

ENVIRONMENTAL PROTECTION AGENCY

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MISSION STATEMENT

Creating a better environmental tomorrow with clean air, safe water, healthy soil, and thriving communities.

A conservative U.S. Environmental Protection Agency (EPA) will take a more supportive role toward local and state efforts, building them up so that they may lead in a meaningful fashion. This will include the sharing of federal resources and agency expertise. Creating environmental standards from the ground up is consistent with the concept of cooperative federalism embedded within many of the agency's authorizing statutes and will create earnest relationships among local officials and regulated stakeholders. This in turn will promote a culture of compliance.

A conservative EPA will track success by measured progress as opposed to the current perpetual process and will convey this progress to the public in clear, concise terms. True transparency will be a defining characteristic of a conservative EPA. This will be reflected in all agency work, including the establishment of open-source science, to build not only transparency and awareness among the public, but also trust.

The challenge of creating a conservative EPA will be to balance justified skepticism toward an agency that has long been amenable to being coopted by the Left for political ends against the need to implement the agency's true function: protecting public health and the environment in cooperation with states. Further, the EPA needs to be realigned away from attempts to make it an all-powerful energy and land use policymaker and returned to its congressionally sanctioned role as environmental regulator.

OVERVIEW

The Status Quo. Not surprisingly, the EPA under the Biden Administration has returned to the same top-down, coercive approach that defined the Obama Administration. There has been a reinstatement of unachievable standards designed to aid in the “transition” away from politically disfavored industries and technologies and toward the Biden Administration’s preferred alternatives. This approach is most obvious in the Biden Administration’s assault on the energy sector as the Administration uses its regulatory might to make coal, oil, and natural gas operations very expensive and increasingly inaccessible while forcing the economy to build out and rely on unreliable renewables.¹ This approach has also been applied to pesticides and chemicals as the Biden Administration pushes the “greening” of agriculture and manufacturing among other industrial activities.

As a consequence of this approach, we see the return of costly, job-killing regulations that serve to depress the economy and grow the bureaucracy but do little to address, much less resolve, complex environmental problems. In some instances, these actions even work to undermine environmental efforts as they push industries overseas to countries whose enforcement of pollution-control requirements is seriously deficient—if indeed they have any meaningful requirements at all. Meanwhile, agency costs and staffing have increased significantly. The EPA’s fiscal year (FY) 2023 request included a 28.8 percent increase in funding and a 13.3 percent increase in staffing, making it the “highest funding ever” in EPA’s history.²

Compared to the Obama Administration, there is one key difference in the Biden Administration’s approach: In a concerted effort to diminish congressional oversight, the position of EPA Administrator has been overshadowed by the creation of multiple “Climate Czars” at the Biden White House. In effect, current EPA Administrator Michael Regan, who has a reputation as a well-meaning, generally capable former state official, has been left out of the political loop, serving mostly as a pleasant distraction from EPA’s expansive, costly, and economy-destroying agenda.

A Coopted Mission. The EPA has been a breeding ground for expansion of the federal government’s influence and control across the economy. Embedded activists have sought to evade legal restraints in pursuit of a global, climate-themed agenda, aiming to achieve that agenda by implementing costly policies that otherwise have failed to gain the requisite political traction in Congress. Many EPA actions in liberal Administrations have simply ignored the will of Congress, aligning instead with the goals and wants of politically connected activists.

Pursuit of this globally focused agenda has distracted the agency from fulfilling its core mission, thereby creating a backlog of missed statutory deadlines,³ and at times has even led to preventable environmental disasters. During the Obama Administration, for example, the U.S. experienced two of the worst environmental

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disasters in decades, including the Flint, Michigan, water crisis in 2014⁴ and the Gold King Mine spill in 2015.⁵

Beyond creating such immediate and tangible harm in various communities, an EPA led by activism and a disregard for the law has generated uncertainty in the regulated community, vendetta-driven⁶ enforcement, weighted analytics, increased costs, and diminished trust in final agency actions. Although the U.S. environmental story is very positive, there has been a return to fear-based rhetoric within the agency, especially as it pertains to the perceived threat of climate change. Mischaracterizing the state of our environment generally and the actual harms reasonably attributable to climate change specifically is a favored tool that the Left uses to scare the American public into accepting their ineffective, liberty-crushing regulations, diminished private property rights, and exorbitant costs. In effect, the Biden EPA has once again presented a false choice to the American people: that they have to choose between a healthy environment and a strong, growing economy.

Historical Role and Purpose. For many decades, rapid industrial activity with an unorganized approach to environmental standards significantly degraded the country's environment. Particle pollution in the form of a thick, fog-like haze that at times was laced with harmful metals was a frequent occurrence across the country.⁷ More than 40 percent of communities failed to meet basic water quality standards, and in 1969, the Cuyahoga River infamously caught fire after sparks from a passing train ignited debris in the water, which was filled with heavy industrial waste.⁸

EPA was established on December 2, 1970, following a call by President Richard Nixon to “rationally and systematically” organize existing piecemeal efforts to clean up and protect the environment.⁹ Under Reorganization Plan No. 3, the EPA was to initiate a “coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food.”¹⁰ Numerous authorities were consolidated and given to the EPA including research, monitoring, standard-setting, and enforcement activities. The mission to protect public health and the environment was born, and the first Administrator was sworn in on December 4, 1970.

Congress followed suit with the landmark Clean Air Act of 1970 (CAA)¹¹ and the Federal Water Pollution Control Act of 1972.¹² The subsequent Clean Air Act Amendments of 1990¹³ played a significant role in the expansion of EPA's responsibilities and legal authority with the agency then being tasked with the development of new regulatory mechanisms that included, among other things, cap-and-trade programs for the control of sulfur dioxide and technological standards for nitrogen oxide emissions from coal-fired power plants, a vastly expanded hazardous air pollutant program, a federal operating permit program, and new regulations governing phaseout of the production of ozone-depleting substances in conjunction with U.S. ratification of the Montreal Protocol in 1988.¹⁴

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Subsequently, especially during the Obama Administration, EPA experienced massive growth as it was used to pursue far-reaching political goals to the point where its current activities and staffing levels far exceeded its congressional mandates and purpose. This expansive status is entirely unnecessary: It has nothing to do with improving either the environment or public health. The EPA's initial success was driven by clear mandates, a streamlined structure, recognition of the states' prominent role, and built-in accountability. Fulfilling the agency's mission in a manner consistent with a limited-government approach proved to be extremely effective during the agency's infancy.

