additional resources and additional staff capacity have been invaluable as the number of applications submitted to the EPA for review continues to grow. We will continue to evaluate our needs and expand the staff devoted to Class VI permitting as demand increases. These resources have also enabled the EPA to use contracting services and interagency resources to support permit reviews. Through an interagency agreement

with the U.S. Department of Energy, several National Laboratories with deep expertise in carbon storage support technical reviews of the subsurface modeling portions of permit applications. Additionally, the EPA is working with the Federal Permitting Improvement Steering Council to evaluate opportunities to enhance the timeliness and efficiency of UIC Class VI permit reviews. Reviewing an Underground Injection Control Class VI permit application entails a multidisciplinary evaluation to determine whether the application includes the required information at 40 CFR Part 146 Subpart H; is technically accurate; and supports a risk-based determination that underground sources of drinking water will not be endangered by the proposed injection activity in accordance with the Safe Drinking Water Act. EPA aims to review complete Class VI applications and issue permits when appropriate within approximately 24 months. EPA is continuously working to develop staff expertise and increase capacity and has effectively deployed resources appropriated by Congress over the last five years to scale up the UIC Class VI program. EPA also has an interagency agreement with the Department of Energy that allows for several National Laboratories with deep expertise in carbon storage to contribute to capacity building activities and technical reviews. Additionally, the EPA is working with the Federal Permitting Improvement Steering Council to evaluate opportunities to enhance the timeliness and efficiency of UIC Class VI permit reviews.

EPA strongly supports efforts by states, Tribes, and territories to seek primacy for the UIC Class VI program and is committed to working with each state, Tribe and territory interested in seeking UIC Class VI primacy to ensure that UIC Class VI primacy applications are complete and meet federal requirements under the Safe Drinking Water Act and the UIC program's implementing regulations. To help streamline the process, EPA has provided example documents that states, Tribes and territories can use to support primacy application package development and employed internal checks and procedures to support timely processing of primacy applications and efficient rule development. Additionally, in November 2023, EPA announced $48.25 million in Bipartisan Infrastructure Law funding to help states and Tribes with developing and implementing new UIC Class VI programs. These BIL funds have been allocated evenly among the 25 states and Tribes that submitted letters of intent to participate in the grant program, and eligible states and Tribes have begun submitting grant applications.

2. What can applicants do from the start to best ensure that EPA will have an easier time reviewing their permit application for Class VI wells?

EPA RESPONSE: Ensuring applicants understand and address the UIC Class VI permit application requirements in 40 CFR Part 146 Subpart H and the technical complexity of UIC Class VI projects are major challenges in the timeline for permit reviews. In many cases, more detailed information is needed to enable the EPA to evaluate the application than is supplied; this necessitates requests for additional information from applicants. The EPA is working to ensure timely permit reviews and to mitigate delays caused by long applicant response times to requests for additional information and has established a practice across all EPA regional offices of requesting that the applicant respond to requests for additional information within 30 days. Applicants may request an extended timeframe to respond, with the understanding that an extension will impact the permitting decision

timeframe. To support applicants, the EPA has provided tools and resources including a regulations table listing the authorities that may be relevant to a carbon capture and storage project, a permit application outline, a permit application completeness checklist and, in coordination with the Department of Energy, a rules and tools crosswalk compendium.

3. As the administration and your own agency implement programs that incentivize carbon reductions, some of which are already in effect or come into effect in January, how can you ensure that these projects are permitted in a timely fashion?

EPA RESPONSE: The EPA appreciates your recognition of the UIC Class VI program's role in supporting utilization of carbon capture and storage to reduce carbon emissions. Please see responses to the two questions above, including discussion of EPA's use of resources provided by Congress, interagency engagement and support that EPA provides to Class VI well permit applicants.

The Honorable Frank Pallone, Jr.

1. In recognition of rising water costs and the fundamental right of all Americans to have access to safe drinking water, Congress authorized the Rural and Low-Income Water Assistance Pilot Program in IIJA. Unfortunately, the program has yet to receive funding. The assistance program will ensure that struggling families can maintain access to water services during times of financial distress and will also help safeguard the fiscal stability of our nation's water systems. To establish the pilot program, Congress also required the agency to finalize a needs study. Can you please provide an update on when this report will be finished and submitted to Congress?

EPA RESPONSE: The EPA's 2024 Water Affordability Needs Assessment Report was delivered to Congress on December 17, 2024, and is available on the EPA's website at https://www.epa.gov/waterfinancecenter/water-affordability-needs-assessment#:~:text=EPA's%202024%20Water%20Affordability%20Needs,the%20forefront%20of%20this%20research.

