

November 20, 2017

TO: Members, Subcommittee on the Environment

FROM: Committee Majority Staff

RE: Hearing entitled “The Mission of the U.S. Environmental Protection Agency”

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## **I. INTRODUCTION**

The Subcommittee on the Environment will hold a hearing on Thursday, December 7, 2017, at 10:00 a.m. in 2123 Rayburn House Office Building. The hearing is entitled “The Mission of the U.S. Environmental Protection Agency.” Witnesses appear by invitation only.

## **II. WITNESS**

- The Honorable E. Scott Pruitt, Administrator, U.S. Environmental Protection Agency.

## **III. BACKGROUND**

The U.S. Environmental Protection Agency (EPA) was created by a reorganization of the executive branch under the Nixon Administration.<sup>1</sup> In response to growing public concern about environmental pollution, Reorganization Plan No. 3 of 1970 proposed the establishment of EPA to integrate the administration of numerous federal pollution control laws that had been carried out by several federal agencies. This plan was part of a broader effort to reorganize an array of environmental responsibilities of many federal agencies, which also resulted in the creation of the National Oceanic and Atmospheric Administration (NOAA).<sup>2</sup> The Nixon Administration created EPA and NOAA through this reorganization with congressional approval under procedures established in the Reorganization Act of 1949, as amended.<sup>3</sup>

President Nixon determined that the consolidation of federal pollution control responsibilities under one agency was necessary to promote the “better execution” of federal laws, the “more effective” management of individual agencies and their functions, and the “efficiency of the operations of Government to the fullest extent practicable.”<sup>4</sup> The proposed plan to establish EPA under Reorganization Plan No. 3 was based largely on recommendations of the “Ash Council,” which President Nixon had formed to examine the organization of environmental responsibilities among

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<sup>1</sup> <http://www.crs.gov/Reports/RL30798?source=search>

<sup>2</sup> Reorganization Plan No. 4 addressed the establishment of NOAA.

<sup>3</sup> 5 U.S.C. §901 et seq.

<sup>4</sup> 5 U.S.C. §901(a).

federal agencies. The 91st Congress approved this plan, leading to the creation of EPA on December 2, 1970.<sup>5</sup>

Over the last forty-seven years, EPA's responsibilities have grown as Congress has enacted an increasing number of environmental laws, as well as major amendments to these statutes. Annual appropriations provide the funds necessary for EPA to carry out its responsibilities under these laws, such as the regulation and enforcement of air and water quality, use of pesticides and toxic substances, management and disposal of solid and hazardous wastes, and cleanup of environmental contamination. EPA also assesses environmental concerns and awards grants to assist state, tribal, and local governments in controlling pollution to comply with federal laws.<sup>6</sup>

Although Congress has recently renewed the authorization of appropriations for some EPA programs and activities through targeted amendments to various statutes, a more comprehensive reauthorization of many of the statutes that EPA administers has not been enacted for several years. Even though the authorization of appropriations may expire, program authority (often referred to as an agency's "enabling" authority) does not expire unless there is a "sunset" date for the program authority itself. If the authorization of appropriations for a specific program or activity has expired, Congress still may provide funding through the annual appropriations process to continue that program or activity.

Today, EPA's stated mission is "to protect human health and the environment."<sup>7</sup> EPA expresses its "purpose" as: protecting all Americans from significant risks to human health and the environment where they live, learn and work; basing national efforts to reduce environmental risk on the best available scientific information; fairly and effectively enforcing federal laws protecting human health and the environment; ensuring environmental protection is an integral consideration in U.S. policies concerning natural resources, human health, economic growth, energy, transportation, agriculture, industry, and international trade, and these factors are similarly considered in establishing environmental policy.<sup>8</sup> EPA also considers its purpose to give all parts of society – communities, individuals, businesses, and state, local and tribal governments – access to accurate information sufficient to effectively participate in managing human health and environmental risks; have environmental protection contribute to making our communities and ecosystems diverse, sustainable, and economically productive; and maintain United States leadership in working with other nations to protect the global environment.<sup>9</sup>

#### Laws Implemented by EPA under the Jurisdiction of the Committee on Energy and Commerce

The following are among the EPA administered laws within the jurisdiction of the Committee on Energy and Commerce:

- **Clean Air Act.** The Clean Air Act (CAA) is the principal statute addressing air quality concerns. The CAA requires EPA to set health-based standards for ambient air quality, sets

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<sup>5</sup> Approval of executive branch reorganization plans under the Reorganization Act of 1949, as amended, is subject to congressional approval through a resolution process outlined at 5 U.S.C. §906.

<sup>6</sup> Op. Cit.

<sup>7</sup> <https://www.epa.gov/aboutepa/our-mission-and-what-we-do>.

<sup>8</sup> Id.