Back to Basics. EPA's structure and mission should be greatly circumscribed to reflect the principles of cooperative federalism and limited government. This will require significant restructuring and streamlining of the agency to reflect the following:

- **State Leadership.** EPA should build earnest relationships with state and local officials and assume a more supportive role by sharing resources and expertise, recognizing that the primary role in making choices about the environment belongs to the people who live in it.
- **Accountable Progress.** Regulatory efforts should focus on addressing tangible environmental problems with practical, cost-beneficial, affordable solutions to clean up the air, water, and soil, and the results should be measured and tracked by simple metrics that are available to the public.
- **Streamlined Process.** Duplicative, wasteful, or superfluous programs that do not tangibly support the agency's mission should be eliminated, and a structured management program should be designed to assist state and local governments in protecting public health and the environment.
- **Healthy, Thriving Communities.** EPA should consider and reduce as much as possible the economic costs of its actions on local communities to help them thrive and prosper.
- **Compliance Before Enforcement.** EPA should foster cooperative relationships with the regulated community, especially small businesses, that encourage compliance over enforcement.
- **Transparent Science and Regulatory Analysis.** EPA should make public and take comment on all scientific studies and analyses that support regulatory decision-making.

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ADMINISTRATOR'S OFFICE AND REORGANIZATION RESPONSIBILITY

The Office of the Administrator (AO) is intended to provide executive and logistical support for the EPA Administrator. Its stated purpose is to support EPA leadership and activities. To implement policies that are consistent with a conservative EPA, the agency will have to undergo a major reorganization. The Deputy Chief of Staff for Policy position within the Administrator's office should be renamed the Deputy Chief of Staff for Regulatory Improvement. This position would oversee a reorganization effort that includes the following actions:

- Returning the environmental justice function to the AO, eliminating the stand-alone Office of Environmental Justice and External Civil Rights.
- Returning the enforcement and compliance function to the media offices (air, water, land, and emergency management, etc.) and eliminating the stand-alone Office of Enforcement and Compliance Assistance, which has created a mismatch between standard-setting and implementation.
- Using enforcement to ensure compliance, not to achieve extrastatutory objectives.
- Developing a plan for relocating regional offices so that they are more accessible to the areas they serve and deliver cost savings to the American people.
- Restructuring the Office of International and Tribal Affairs into the American Indian Environmental Office and returning the international liaison function to media offices where appropriate.
- Eliminating the Office of Public Engagement and Environmental Education as a stand-alone entity and reabsorbing substantive elements into the Office of Public Affairs.
- Relocating the Office of Children's Health Protection and the Office of Small and Disadvantaged Business Utilization from the AO and reabsorbing those functions within the media offices (air, water, land, and emergency management, etc.).
- Reviewing the grants program to ensure that taxpayer funds go to organizations focused on tangible environmental improvements free from political affiliation.

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- Resetting science advisory boards to expand opportunities for a diversity of scientific viewpoints free of potential conflicts of interest.
- Restoring the guidance portal to ensure that regulatory and subregulatory standards are clear to affected entities.
- Working with Assistant Administrators to implement major reforms in media offices.

Day One Executive Order. To initiate the review and reorganization, a Day One executive order should be drafted for the incoming President with explicit language requiring reconsideration of the agency’s structure with reference to fulfilling its mission to create a better environmental tomorrow with clean air, safe water, healthy soil, and thriving communities. The order should set up “pause and review” teams to assess the following:

- **Major Rules and Guidance Materials.** Identify existing rules to be stayed and repropose and initiate rule development in appropriate media offices.
- **Pending Petitions.** Grant new petitions for rule reconsideration and stays of rules.
- **Grants.** Stop all grants to advocacy groups and review which potential federal investments will lead to tangible environmental improvements.
- **Legal Settlements.** Reassess any “sue and settle” cases and develop a new policy to establish standard review and oversight, including public notification and participation.
- **Employee Review.** Determine the opportunity to downsize by terminating the newest hires in low-value programs and identify relocation opportunities for Senior Executive Service (SES) positions.
- **Budget Review.** Develop a tiered-down approach to cut costs, reduce the number of full-time equivalent (FTE) positions, and eliminate duplicative programs. EPA should not conduct any ongoing or planned activity for which there is not clear and current congressional authorization, and it should communicate this shift in the President’s first budget request.
- **Risk Management Policy.** Revise guidance documents that control regulations such as the social cost of carbon; discount rates; timing of

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regulatory review (before options are selected); causality of health effects; low-dose risk estimation (linear no-threshold analysis); and employment loss analysis.

Personnel

The majority of the political appointee team must be assembled, vetted, and ready to deploy before Day One. To the extent provided by the Federal Vacancies Reform Act,¹⁵ appointees in consideration for Senate-confirmed positions (excluding the Administrator) should be prepared to serve as a Deputy or Principal Deputy to get into the agency on Day One while their nomination and affiliated confirmation processes proceeds. In addition to a deputy slated for the Assistant Administrator role, each office will need a political chief of staff, senior advisers designated to run suboffices, and energized assistants. Teams should be balanced with technical knowledge, legal expertise, and political exposure. Ideally, they should also be geographically diverse. Appointee positions should also extend to all the regional offices and specialty labs.

OFFICE OF AIR AND RADIATION (OAR)

OAR develops national programs, policies, and regulations to control air pollution and radiation exposure. In recent decades, OAR and its statutory responsibilities under the Clean Air Act have been reimaged in an attempt to expand the reach of the federal government. The U.S. Supreme Court has stopped and stricken several actions from OAR under liberal Administrations, citing a lack of requisite legal support. A reformed OAR should focus on EPA's mission of limiting and minimizing criteria and hazardous air pollutants in partnership with the states.

Cross-Cutting Reforms. OAR consists of four suboffices with two located in Washington, D.C.; one in Ann Arbor, Michigan; and one at Research Triangle Park in Raleigh, North Carolina. The following reforms should be implemented across all OAR offices:

- Issue a rule to ensure consistent and transparent consideration of costs.
- When doing cost-benefit analysis, use appropriate discount rates, focus on the benefits of reducing the pollutant targeted by Congress, identify “co-benefits” separately, and acknowledge the uncertainties involved in quantifying benefits.
- Review and revise Reasonably Available Control Technology (RACT) cost guidance to ensure that calculations are accurate and reflect the actual regulatory burden, including costs of air rules implementation and compliance.