2. EPA recently finalized its rule on Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act, which updated the procedural framework finalized under the Trump Administration. As part of that rule, EPA removed the definition of "best available science". Please explain the rationale for removing this definition from the rule and how EPA anticipates this change will help improve implementation of TSCA.

EPA RESPONSE: TSCA requires that when EPA makes a decision based on science, they shall do so in a manner consistent with the best available science. The statute goes on to list applicable considerations when determining if the intended science (be it technical procedures, measures, methods, protocols, methodologies, or models) is consistent with the best available science. EPA fully intends to uphold this requirement under the law and has included these statutory considerations in the regulation. Including an express definition

does not provide any additional transparency or improve consistency because in every chemical risk evaluation EPA still must determine what the best available science is based on reasonably available information. TSCA also follows the Agency's Information Quality Guidelines and Scientific Integrity policies and procedures.

The definition that was added to the 2017 Risk evaluation rule included verbatim the considerations of best available science listed in TSCA section 26(h). The listed considerations do not constitute an exhaustive definition and should not be construed as one. Best available science is identified through the considerations in section 26(h). For example, section 26(h)(5) instructs the Agency to use science consistent with the best available science by considering the "extent of independent verification or peer review of the information or of the procedures, measures, methods, protocols, methodologies, or models." EPA fully agrees that these are considerations the Agency is required to consider under TSCA, as amended in the Lautenberg Act, and has incorporated them into regulation accordingly. By enumerating this list of considerations, as well as regulatory text requiring the Agency to "document that the TSCA risk evaluation is consistent with the best available science," EPA is furthering its commitment to transparency throughout the risk evaluation process.

3. The Section 40B Sustainable Aviation Fuel credit expires in December and the 45Z credit is due to take effect on January 1, 2025. It took 20 months for the Administration to release guidance on the Section 40B credit. To prevent disruption in the fuels market and make meaningful progress on our shared goals of growing the U.S. SAF market, the 45Z guidance should be released before the end of the fourth quarter of this year. What steps are you and the Administration taking to meet this timeline?

EPA RESPONSE: EPA is one of several federal agencies providing technical assistance to the U.S. Department of Treasury to support their work on the 45Z Clean Fuels Production Tax Credit. The U.S. Department of Treasury is best positioned to answer questions related to the timeline for 45Z-related work, but EPA is devoting significant time and resources to our technical support work in this area to ensure successful implementation.

4. The Clean School Bus program has been immensely popular, and consistently oversubscribed. It's clear that schools across the country are excited about participating and deploying cleaner fleets.

    a. How is EPA working with selected grant and rebate awardees to ensure timely delivery of funds, so these cleaner buses are on the roads in time for the next school year?

EPA RESPONSE: As soon as grant and rebate selections are made, EPA works closely with selectees while they put together their necessary paperwork so funds can be awarded in a timely manner. The process and timeline for the required documentation between selection and award is outlined in the response below (4b). Upon award, recipients are encouraged to distribute funds to bus manufacturers and infrastructure providers as soon as possible so original equipment manufacturers (OEMs) can plan for and prioritize Clean School Bus orders.

To ensure these new buses are on the road as soon as possible, EPA meets regularly with stakeholders, including OEMs, to learn about production cycles and what can be done to make the cycles shorter so funds can be expended more quickly. EPA also requires applicants to complete an Electric Utility Partnership Template to begin the infrastructure planning process and help prevent bus deployment delays caused by lengthy electric infrastructure upgrades. The Clean School Bus Program created a *Transition to Electric School Buses: Considerations and Resources* guide, available on our website at https://www.epa.gov/system/files/documents/2023-10/42023006.pdf to facilitate the successful purchase and timely deployment of electric school buses and charging infrastructure. Additionally, the Joint Office of Energy and Transportation provides technical assistance to school districts interested in electrifying their fleet via a partnership with the EPA. Interested stakeholders can contact that office to ask questions regarding the planning and deployment of clean school buses in their communities.

b. Please provide the Committee with an explanation of the process for selected awardees to provide additional documentation to EPA prior to final authorization, and the expected and actual timeline for awardees to receive program funds.