<sup>9</sup> Id.

deadlines for the achievement of those standards by state and local governments, and requires EPA to set national emission standards for large or ubiquitous sources of air pollution, including motor vehicles, power plants, and other industrial sources. In addition, the CAA mandates emission controls for sources of 187 hazardous air pollutants, establishes a cap-and-trade program to limit acid rain, requires the prevention of significant deterioration of air quality in areas with clean air, requires a program to restore visibility impaired by regional haze in national parks and wilderness areas, and implements the Montreal Protocol to phase out most ozone-depleting chemicals, and addresses accidental releases to air of extremely hazardous substances.

- **Safe Drinking Water Act.** The Safe Drinking Water Act (SDWA) is the primary federal law for protecting public water supplies from harmful contaminants. The SDWA is administered through programs that establish standards and treatment requirements for public water supplies, promote compliance capacity of public water systems, provide technical assistance to small water systems, control the underground injection of fluids, finance infrastructure projects, and protect sources of drinking water. The SDWA also authorizes the EPA to capitalize state revolving loan funds, which help bring about SDWA compliance.
- **Comprehensive Environmental Response, Compensation, and Liability Act.** The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authorizes cleanup and enforcement actions to respond to actual or threatened releases of hazardous substances into the environment, but generally excludes releases of petroleum and certain other materials covered by other federal laws. CERCLA directs EPA to maintain a National Priorities List (NPL) to identify the most hazardous sites for the purpose of prioritizing cleanup actions. The states and the public may participate in federal cleanup decisions at NPL sites. The states are primarily responsible for pursuing the cleanup of sites not listed on the NPL, with the federal role at these sites limited mainly to addressing emergencies.

CERCLA established a broad liability scheme that holds past and current owners and operators of facilities from which a release occurs financially responsible for cleanup costs, natural resource damages, and the costs of federal public health studies. At waste disposal sites, generators of the wastes and transporters of the wastes who selected the site for disposal also are liable under CERCLA. The liability of these “potentially responsible parties” (PRPs) has been interpreted by the courts to be strict, joint and several, and retroactive. At contaminated federal facilities, federal agencies are subject to liability under CERCLA as the owners and operators of those facilities on behalf of the United States. Federal agencies also may be liable if an agency generated or transported waste for disposal at a non-federal facility.

- **Solid Waste Disposal Act.** The Solid Waste Disposal Act (SWDA), also known as the Resource Conservation and Recovery Act of 1976 (RCRA), authorizes EPA to set standards for facilities that generate or manage hazardous waste, establishes a permit program for hazardous waste treatment, storage, and disposal facilities, and authorizes EPA to set criteria for disposal facilities that accept municipal solid waste. The SWDA also establishes regulation of hazardous materials in underground storage tanks and disposal of medical waste.
- **Emergency Planning and Community Right-to-Know Act.** Emergency Planning and Community Right-to-Know Act (EPCRA) established a national framework for the EPA to

mobilize local government officials, businesses, and other citizens to plan for and respond to chemical accidents in their communities through State Emergency Response Commission (SERC) and local emergency planning committees (LEPCs). EPCRA also directs covered facilities to submit information about the chemicals at those facilities to the LEPC, SERC, and local fire department and to provide estimates to EPA on releases from their facilities of certain toxic chemicals to the land, air, or water.

- **Pollution Prevention Act of 1990.** The Pollution Prevention Act of 1990 requires the EPA to establish an Office of Pollution Prevention, develop and coordinate a pollution prevention strategy, and develop source reduction models. The act requires owners and operators of manufacturing facilities to report annually on source reduction and recycling activities, and authorizes EPA to collect data collection on pollution prevention.
- **Toxic Substances Control Act.** The Toxic Substances Control Act (TSCA) authorizes EPA to perform risk evaluations on existing and new chemicals used in U.S. manufacturing and commerce to identify products or uses that should be subject to federal control. Both naturally occurring and synthetic chemicals are subject to TSCA, except for chemicals regulated under other federal laws concerning food, drugs, cosmetics, firearms, ammunition, pesticides, tobacco, or mixtures. EPA may require manufacturers and processors of chemicals to conduct and report the results of tests to determine the effects of chemicals on living things. Based on test results and other information, EPA must regulate the manufacturing, importation, processing, distribution, use, and/or disposal of any chemical that presents an unreasonable risk of injury to human health or the environment, including to an identified vulnerable subpopulation. A variety of regulatory tools is available to EPA under TSCA ranging in severity from a total ban on production, import, and use to a requirement that a product bears a warning label at the point of sale.

#### IV. ISSUES

The following issues may be examined at the hearing:

- What is Administrator Pruitt's vision for the "Back to Basics" initiative at EPA and what steps has he taken to realign EPA towards it?
- What goals is the Administrator setting for individual programs and what metrics are being used to measure progress or success of an office or program? Will EPA's multi-year strategic plan include them?
- Has Administrator Pruitt identified priority areas where statutory changes are necessary to ensure EPA can accomplish its core mission?

#### V. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Jerry Couri, Tina Richards, or Mary Martin of the Committee staff at (202) 225-2927.