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- Obey Congress’s direction in CAA § 321¹⁶ to “conduct continuing evaluations” of the employment and plant-closure effects of air regulations.
- Ensure that all provisions of CAA § 307(d)¹⁷ are observed. Congress placed special constraints on air rules, and that intent should be respected.
- To the extent that the Inflation Reduction Act (IRA)¹⁸ remains in place, ensure to the maximum extent possible that grants and funding are provided to state regulatory entities and not to nonprofits.
- Remove any regulations or requirements that confer on third parties any authorities that have been provided to EPA, such as the oil and gas supplemental, which created a Super-Emitter Response Program that allows third parties to act as EPA enforcers.

Policy-Specific Actions

National Ambient Air Quality Standards (NAAQS)

- EPA adopted by regulation a goal of restoring natural visibility by 2064. The statute does not require this, and EPA should consider whether a longer timeline is less disruptive or more realistic. Regional haze rules should be revised to prevent subsequent “planning periods” from being abused to compel the shutdown of disfavored facilities.
- Under the Good Neighbor Program/Interstate pollutant transport program, review Biden-era regulations to ensure that they do not “overcontrol” upwind states in violation of the statute as construed by the U.S. Supreme Court. Reverse the program’s 2022 expansion beyond power plants.
- Putting guardrails on downwind states is an abuse of the CAA § 126(b)¹⁹ petition process. EPA must ensure, in keeping with statutory text, that petitions identify a reasonably discrete “group” of upwind sources alleged to violate the good neighbor provision.
- Ensure that the Clean Air Scientific Advisory Committee (CASAC) considers all of the statutorily charged factors (for example, social and economic effects resulting from NAAQS attainment and maintenance strategies).
- Ensure that the requirements EPA puts on a state that has achieved attainment status from nonattainment status are limited to those that

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are statutorily required, and remove any regulatory differences between attainment and maintenance that are not explicitly required by law.

- Streamline the process for state and local governments to demonstrate that their federally funded highway projects will not interfere with NAAQS attainment.
- Adopt policies to prevent abuse of EPA’s CAA “error correction” authority.²⁰ EPA historically has used this to coerce states into adopting its favored policies on pain of imposition of a Federal Implementation Plan (FIP).
- Limit EPA’s reliance on CAA § 301²¹ general rulemaking authority to ensure that it is not abused to issue regulations for which EPA lacks substantive authority elsewhere in the statute.
- If possible, return the standard-setting role to Congress.

Climate Change

- Remove the Greenhouse Gas Reporting Program (GHGRP) for any source category that is not currently being regulated. The overall reporting program imposes significant burdens on small businesses and companies that are not being regulated. This is either a pointless burden or a sword-of-Damocles threat of future regulation, neither of which is appropriate.
- Establish a system, with an appropriate deadline, to update the 2009 endangerment finding.
- Establish a significant emissions rate (SER) for greenhouse gasses (GHGs).

Regulating Hydrofluorocarbons (HFCs) Under the American Innovation and Manufacturing (AIM) Act²²

- Repeal Biden Administration implementing regulations for the AIM Act that are unnecessarily stringent and costly.
- Refrain from granting petitions from opportunistic manufacturers to add new restrictions that further skew the market toward costlier refrigerants and equipment.

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- Conduct realistic cost assessments that reflect actual consumer experiences instead of the current unrealistic ones claiming that the program is virtually cost-free.

Mobile Source Regulation by the Office of Transportation and Air Quality

- Establish GHG car standards under Department of Transportation (DOT) leadership that properly consider cost, choice, safety, and national security.
- Review the existing “ramp rate” for car standards to ensure that it is actually achievable.
- Include life cycle emissions of electric vehicles and consider all of their environmental impacts.
- Restore the position that California’s waiver applies only to California-specific issues like ground-level ozone, not global climate issues.
- Ensure that other states can adopt California’s standards only for traditional/criteria pollutants, not greenhouse gases.
- Stop the use of the International Civil Aviation Organization (ICAO) to increase standards on airplanes.
- Reconsider the Cleaner Trucks Initiative to balance the goal of driving down emissions without creating significant costs or complex burdens on the industry.

Air Permitting Reforms for New Source Review (Pre-Construction Permits) and Title V (Operating Permits)

- Develop reforms to ensure that when a facility improves efficiency within its production process, new permitting requirements are not triggered.
- Restore the Trump EPA position on Once-In, Always-In (that major sources can convert to area sources when affiliated emissions standards are met).
- Revisit permitting and enforcement assumptions that sources will operate 24 hours a day, 365 days a year; this artificially inflates a source’s potential to emit (PTE), which can result in more stringent permit terms.

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- Defend the position that petitions to object to Title V should not be used to second-guess previous state decisions.
- Clarify the relationship between New Source Review and Title V to ensure that Title V is used only as intended by Congress.

CAA Section 111²³

- Restore the position that EPA cannot regulate a new pollutant from an already regulated source category without making predicate findings for that new pollutant.
- Institute automatic withdrawal of any proposed rule that is not finalized within the statutorily prescribed one-year period.
- Revise general implementing regulations for existing source regulatory authority under CAA § 111(d)²⁴ to ensure that EPA gives full meaning to Congress's direction, including source-specific application, and that the state planning program is flexible, federalist, and deferential to the states.

CAA Section 112 (Hazardous Air Pollutants)²⁵

- Unregulated point or non-point source (fugitive emissions) of an already regulated hazardous air pollutant do not require a Maximum Available Control Technology (MACT) standard.
- Ensure that Section 112 regulations are harmonized with Section 111 regulations that apply to the same sector/sources.
- Ensure that cost-benefit analysis is focused on a regulation's targeted pollutant and separately identify ancillary or co-benefits.

Radiation

- Assess and update the agency's radiation standards so that they align with those of other agencies, including the Nuclear Regulatory Commission, Department of Energy, and Department of Transportation, as well as international standards.
- Level-set past, misleading statements regarding radiological risk and reassess the Linear Non-Threshold standard.