EPA RESPONSE: For the Clean School Bus Rebate Program, after receiving a selection letter, all selectees must submit an online Payment Request Form within six months of selection notification. That submission includes documentation of ordering the replacement school buses, charging infrastructure, and other eligible expenses as outlined in Section 3 of Rebate Program Guide. After EPA reviews all documentation, EPA will issue the rebate payment within approximately 60 days. Two years after selection, program participants need to submit their close out documentation which includes final invoices and proof of scrappage of the older buses replaced. For more information, please see the 2023 Clean School Bus Rebates Program Guide: May 2024 Update, available at https://www.epa.gov/system/files/documents/2024-05/420b24034.pdf.

For the Clean School Bus Grant Program, the time between notification of selection and award of a grant can take up to 90 days or longer, while EPA and the applicant negotiate a final workplan, timeline, and budget. The estimated project period of performance start date for awards began on April 1, 2024. The estimated project period will be up to 24 months. More information is available on our website at https://www.epa.gov/cleanschoolbus/clean-school-bus-program-grants.

<u>The Honorable Paul D. Tonko</u>

eRINs

1. Can you provide an update on the agency's deliberations on the eRINs pathway, proposed as part of the 2023 RFS Set Rule, and a timeline for the issuance of a final regulation governing the generation of eRINs?

EPA RESPONSE: Given ongoing stakeholder interest in the proposed eRIN program and the range of potential benefits that the program could provide, EPA is continuing to consider potential paths forward for the eRIN program. At this time, we do not have a timeline for further action.

Scientific Integrity

2. Under EPA's proposed update to its Scientific Integrity Policy, how do you envision the process for EPA employees to formally raise potential violations of the agency's policy?

EPA RESPONSE: EPA's policies and procedures will continue to focus on prevention by encouraging employees to identify situations early that could lead to violations and by providing for timely advice or assistance from the Scientific Integrity Official, the Deputy Scientific Integrity Officials, and immediate supervisors. Providing a way for employees to informally request advice or assistance is important to fostering a culture of scientific integrity – and can also prevent lapses in scientific integrity. If advice or assistance does not resolve the issue, an allegation may be formally filed. EPA currently provides clear guidance on how to file an allegation, and EPA will continue to provide clear guidance under the updated Scientific Integrity Policy. Current guidance on how to file an allegation is available at www.epa.gov/scientific-integrity/reporting-and-protections.

3. How do you envision appropriate coordination and division of responsibilities between the Scientific Integrity Official and the Inspector General moving forward under this updated policy?

EPA RESPONSE: The Scientific Integrity Official (SIO) will continue working with the Inspector General in accordance with policies and procedures, while also ensuring a culture of scientific integrity at EPA. In 2003, EPA released Order 3120.5, Policy and Procedures for Addressing Research Misconduct—addressing fabrication, falsification, and plagiarism. Formal allegations of fabrication and falsification of research are investigated by the Office of the Inspector General (OIG) along with fraud, waste, and abuse. Plagiarism and other scientific integrity issues are normally investigated by the SIO and Deputy SIOs.

Indoor Air Quality

4. Americans generally spend 90% of their time indoors; however, in some buildings, indoor air pollution can be 2-5 times higher than outdoors.

    a. What more can EPA do to help reduce exposure to indoor air contaminants in this important and unregulated space where we spend so much of our time?

EPA RESPONSE: EPA will continue to conduct and coordinate research on indoor air quality, develop and disseminate indoor air information and guidance to building sectors and the general public, provide financial assistance to eligible non-governmental entities to promote indoor air improvements and to states to address radon, and coordinate risk

reduction efforts at the federal, state, and local levels. EPA will continue to promote the key indoor air risk reduction strategies – source control, ventilation and air filtration/cleaning – to reduce health risks from poor indoor air quality in homes, schools, and other buildings.

b. How is the importance of EPA's work on indoor air quality reflected in the President's FY25 budget request?

EPA RESPONSE: The President's FY 2025 budget request for indoor air quality is a recognition of both the significance of this public health issue for all Americans and increased public awareness of indoor air quality as a critical need for the health and viability of communities and society. EPA will provide information, guidance, technical assistance, and financial assistance that equips industry, the health care community, the residential, school, and commercial building sectors, and the general public to take action. As technical experts working at the intersection of the built environment and health, EPA is focused on policy and guidance to improve building conditions, including for disproportionately impacted communities, to reduce indoor air risks and achieve improvements in environmental and health outcomes.

Carbon Capture and Storage

5. To what extent does EPA collect data on the amount of carbon dioxide captured at facilities operating carbon capture systems?