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Personnel, Budget, and Office Restructuring

- Place a political appointee in Ann Arbor, Michigan, for the Office of Transportation and Air Quality (OTAQ, regulating mobile sources) and a political appointee in Research Triangle Park, North Carolina, for the Office of Air Quality Planning and Standards (OAQPS, regulating stationary sources) and give those appointees the requisite titles and authority to oversee the OTAQ and OAQPS staff.
- Establish a political Chief of Staff in D.C. to manage the entire air office.
- Pull the Renewable Fuel Standard (RFS) program out of OTAQ; establish its own suboffice in D.C. (with status parallel to OTAQ and OAQPS) that is headed by a political appointee; and establish a Memorandum of Understanding with the Department of Agriculture and the Department of Energy to work together to establish RFS programs.
- Require regional air offices to receive approval from OAR before moving forward with enforcement actions in order to ensure that enforcement is meeting the requirements established by regulations and is not going beyond them.

OFFICE OF WATER (OW)

OW is responsible for ensuring safe drinking water and restoring and maintaining oceans, watersheds, and their aquatic ecosystems to protect human health, support economic and recreational activities, and provide healthy habitats for fish, plants, and wildlife. Its two main statutes include implementing the Clean Water Act (CWA)²⁶ and Safe Drinking Water Act (SDWA).²⁷ OW has generated a large number of expansive regulations that infringe on private property rights, most notably with the Waters of the U.S. program.

Needed Reforms

The overarching theme for reform is guidance on guidance. OW relies heavily on guidance documents that are outdated and that sometimes have been in a “deliberative” state for years. Additionally, there are significant issues surrounding OW’s holding up guidance as something more than simply guidance: as something akin to law in certain circumstances. The August 6, 2019, “Office of Water Policy for Draft Documents” memorandum²⁸ should be strictly enforced to ensure transparency as well as good governance by not letting guidance linger in draft form and by also ensuring that guidance documents are clearly just that: guidance. They do not have the effect of law and should not be treated by the office as if they did have any such effect.

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As a matter of broad practice, OW should be complying with statutorily established deadlines in all situations with only minimal exceptions. In cases where statutory deadlines will not be met, senior management should be made aware of the delay and should have an opportunity to determine whether alternative courses should be taken.

Depending on the outcome of regulations from the Biden Administration as well as intervention by the Supreme Court on both waters of the United States (WOTUS) and CWA Section 401,²⁹ the repeal and reissuance of new regulations should be pursued.

New Policies

New regulations should include the following:

- A WOTUS rule that makes clear what is and is not a “navigable water” and respects private property rights. Coordinate with Congress to develop legislation, if necessary, to codify the definition in *Rapanos v. United States* that “waters of the United States” can refer only to “relatively permanent, standing or continuously flowing bodies of water...as opposed to ordinarily dry channels through which water occasionally or intermittently flows.”³⁰
- A rule that provides clarity and regulatory certainty regarding the CWA Section 401 water quality certification process to limit unnecessary delay for needed projects, including by establishing a discharge-only approach with a limited scope (from point sources into navigable waters), assessing only water quality factors that are consistent with specific CWA sections, and excluding speculative analysis regarding future potential harm.
- A rule to ensure that CWA Section 308³¹ has a clear and enforced time limit.
- A rule to clarify the standard for criminal negligence under CWA Sections 402³² and 404.³³
- A rule to prohibit retroactive or preemptive permits under CWA Section 404.
- A rule to promote and shape nutrient trading that utilizes a carrot-versus-stick approach when dealing with nutrient compliance.
- A rule to update compensatory mitigation that imposes no new or additional requirements beyond current law.
- A rule on updates necessary for the effective use of the CWA needs survey.

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- An executive order requiring EPA to find avenues and expedite the process for states obtaining primacy in available CWA and SDWA programs. This order would require coordination with the Army Corps of Engineers and the Department of the Interior.
- Implementation of additional policies to address challenges in water workforce, issues surrounding timely actions on primacy applications, and cybersecurity.

Budget

While the overall goal is certainly to reduce government spending, there is one very targeted area where increased spending would be in the nation's interest. The Clean Water Act needs survey is the entire basis for how congressionally appropriated funds directed to state revolving funds—standard annual appropriations that are the true underpinning of all infrastructure funding for drinking water and clean water—are distributed by EPA across the country. Because this program is currently underfunded, money is being thrown at untargeted locations while water infrastructure is crumbling at other locations. Increased targeted funding would greatly benefit water systems across the country at a time when intervention is crucial, leaving fewer communities with significant water service challenges.

Personnel

OW would benefit greatly from the reshifting of SES employees to different programs and from headquarters out to regional offices.

OFFICE OF LAND AND EMERGENCY MANAGEMENT (OLEM)

OLEM's mission is to partner with other federal agencies, states, tribes, local governments, and communities to clean up legacy pollution and revitalize land for reuse. OLEM executes this mission by protecting human health and the environment while leveraging economic opportunities and creating jobs. OLEM also oversees the agency's emergency response. The main statutes that OLEM executes are the Resource Conservation and Recovery Act (RCRA)³⁴ to regulate waste management; the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)³⁵ to clean up Superfund sites and provide resources for cleaning up brownfields sites; and Section 112(r) of the Clean Air Act³⁶ to reduce the likelihood of accidental chemical releases.

Needed Reforms

OLEM's main function is to oversee the execution of cleanups under CERCLA and RCRA; therefore, it is critical that OLEM staff focus on project management more than policy creation. Emphasizing productivity more than process and policies

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can result in more work on the ground in communities where Americans live and work. OLEM can accomplish this goal by determining the scope of work based on an actual reduction in exposure to chemicals as opposed to the elimination of theoretical potential exposures. To manage cleanups more effectively, OLEM should:

- Require training in project management for project managers (as opposed to all staff having a general science background).
- Adopt EPA's Lean Management System (ELMS) across all OLEM programs.
- Delegate all CERCLA authority from the Administrator to the OLEM Assistant Administrator as opposed to a direct delegation to the Regional Administrators.
- Find opportunities to transfer work and funding to states and tribes.

New Policies

Superfund. To execute more efficient and effective cleanups, the following changes are needed in the Office of Superfund Remediation and Technology Innovation (OSRTI):

- Revise the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) to modernize and streamline the cleanup process using lessons learned from the execution of the NCP over the past 40-plus years.
- Increase the use of CERCLA removal authority to execute short-term cleanups, which will provide clarity and finality for potentially responsible parties (PRPs) and return cleaned up land to communities more swiftly.
- Streamline the process for determining Applicable or Relevant and Appropriate Requirements based on commonalities across sites as opposed to making such determinations on a site-by-site basis.
- Revise groundwater cleanup regulations and policies to reflect the challenges of omnipresent contaminants like PFAS.
- Revisit the designation of PFAS chemicals as "hazardous substances" under CERCLA.
- Allow PRPs to perform the statutorily required five-year reviews of Superfund cleanups to free OLEM resources.

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- Expand and fully stand up the Office of Mountains, Deserts and Plains to support innovative approaches to the cleaning up of abandoned mines.
- Develop and execute a 10-year cleanup plan to address lead at all existing cleanup sites that includes benchmarks and milestones that allow for congressional and public oversight of the schedule.

RCRA. To streamline waste management, the following changes are needed in the Office of Resource Conservation and Recovery (ORCR):

- Create an RCRA post-closure care permit that is tailored only to post-closure obligations.
- Modify regulations that impede resource efficiency, recycling, and reuse by providing clearly that these materials are not waste. This can be done by promulgating a rule that provides an alternative pathway to hazardous waste regulation to allow the transport of material to legitimate recyclers or back to manufacturers to support the recycling and reuse of material.
- Change the electronic manifest (e-manifest) regulations to a 100 percent electronic system and eliminate all paper manifests and manual filing and data input. This system should operate from a range of common handheld devices and could be expanded to accommodate solid waste and materials for reuse and recycling.
- Reassign regulation and enforcement of air emission standards under the authority of RCRA Section 3004³⁷ to OAR and revise and modernize the regulations to comport and integrate with CAA rules.

Risk Management Program. If a new Risk Management Program (RMP) rule is finalized by the Biden Administration, it should be revised to reflect the amendments finalized in 2019 to protect sensitive information.

Personnel

The following organizational changes could create resource efficiencies to focus on the highest-value opportunities:

- Eliminate or consolidate the regional laboratories and allow OLEM to use EPA, other government, or private labs based on expertise and cost.

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- Consolidate non-core functions (communications, economists, congressional relations, etc.) into one OLEM suboffice to allow the subject-matter offices to focus on the execution of field work.
- Eliminate the Office of Emergency Management and reassign its functions.
 1. Move the emergency management function (currently OEM) into Homeland Security under the Administrator's office.
 2. Incorporate removal authority (currently OEM) into OSRTI.
 3. Retain the oversight and enforcement of the RMP program within OLEM.
 4. Drop "Emergency Management" from OLEM's name.

Budget

While the overall goal is certainly to reduce government scope and spending, OLEM's programs present the best opportunity to use taxpayer dollars to execute EPA's core mission of cleaning up contamination.

OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION (OCSPP)

OCSPP primarily oversees the regulation of new and existing chemicals under the Toxic Substances Control Act (TSCA)³⁸ and the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)³⁹ and Federal Food, Drug, and Cosmetic Act (FFDCA).⁴⁰ These activities are managed in two separate offices within OCSPP: the Office of Pollution Prevention and Toxics (OPPT, chemicals) and Office of Pesticide Programs (OPP, pesticides). OCSPP is constantly pressured to ban the use of certain chemicals, typically based on fear as a result of mischaracterized or incomplete science.

Needed Reforms and New Policy in OPPT (Chemicals)

- Ensure that decision-making is risk-based rather than defaulting to precautionary, hazard-based approaches like the Integrated Risk Information System (IRIS).
- Focus the scope of chemical evaluations on pathways of exposure that are *not* covered by other program offices and other environmental statutes, and eliminate scope creep to ensure that evaluations can be completed in a timely manner consistent with the statutory requirements.

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- Ensure that new chemical evaluations are conducted in a timely manner, consistent with statutory requirements, to ensure the competitiveness of U.S. manufacturers.
- For new chemicals, reset the program to ensure that reviews are completed on a timeline that is consistent with the statute. This includes revising the regulations governing the reviews of new chemicals.
- Ensure that risk evaluations and risk management rules presume that workplaces are following all OSHA requirements, including requirements for personal protective equipment (PPE).
- Apply real-world use of chemicals when assessing conditions of use for risk evaluations.
- Transition the Safer Choice program to the private sector.
- Right-size the TSCA fee's rule so that it is consistent with the tasks that the agency is actually completing within the timelines of the statute and is not covering the costs of EPA inefficiency or overreach.
- Revise existing policies to address the requirements of the 2016 Lautenberg amendments to the TSCA.⁴¹
- Develop a framework rule for risk management approaches that will be used under TSCA for existing chemicals.

Needed Reforms and New Policy in OPP (Pesticides)

- OPP should rely on Department of Agriculture and state usage data that reflect actual pesticide use in registration reviews and Endangered Species Act (ESA)⁴² analyses. The U.S. Fish and Wildlife Service and National Marine Fisheries Service should rely on similar data in their ESA analyses.
- OPP has rigorous testing requirements that registrants must meet before pesticides are allowed on the market. However, when pesticides undergo registration review every 15 years, EPA relies on publicly available data with differing levels of quality and transparency. Data standards are needed to ensure that information relied on by EPA is made available to the agency at a similar level as the original testing data conducted by registrants to ensure that EPA can conduct a robust review and analysis of the data.

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- ESA reform for pesticides is necessary. When approving pesticides, FIFRA allows for cost-benefit balancing, recognizing that pesticides are effective precisely because they harm pests. However, the ESA does not allow for any consideration of the beneficial effects of pesticides. In order to meet ESA obligations, pesticide uses are severely restricted, leaving growers with limited tools for crop protection.
- New policies are needed to ensure that other program offices (such as ORD, OW, and OLEM) will defer to OPP on toxicity issues. OPP has rigorous testing requirements for pesticide ingredients and products to ensure before they go to market that their use will not harm human health and the environment. Assessments by other offices are redundant.
- While individual pesticide registrations are considered adjudications and not reviewed by the Office of Management and Budget (OMB), consistent with a 1993 OMB guidance, when pesticide tolerances and registrations are withdrawn by the agency (as opposed to being withdrawn voluntarily by registrants), these actions should undergo coordinated interagency review managed by OMB.

Budget

The Biden Administration has expanded the scope and breadth of regulatory actions with respect to OPPT and OPP, but both programs continue to maintain that resources are insufficient.

OPPT (chemicals) suffers from a lack of leadership and an inability to complete the most basic requirements efficiently and in a timely fashion. While EPA has asked for more resources, including higher industry fees, it is not clear that it has the capacity to use additional dollars efficiently.