EPA RESPONSE: The Greenhouse Gas Reporting rule (40 CFR Part 98 Subpart PP) requires all facilities that capture a carbon dioxide stream for commercial applications or for sequestering/injecting it underground report data to EPA. A "carbon dioxide stream" is carbon dioxide that has been captured from an emission source (e.g., a power plant or other industrial facility). Subpart PP also includes direct air capture (DAC) facilities. There is no minimum capture amount. Applicable facilities report data such as flow meter measurements, the total amount of carbon dioxide captured, and the quantities transferred to various end uses. Effective January 1, 2025, subpart PP will require DAC facilities to report additional data related to energy use.

Reporting requirements under the Class VI Rule, at 40 CFR 146.91(a), specify that the Class VI owner or operator must, at a minimum, provide the UIC Program Director (of a state UIC program with primacy approval from EPA under SDWA or of an EPA direct implementation program where the state does not have primacy for the program) with semi-annual reports containing the monthly volume and/or mass of the carbon dioxide stream injected over the reporting period and the volume injected cumulatively over the life of the project.

6. To what extent is this data provided by the facility and/or a third-party verifier? And to what extent does EPA verify this data?

EPA RESPONSE: The Greenhouse Gas Reporting Program (GHGRP) requires facility representatives to report data to EPA via the electronic Greenhouse Gas Reporting Tool (e-GGRT) annually. The GHGRP covers approximately 8,000 facilities across more than 40 industrial sectors, including subpart PP (suppliers of carbon dioxide). The GHGRP has a multifaceted approach to ensuring the accuracy of data reported under the program, including: 1) clear and consistent monitoring and reporting requirements for each industry sector; 2) electronic reporting coupled with real-time user support and validations checks; and 3) a data verification system that includes electronic data checks as well as EPA correspondence with reporters to identify and correct potential errors. EPA does not require third-party verification.

7. Are there facilities capturing carbon dioxide that do not report to EPA?

EPA RESPONSE: See response to your Question 5, above. Facilities that do not meet the source category definition in 40 CFR Part 98 subpart PP would not be required to report data to EPA. For example, a facility that produces carbon dioxide on-site and then uses that carbon dioxide on site would not be covered (e.g., where the carbon dioxide is temporarily produced but then reabsorbed in a manufacturing process). Subpart PP also does not cover activities such as purification, compression, transportation or distribution of carbon dioxide.

8. To what extent does EPA collect data on the amount of carbon dioxide injected into underground storage sites?

EPA RESPONSE: The Greenhouse Gas Reporting rule (40 CFR Part 98 Subpart RR) requires all facilities with wells that inject a CO_2 stream for long-term containment in subsurface geologic formations to report data annually. Subpart RR includes, but is not limited to, UIC Class VI wells. Subpart RR requires facilities to develop and implement an EPA-approved monitoring, reporting, and verification (MRV) plan; report data such as the mass of CO_2 received for injection and the mass of CO_2 injected, produced, or leaked to the surface; report the mass of CO_2 sequestered using a mass balance approach; and report annual monitoring activities.

Carbon dioxide can be stored in association with enhanced oil recovery (EOR). Subpart RR does not cover facilities that conduct EOR unless they have chosen to submit an MRV plan and received an approved plan from EPA. Some facilities use the standard CSA/ANSI ISO 27916:19 when demonstrating carbon dioxide storage in association with EOR. In April 2024, EPA finalized new subpart VV to cover EOR facilities that use this standard. Subpart VV is effective January 1, 2025.

9. To what extent is this data provided by the storage site and/or a third-party verifier? And to what extent does EPA verify this data?

EPA RESPONSE: The Greenhouse Gas Reporting Program (GHGRP) requires facility representatives to report data to EPA via the electronic Greenhouse Gas Reporting Tool (e-GGRT) annually. The GHGRP covers approximately 8,000 facilities across more than 40

industrial sectors, including subpart RR (geologic sequestration of carbon dioxide). The GHGRP has a multifaceted approach to ensuring the accuracy of data reported under the program, including: 1) clear and consistent monitoring and reporting requirements for each industry sector; 2) electronic reporting coupled with real-time user support and validations checks; and 3) a data verification system that includes electronic data checks as well as EPA correspondence with reporters to identify and correct potential errors. EPA does not require third-party verification. However, subpart VV, which becomes effective January 1, 2025, will require any EOR facilities using the ISO 27916:19 standard to submit "any documentation provided by a qualified independent engineer or geologist, who certifies that the documentation provided is accurate and complete."