With regard to OPP (pesticides), pesticide manufacturers feel that the program is underfunded and would like its budget to be increased so that pesticide actions can be reviewed more quickly. Manufacturers are also willing to pay higher fees to the fee-based portion of the program. However, grower groups have been disappointed by EPA's actions and have significant concerns about EPA's ability to conduct science-based risk assessments and take risk management actions that appropriately balance benefits and risks as required by FIFRA. Guardrails and third-party audits should be part of any funding increases through the Pesticide Registration Improvement Act (PRIA)⁴³ or other mechanisms.

OFFICE OF RESEARCH AND DEVELOPMENT (ORD) AND RELATED SCIENCE ACTIVITIES

While much of this work has not been authorized by law, EPA conducts a wide variety of intramural and extramural research, development, regulatory science,

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science advisory, peer review, risk assessment, and risk management activities. This enterprise includes the Office of Research and Development (ORD), the agency's largest employer, as well as science activities across other key programs, regions, and cross-cutting parts of the Administrator's office. EPA's scientific enterprise, including ORD, has rightly been criticized for decades as precautionary, bloated, unaccountable, closed, outcome-driven, hostile to public and legislative input, and inclined to pursue political rather than purely scientific goals.

Needed Reforms: Day One Priorities

- Notify Congress that EPA will not conduct any ongoing or planned science activity for which there is not clear and current congressional authorization. This priority should be underscored in the President's first budget request.
- The new President's Inauguration Day regulatory review/freeze directives should avoid exceptions for EPA actions. This freeze should explicitly include quasi-regulatory actions, including assessments, determinations, standards, and guidance, that have failed to go through the notice-and-comment process and may date back years.
- Pause for review all contracts above \$100,000 with a heavy focus on major external peer reviews and regulatory models.
- Call for the public to identify areas where EPA has inconsistently assessed risk, failed to use the best science, or participated in research misconduct.
- Eliminate the use of unauthorized regulatory inputs like the social cost of carbon, black box and proprietary models, and unrealistic climate scenarios, including those based on Representative Concentration Pathway (RCP) 8.5.

Personnel

- Quickly nominate a reform-minded Assistant Administrator for Research and Development.
- Appoint and empower a Science Adviser reporting directly to the Administrator in addition to a substantial investment (no fewer than six senior political appointees) charged with overseeing and reforming EPA research and science activities. Qualifications for these positions should emphasize management, oversight, and execution skills (including in leading state environmental agencies) as opposed to personal scientific output.

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- Suspend and review the activities of EPA advisory bodies, many of which have not been authorized by Congress or lack independence, balance, and geographic and viewpoint diversity.
- Retract delegations for key science and risk-assessment decisions from Assistant Administrators, regional offices, and career officials.
- Eliminate the use of Title 42 hiring authority that allows ORD to spend millions in taxpayer dollars for salaries of certain employees above the civil service scale.
- Announce plans to streamline and reform EPA's poorly coordinated and managed laboratory structure.

Budget: Back-to-Basics Rejection of Unauthorized or Expired Science Activities

A top priority should be the immediate and consistent rejection of all EPA ORD and science activities that have not been authorized by Congress. In FY 2022, according to EPA's opaque budgeting efforts, science and technology activities totaled nearly \$730 million. EPA's FY 2023 budget request for the Office of Research and Development seeks funds for more than 1,850 employees—a dramatic increase for what is already the largest EPA office with well above 10 percent of the agency's workforce.⁴⁴ ORD conducts a wide-ranging series of science and peer review activities, some in support of regulatory programs established by our environmental laws, but often lacks authority for these specific endeavors.

Several ORD offices and programs, many of which constitute unaccountable efforts to use scientific determinations to drive regulatory, enforcement, and legal decisions, should be eliminated. The Integrated Risk Information System, for example, was ostensibly designed by EPA to evaluate hazard and dose-response for certain chemicals. Despite operating since the 1980s, the program has never been authorized by Congress and often sets “safe levels” based on questionable science and below background levels, resulting in billions in economic costs. The program has been criticized by a wide variety of stakeholders: states; Congress; the National Academies of Science, Engineering, and Medicine (NASEM); and the U.S. Government Accountability Office (GAO), among others. EPA has failed to implement meaningful reforms, and this unaccountable program threatens key regulatory processes as well as the integrity of Clean Air Act and TSCA implementation.

Needed EPA Advisory Body Reforms

EPA currently operates 21 federal advisory committees.⁴⁵ These committees often play an outsized role in determining agency scientific and regulatory policy,

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and their membership has too often been handpicked to achieve certain political positions. In the Biden Administration, key EPA advisory committees were purged of balanced perspectives, geographic diversity, important regulatory and private-sector experience, and state, local, and tribal expertise. Contrary to congressional directives and recommendations from the GAO and intergovernmental associations, these moves eviscerated historic levels of participation on key committees by state, local, and tribal members from 2017 to 2020. As a result, a variety of EPA regulations lack relevant scientific perspectives, increasing the risks of economic fallout and a failure of cooperative federalism. EPA also has repeatedly disregarded legal requirements regarding the role of these advisory committees and the scope of scientific advice on key regulations.⁴⁶

Needed Science Policy Reforms

Instead of allowing these efforts to be misused for scaremongering risk communications and enforcement activities, EPA should embrace so-called citizen science and deputize the public to subject the agency's science to greater scrutiny, especially in areas of data analysis, identification of scientific flaws, and research misconduct. In addition, EPA should:

- Shift responsibility for evaluating misconduct away from its Office of Scientific Integrity, which has been overseen by environmental activists, and toward an independent body.
- Work (including with Congress) to provide incentives similar to those under the False Claims Act⁴⁷ for the public to identify scientific flaws and research misconduct, thereby saving taxpayers from having to bear the costs involved in expending unnecessary resources.
- Avoid proprietary, black box models for key regulations. Nearly all major EPA regulations are based on nontransparent models for which the public lacks access or for which significant costs prevent the public from understanding agency analysis.
- Reject precautionary default models and uncertainty factors. In the face of uncertainty around associations between certain pollutants and health or welfare endpoints, EPA's heavy reliance on default assumptions like its low-dose, linear non-threshold model bake orders of magnitude of risk into key regulatory inputs and drive flawed and opaque decisions. Given the disproportionate economic impacts of top-down solutions, EPA should implement an approach that defaults to less restrictive regulatory outcomes.

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- Refocus its research activities on accountable real-world examinations of the efficacy of its regulations with a heavy emphasis on characterizing and better understanding natural, background, international, and anthropogenic contributions for key pollutants. It should embrace concepts laid out in the 2018 “Back-to-Basics Process for Reviewing National Ambient Air Quality Standards” memo⁴⁸ to ensure that any science and risk assessment for the NAAQS matches congressional direction.

Legislative Reforms

While some reforms can be achieved administratively (especially in areas where EPA clearly lacks congressional authorization for its activities), Congress should prioritize several EPA science activity reforms:

- Use of the Congressional Review Act for Congress to disapprove of EPA regulations and other quasi-regulatory actions and prohibit “substantially similar” actions in the future.
- Reform EPA’s Science Advisory Board and other advisory bodies to ensure independence, balance, transparency, and geographic diversity.
- Build on recent bipartisan proposals to increase transparency for advisory bodies, subject to the Federal Advisory Committee Act⁴⁹ as well as recommendations from the Administrative Conference of the U.S., to strengthen provisions for independence, accountability, geographic diversity, turnover, and public participation. This should include a prohibition on peer review activities for unaccountable third parties that lack independence or application of these same principles to non-governmental peer review bodies (including NASEM).
- Add teeth to long-standing executive orders, memoranda, recommendations, and other policies to require that EPA regulations are based on transparent, reproducible science as well as that the data and publications resulting from taxpayer-funded activities are made immediately available to the public.
- Reject funds for programs that have not been authorized by Congress (like IRIS) as well as peer review activities that have not been authorized by Congress.
- Revisit and repeal or reform outdated environmental statutes. A high priority should be the repeal or reform of the Global Change Research Act of 1990,⁵⁰ which has been misused for political purposes.

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- Repeal Inflation Reduction Act programs providing grants for environmental science activities.

AMERICAN INDIAN OFFICE (AIO)

AIO is a vital EPA function. It is mandated to carry out a 1992 act of Congress that administers the Indian Environmental General Assistance Program.⁵¹ Because of the sovereign-to-sovereign relationship between the U.S. government and federally recognized sovereign Indian nations, this act's purpose is to assist tribes in developing the capacity to manage their own tribal environmental protection programs and set them up to implement programs for the management of solid and hazardous waste. This office also is the chief office under which the EPA's 1984 Indian Policy functions.

Needed Reforms

AIO should be significantly elevated as a stand-alone EPA Assistant Administrator office. This would send a clear message to American Indians and Alaska Native Villages that the agency takes seriously the environmental issues plaguing Indian Country. While designated a "headquarters" office with direct reporting to the Administrator, its location should be in the American West, closer to most tribal nations. This could include Oklahoma City, Oklahoma; Dallas, Texas; or Denver, Colorado. The state of Oklahoma is considered the tribal center of America and is home to 39 federally recognized tribes, including the "Five Civilized Tribes." The other two options are also close to numerous tribes and home to EPA regional offices.

New Policies

All EPA tribal grants and tribal matters should be run from this office as a one-stop-shop for all tribal affairs.

Budget and Personnel

AIO should be led by a politically appointed, Senate-confirmed Assistant Administrator, ideally one with strong ties to a federally recognized tribe. He or she should have political deputies and staff to assist the political leadership in carrying out agency policies.

Career EPA tribal staff are located throughout the nation in all regional offices but are paid mostly under the budget of the current Office of International and Tribal Affairs, which will be significantly restructured as international functions are reabsorbed into the appropriate media offices (for example, Air, Water, and Land and Emergency Management). Because of this, tribal staff should be fully under the authority of the new American Indian Office and its Assistant Administrator, not the regional offices.

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OFFICE OF GENERAL COUNSEL (OGC)

OGC serves as the chief legal adviser to EPA's policymaking officials. It also provides legal support to regional actions and enforcement and compliance litigation. OGC lawyers represent the agency in court alongside the Department of Justice, typically defending agency actions.

Needed Reforms and New Policies

- **Review EPA's Environmental Justice and Title VI authority.**

Wherever possible, the Biden Administration is broadening EPA's use and interpretation of Environmental Justice (EJ)⁵² and Title VI of the Civil Rights Act of 1964⁵³ beyond long-standing understandings of the legal limits of that authority. As a threshold matter, there is an opportunity to redefine EJ as a tool for the agency to prioritize environmental protection efforts and assistance to communities in proximity to pollution or with the greatest need for additional protection. Allocations of agency resources, increased EPA enforcement, and/or agency distribution of grants should be based on neutral constitutional principles.

In 2023, the Supreme Court is expected to provide guidance on the constitutionality of race-based discrimination as it considers *Students for Fair Admissions v. University of North Carolina*.⁵⁴ Accordingly, the next Administration should pause and review all ongoing EJ and Title VI actions to ensure that they are consistent with any forthcoming SCOTUS decision.

- **Establish a policy of legally speaking with one voice.** Some EPA offices (for example, the Office of Enforcement and Compliance Assurance and the Offices of Regional Counsel) assert legal positions and interpretations of the law that conflict with an Administration's interpretation as articulated by OGC with input from program offices. It is unacceptable for the agency to have inconsistent legal positions, particularly with respect to key interpretative issues. All attorneys with authority to represent EPA—not necessarily all attorneys—should therefore be housed in OGC. These offices include:

1. **The Office of Enforcement and Compliance Assurance (OECA).**

OECA was established during the Clinton Administration. Enforcement attorneys tend to take legal positions to win cases or obtain settlements that may be inconsistent with those of OGC and program offices. OECA attorneys should be moved into OGC. Additionally, non-attorney program staff in OECA could be moved into their relevant program offices (for example, the Clean Air Act Enforcement Advisor could

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be moved into OAR). Beyond the avoidance of inconsistent legal positions, this policy would reduce the agency's overall expenditures and duplication of work. To accommodate this new function, OGC could establish a new Deputy General Counsel for Enforcement position to manage the enforcement attorneys at headquarters and in the regions.