40 CFR 146.91(a) specifies that the Class VI owner or operator must provide the UIC Program Director (of the primacy state or EPA direct implementation program) with these reports and must certify that the information is accurate to the best of the owner or operator's knowledge. The UIC Program Director will evaluate the data to determine compliance with permit conditions.

10. What requirements are in place for underground storage sites to monitor and report to EPA data on the amount of carbon dioxide emitted into the atmosphere from leaks at these sites?

EPA RESPONSE: The Greenhouse Gas Reporting rule (40 CFR Part 98 Subpart RR) requires geologic sequestration facilities to develop and implement an EPA-approved monitoring, reporting, and verification (MRV) plan. The MRV plan must delineate the applicable monitoring areas, identify and characterize potential surface leakage pathways, identify strategies for detecting and quantifying surface leakage, identify a strategy for establishing baselines to monitor against, and describe site-specific considerations for variables in the mass balance equations. Facilities must annually report data such as the mass of CO_2 received for injection and the mass of CO_2 injected, produced, leaked from surface equipment and/or leaked to the surface; report the mass of CO_2 sequestered using a mass balance approach; and provide a narrative history of annual monitoring activities.

The UIC Program does not have requirements for all permittees to monitor/report the amount of carbon dioxide emitted to the atmosphere. The UIC Program Director may require surface air monitoring and/or soil gas monitoring to detect movement of carbon dioxide that could endanger an underground source of drinking water. As part of this monitoring, the Director may require 24-hour reporting of any release of carbon dioxide to the atmosphere or biosphere. 146.91(c)(5).

11. To what extent does EPA utilize monitoring, reporting, verification, and enforcement mechanisms to protect drinking water from potential contamination at Class II and Class VI wells?

EPA RESPONSE: In carrying out its responsibilities under the UIC program, including for Class II and Class VI wells, a state with an EPA-approved program for a particular well class or EPA collects monitoring data and test results from well owners or operators and conducts inspections to verify compliance with requirements of an applicable UIC program

(e.g., permit conditions or regulatory requirements). The primacy state or EPA may request information and conduct monitoring on a well-by-well basis to conduct inspections of facilities. The primacy state or EPA, respectively, evaluates this information to determine compliance and ensure that underground sources of drinking water are protected. If a well is found to be out of compliance with a requirement of an applicable UIC program, the primacy agency or EPA may take enforcement to require the owner/operator to take specific actions to address the noncompliance. The primacy agency or EPA may assist the operator in returning the well to compliance. Assistance may include discussing options or providing information to the operator. In some cases, enforcement may be appropriate to return a well to compliance. Enforcement may include administrative or judicial processes.

12. What financial and technical assistance is available from EPA for community engagement and environmental monitoring at carbon dioxide injection sites?

EPA RESPONSE: EPA has developed the UIC Class VI Data Repository, available at https://www.epa.gov/uic/class-vi-wells-used-geologic-sequestration-carbon-dioxide#CurrentProjects. The Repository is an online, public-facing library for Class VI permitting materials, such as Class VI permit applications under review at EPA, final draft permits (i.e., those that go out for public comment) and final permits issued by EPA, final Environmental Justice documents (as described in "Environmental Justice Guidance for UIC Class VI Permitting and Primacy" which is on our website at https://www.epa.gov/system/files/documents/2023-08/Memo%20and%20EJ%20Guidance%20for%20UIC%20Class%20VI_August%202023.pdf), and testing and monitoring reports. The goal of the Repository is to enhance transparency around Class VI projects.

13. To what extent is EPA collecting data on the amount of captured carbon dioxide utilized for activities other than storage?

EPA RESPONSE: The Greenhouse Gas Reporting rule (40 CFR Part 98) does not have a subpart which specifically covers "utilization" of carbon dioxide. EPA previously requested comment on whether to propose such a subpart and received nearly unanimous feedback that there was not enough information available to effectively to so.

However, subpart PP requires data reporting to EPA from all facilities that capture a carbon dioxide stream for commercial applications. A "carbon dioxide stream" is carbon dioxide that has been captured from an emission source (e.g. a power plant or other industrial facility). Subpart PP requires that facilities report the quantities of carbon dioxide transferred to various end uses, if known. These end uses include food and beverage, water/wastewater treatment, metal fabrication, greenhouses, fumigants and herbicides, pulp and paper, cleaning and solvent use, firefighting, transportation and storage of explosives, injection of carbon dioxide for enhanced oil or gas recovery, research and development, and others.

14. How does EPA work with the IRS to verify activities of entities claiming the 45Q tax credit?

EPA RESPONSE: The EPA does not implement the 45Q tax credit program and is not privy to taxpayer data. Subpart RR (geologic sequestration of carbon dioxide) data and associated monitoring, reporting, and verification plans are made publicly available on EPA's website. IRS has publicly indicated that they use EPA's publicly available data in verifying tax credit claims.

15. What changes has EPA implemented, or is planning to implement, in response to the U.S. Treasury Inspector General for Tax Administration's 2020 investigation into tax credit fraud based on discrepancies reported to EPA and the IRS?

EPA RESPONSE: The EPA does not implement the 45Q tax credit program and is not privy to taxpayer data. The EPA has no information about which facilities may have fraudulently claimed such tax credits.

16. What additional resources and/or authorities would EPA need to ensure entities that are capturing, transporting, storing, and/or utilizing carbon dioxide are providing net emissions benefits on a full lifecycle basis?

EPA RESPONSE: The Greenhouse Gas Reporting Program requires applicable facilities to submit greenhouse gas data to EPA annually. The purpose of this program is to gather information that will inform EPA policy under the Clean Air Act. This program does not directly require any emissions reductions or mitigation.

Recycling of Clean Energy Technologies

17. Please provide an update on EPA activities to improve end-of-life management of the following:

    a. Solar panels and related components.

    b. Lithium-ion batteries (and other relevant battery chemistries) and related components.

    c. Wind turbine blades.

EPA RESPONSE: EPA is in the process of developing a proposed rule and reports on the management of clean energy technologies at end-of-life. Proper management of solar panels and lithium batteries is critical in pursuing a circular economy. EPA is committed to providing the public and industry with critical information about the sustainable management of renewable energy wastes with information available on EPA's website.[9]

EPA is currently developing a proposed rule to improve the end-of-life management of solar panels. If finalized, this rule will streamline the RCRA regulations for the management of solar panels at end of life. The streamlined regulations are expected to promote the collection and recycling of solar panels and encourage the development of

[9] https://www.epa.gov/hw/improving-recycling-and-management-renewable-energy-wastes-universal-waste-regulations-solar.

municipal and commercial programs to reduce the quantity of these wastes going to municipal solid waste landfills. This proposed rule is estimated to be published in June 2025.

EPA is also in the process of developing best practices for battery collection and voluntary battery labeling guidelines, as directed by the Bipartisan Infrastructure Law. EPA will continue to host a series of working sessions to inform the development of these resources to increase battery recycling into 2025. These sessions include broader discussions associated with small format consumer electric and portable batteries, along with more focused conversations related to mid-format and large format batteries for mobility, vehicles, energy storage, and industrial uses. EPA aims to develop battery collection best practices that cover a wide array of small, medium (or mid-), and large format battery chemistries (lithium-ion, nickel-cadmium, etc.) and uses (consumer products, e-scooters, electric vehicles, industrial storage).

EPA is also currently developing a proposed rule to improve the end-of-life management of lithium-ion batteries. If finalized, this rule will improve safety standards and help reduce fires from mismanaged end-of-life lithium-ion batteries, while continuing to promote battery recycling. EPA is working on standards in line with current industry best practices to harmonize battery management across the industry. This proposed rule is estimated to be published in 2025. Additionally, in 2023, EPA published a memo clarifying how lithium-ion battery recycling is regulated under RCRA and answering frequently asked questions.[10] EPA is involved in cross-government efforts to increase collection of end-of-life batteries and improve the end-of-life management and recycling of lithium-ion batteries. EPA is coordinating with other agencies on domestic battery supply chain security as part of the Federal Consortium for Advanced Batteries (FCAB) and on safety efforts as part of the DOT PHMSA's Interagency Working Group on Lithium-Ion Battery Safety.

EPA has no current regulatory activities around wind turbine blade end-of-life management. While EPA has no reason to expect that end-of-life wind turbine blades would be regulated as hazardous waste under RCRA, EPA recognizes that they may be difficult to recycle due to the carbon fiber composition.

TSCA New Chemical Reviews

18. My Republican colleagues have been critical of EPA's progress in reviewing new chemicals. Efficient and thorough reviews that protect the health and safety of Americans are imperative for a successful new chemicals program.

    a. What steps has EPA taken to provide more efficient reviews?

    EPA RESPONSE: EPA has used the resources provided over the past three years to make real progress, including in our review of pre-manufacturing notices (PMNs). Since July 2022, the New Chemicals Program has hired over 20 new staff, and we

[10] ***Lithium Battery Recycling Regulatory Status and Frequently Asked Questions*, U.S. Environmental Protection Agency, May 24, 2023.**

have increased the pace of new chemical reviews. In FY 2023, we completed 70% more new chemicals risk assessments compared to FY 2022, and in FY 2024 we've maintained this increased pace. Also, since the beginning of FY 2023 we have cleared out 62% (282 cases) of our FY22 and older back-logged cases and 55% (148 cases) of our FY 2023 cases.

It is noteworthy that we are streamlining cases important to supporting the climate goals of the Inflation Reduction Act (IRA). Starting in January 2024, on average, those notice reviews were completed in about a third of the time as compared to other cases. We have been able to increase the speed of some of these reviews by standardizing our review approaches for some of the chemicals used in batteries for electric vehicles and semiconductors and have been advancing the science for these innovative chemistries. The resources that were provided under the IRA, including funding and additional hires, have been key to these improvements.

We have also made substantial improvements in the significant new use rule (SNUR) process. SNURs require companies that want to use a chemical in a way designated by EPA as a Significant New Use to submit notice to EPA before doing so. For a substance regulated under a consent order, the terms of the consent order typically prohibit the PMN submitter from fully distributing the regulated chemical beyond their immediate customers to downstream customers until the SNUR is finalized, so that downstream customers are not adversely impacted by the SNUR. Finalizing SNURs is important to level the playing field so that all the companies who want to make the new chemical are subject to the same requirements as the original company regulated under the consent order associated with the SNUR.

Our target is to issue a batch of proposed or final SNURs each month for at least the next six months until we've cleared the queue of SNURs for older PMNs. We will then start issuing SNURs soon after consent orders are issued as intended. Currently, the program is working on seven proposed SNUR batches covering approximately 250 chemical substances and seven final SNUR batches covering 220 chemical substances.

EPA's support for PMN submitters is also key to avoiding delays in review and maximizing our limited resources. We continue to help submitters understand information needs, processes, and requirements prior to and during the submission of pre-manufacturing notices. The New Chemicals Program has an active pre-notice program where submitters can ask questions and receive EPA feedback on their new chemical notice prior to submitting it. In FY 2024, we've received approximately 47 meeting and 454 non-meeting requests to date. Companies are assigned a program manager after submitting a notice to facilitate the notice review and serve as the primary liaison between the submitter and EPA.

EPA is also providing support to industry by implementing the use of a checklist for our engineering contractors to proactively reach out to submitters where information needs clarification. The engineering checklist addresses some of the most common missing information that EPA has identified in submissions. If any missing

information is identified, EPA can proactively notify the submitter of the issue and allow them to provide it before the Agency starts its risk assessment. This step helps to ensure timely communication and resolution of issues that may arise early in the 90-day review period and builds on EPA's 2022-2023 engineering initiative, in which the New Chemicals Program conducted a broad industry outreach campaign to reduce the frequency of late submission of key engineering-related information. These late submissions often require EPA to rework its assessments (thereby further straining necessary resources) and lengthen review times. EPA has begun including completed "rework" risk assessments when reporting monthly statistics on new chemical reviews. From January through July 2024, EPA completed 292 risk assessments, 36 of which were rework cases—representing approximately 12% of all risk assessments completed during that period.

EPA also launched the New Chemicals Division Reference Library, an index of EPA documents related to the work of the New Chemicals Division to assist industry and the public to more easily find existing resources, including guidance documents, compliance advisories, templates, manuals, and other materials. These were previously available on various webpages across the EPA website. By centralizing them in one location, the public will be able to more easily find documents, as well as identify ones they may not have been aware of.

EPA continues to make improvements in our review process, but industry also plays an important role. Industry's partnership in the process starts early in the review process, by submitting a complete and accurate notice. The new chemicals procedural rule, formally titled "Updates to New Chemicals Regulations under the Toxic Substances Control Act (TSCA)," was published in the *Federal Register* on December 18, 2024, *see* https://www.federalregister.gov/documents/2024/12/18/2024-28870/updates-to-new-chemicals-regulations-under-the-toxic-substances-control-act-tsca. The rule will help submitters by increasing the clarity of the information requirements for notices, both in the regulations and the electronic notice form. This increased transparency should reduce the frequency with which submitters need to amend their initial notice submission as well as create a more accurate initial EPA assessment with less need for rework by the New Chemical Program.

b. How do budget cuts to the Office of Chemical Safety and Pollution Prevention impact this progress and EPA's ability to review new chemicals in a timely manner?

EPA RESPONSE: The 2016 amendments to TSCA brought about a dramatic increase in EPA's workload, especially for new chemicals. Previously, EPA was free to decide when determinations (and the consequent orders) were appropriate. As a result, the Agency only made formal risk determinations for around 20 percent of new chemical submittals. The remaining 80 percent were able to go into commerce automatically when the 90-day review period the old law provided for EPA to complete its work expired. The new law requires EPA to conduct assessments and make formal risk determinations on 100 percent of PMNs before the chemicals subject to the PMNs can enter commerce.

Despite these significant new responsibilities, the program's budget stayed essentially flat for the first six years of the new law, as the previous Administration never requested any additional funding with which to implement the bipartisan new law. Although President Biden has repeatedly made such requests, EPA has not received what was requested from Congress. For example, the President's FY 2024 Budget requested an increase of $48 million dollars over our FY 2023 funding levels to meet many of the statutory deadlines in TSCA, including those within the New Chemicals Program, and instead our program area budget for EPA's TSCA program in the FY 2024 appropriation was reduced by $5 million dollars. As a contributing factor, EPA has struggled since 2016 with the new law's requirements to ensure new chemicals can be used safely and, accordingly, can quickly enter commerce.

One valuable avenue for industry engagement that we will be unlikely to re-start this fiscal year due to budget constraints is the Sustainable Futures program. Established in 2002, the Sustainable Futures program was a way for EPA to help industry write better new chemical submissions through training workshops and technical assistance. Re-starting the program, which has not held a training workshop since 2017, would require funding to hire someone whose job would be to revamp the Sustainable Futures program, building on the outreach to industry we have already been doing to help them better understand their role in the new chemical review process.

EPA has taken numerous programmatic actions to try to meet our new chemical review deadlines and has seen demonstrable improvement within the limits of the resources that have been provided. However, the budget cuts that have now been put in place will limit our ability to make further improvements. That means EPA can only maintain the current pace of reviews and other activities and cannot fully achieve Congress' intent under the law.

Full funding of the President's FY 2025 budget request would allow for hiring 14 additional new employees to support the new chemicals review process.

Full funding would also allow for continued investment in stabilizing and modernizing the EPA's IT platforms and infrastructure for managing case workflows, reducing, or eliminating system downtime. It would allow more focused review and development of standard operating procedures and science policies to support consistency and efficiency in program implementation. It would mean more time for staff training. It would result in the development of new science through a fully funded collaborative research program with EPA's Office of Research and Development. It would enable staff to increase engagement with stakeholders to improve models and assumptions that feed into our risk assessments. It would enable quicker progress towards the elimination of the backlog and review of new submissions within 90 days.

c. If provided sufficient resources, what additional actions is EPA planning to continue improving efficiency and transparency while also ensuring robust, health-protective reviews?

EPA RESPONSE: Sufficient resources will allow for continued improvements to efficiency and transparency. EPA will be able to continue critical activities under the New Chemicals Collaborative Research Program (NCCRP) including development and refinement of predictive models for physicochemical properties, environmental fate/transport, hazard, exposure, and toxicokinetics & tool development, which will help EPA to use the latest science and be more efficient. The funding is also enabling the initial steps in revamping the Sustainable Futures training program and continuing with SOP revisions in engineering, chemistry, and exposure.

Full funding would also allow for continued investment in stabilizing and modernizing the EPA's IT platforms and infrastructure for managing case workflows, reducing, or eliminating system downtime. It would allow for additional hiring and mean more time for staff training. It would result in the development of even more new science through a fully funded collaborative research program with EPA's Office of Research and Development. It would enable staff to increase engagement with stakeholders to improve models and assumptions that feed into our risk assessments. It would enable quicker progress toward the elimination of the backlog and review of new submissions within 90 days.

The Honorable Scott Peters

1. Does EPA have an understanding of the remaining abandoned, idle or orphaned oil and gas wells in their jurisdiction that need to be plugged, and how much money does EPA estimate it needs to do so?

EPA RESPONSE: EPA does not have jurisdiction over the plugging of these wells. That jurisdiction either belongs to the state, Tribe, or U.S. Department of Interior if on federal land.

2. With regard to abandoned, idle or orphaned wells under other jurisdictions – including states and other agencies – please describe EPAs coordination and/or collaboration with these entities? What increased flexibilities or funding can Congress provide to make this work easier?

EPA RESPONSE: EPA coordinates with the agencies that have jurisdiction over the lands where these wells are located, in particular to monitor methane leaks and spills.