2. **The Office of Congressional and Intergovernmental Affairs (OCIR).** OCIR employees should not take legal positions. In all Administrations, White House Counsel is key with respect to oversight issues and has an important relationship with OGC. There must be a strategic relationship between OCIR and OGC, but OGC, in consultation with agency clients and White House Counsel, should assert EPA legal positions to Congress (for example, the assertion of interests regarding congressional subpoenas, witness availability and testimony, and document production).
3. **The Office of Environmental Justice and External Civil Rights (OEJECR).** OEJECR was established during the Biden Administration. EJ and civil rights functions were taken from OGC and moved into a stand-alone office as well as spread through the regions. OEJECR should be disbanded; OEJECR's attorneys should be moved back into OGC; and nonlegal staff (for example, EJ Policy Advisers) should be moved back into the Administrator's office as is customary.
4. **The Offices of Regional Counsel (ORCs).** Regional EJ staff efforts, both in the ORCs and in the policymaking offices, are highly variable. EPA is therefore likely to take inconsistent legal positions. To the extent that legal positions are taken by the ORCs and/or regional staff, they should be coordinated and approved by OGC and the appropriate regional leadership. For example, nearly all regional offices have EJ Action Plans and/or EJ Implementation Plans. Region 1's EJ Action Plan is six pages, and Region 2's is 66 pages. The Region 2 EJ Action Plan, for example, specifies that "ORC will conduct EJ training for all legal staff...to provide attorneys with a simple standard EJ analysis they can use regardless of the context—enforcement, grants, permits, referrals, etc.—of the case."⁵⁵

In addition, EPA should refrain from publicly undermining the National Environmental Policy Act (NEPA)⁵⁶ process at other agencies and should instead focus on providing constructive, technical support during the interagency process.

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Personnel

- Review OGC resources to consider reorganization of other attorney functions and leadership for consolidation into a Cross-Cutting Issues Law Office.
- Review telework policies and attorneys with permanent duty stations not at EPA headquarters or a regional office.
- Consider invoking the rotation of SES managers within OGC and ORCs to other EPA offices where appropriate.
- Monitor all external communications conveying a legal position.
- Do not allow public events at which the agency puts forth its legal position unless they are specifically approved (for example, agency webinars on sensitive issues).

Budget

OGC's budget will increase with consolidation of FTE funding that follows attorneys who come from other EPA offices.

- Reassess duplicative skill sets with the consolidation and allow for attrition if needed.
- Consider allocated resources for regional recruiting to increase geographic diversity from law schools from each state.

OFFICE OF MISSION SUPPORT (OMS)

OMS leads the agency's core mission support functions to improve efficiency, coordination, and customer experience for internal customers, stakeholders, and the public, including protection of EPA's facilities and other critical assets nationwide, acquisition activities (contracts), grants management, human capital, information technology, and information management activities.

Grant Reform

EPA now awards up to \$30 billion in grants annually—up to half of the agency's annual budget. Of these funds, \$500 million is awarded as discretionary. This grantmaking—discretionary and otherwise—is driven by ideology instead of need. Of particular concern is a practice whereby numerous small-dollar grants are administered to a great number of grantees while larger grants are given to academic institutions. As a result, grant funds produce little to no meaningful improvements in the environment and public health and instead fund questionably

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relevant projects at elite, private academic institutions that invariably produce radical environmental research.

Steps should be taken to ensure that grants are awarded based on need instead of ideological affiliation or academic preference. Specifically, EPA should:

- Institute a pause and review for all grants over a certain threshold.
- Put a political appointee in charge of the grants office to prioritize distribution of grants to those who are most in need and toward projects that will tangibly improve the environment.
- Cap the number and dollar amounts of grants that the Office of Research and Development can award and require that they be reviewed by the Administrator's office.

OFFICE OF THE CHIEF FINANCIAL OFFICER (OCFO)

OCFO formulates and manages EPA's annual budget and performance plan, coordinates EPA's strategic planning efforts, develops EPA's annual Performance and Accountability Report, and implements the Government Performance and Results Act.⁵⁷

Needed Reforms

EPA has been audited by the agency's Inspector General for decades, well beyond accepted norms for private-sector financial audits. Audit teams should be diversified. Staffing assignments, especially at the senior level, should be reviewed and streamlined, and the office should consolidate space to save agency costs. For example, six offices need six security contracts to protect employees when one contract would suffice.

New Policies

Review travel and reimbursement policies for best practices aligned for industry norms.

Personnel

The Deputy Chief Financial Officer position is currently reserved for a career official, but political appointees may serve as Associate CFO, Special Advisor, and other senior officials. In addition to evaluating whether the Deputy Chief Financial Officer position should be reserved for a career official, a new Administration should immediately fill these positions with political appointees and establish a new political leadership position for Appropriations Liaison, which is currently overseen by career employees.

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Budget

OCFO is responsible for drafting and sharing the President's budget with Congress. The CFO often testifies along with the Administrator. Efforts to simplify the budget request could improve the overall transparency and general understanding of the agency's work.

CONCLUSION

A more conservative EPA that aligns with the policies outlined in this chapter will lead to a better environmental future without unintended consequences. It will prevent unnecessary expenditures by the regulated community, allowing for investment in economic development and job creation, which are keys to thriving communities. Cutting EPA's size and scope will deliver savings to the American taxpayer. Improved transparency will serve as an important check to ensure that the agency's mission is not distorted or coopted for political gain. Importantly, a conservative EPA will deliver tangible environmental improvements to the American people in the form of cleaner air, cleaner water, and healthier soils.

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46. For example, EPA has steadfastly refused to follow Clean Air Act requirements that the Clean Air Scientific Advisory Committee provide, in the words of the U.S. Supreme Court, “unquestionably pertinent” advice on the “relative contribution to air pollution concentrations of natural... activity” as well as “any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance” of the NAAQS. Memorandum from E. Scott Pruitt, Administrator, Environmental Protection Agency, to Assistant Administrators, “Subject: Back-to-Basics Process for Reviewing National Ambient Air Quality Standards,” May 9, 2018, p. 4, <https://www.epa.gov/sites/default/files/2018-05/documents/image2018-05-09-173219.pdf> (accessed January 25, 2023) (cited hereafter as Pruitt Memorandum, May 9, 2018), and *Whitman v. American Trucking Associations*, 531 U.S. 457, 470 n.2 (2001), <https://supreme.justia.com/cases/federal/us/531/457/case.pdf> (accessed January 25, 2023). Similarly, EPA has refused to follow legal requirements dating to the late 1970s regarding congressional requests for scientific advice. Pruitt Memorandum, May 9, 2018; U.S. Government Accountability Office, “EPA Science and Advisory Panels: Preliminary Observations on the Processes for Providing Scientific Advice,” testimony of J. Alfredo Gómez, Director, Natural Resources and Environment, GAO, before the Subcommittee on Superfund, Waste Management, and Regulatory Oversight, Committee on Environment and Public Works, U.S. Senate, GAO-15-636T, May 20, 2015, <https://www.gao.gov/products/gao-15-636t> (accessed January 25, 2023); and U.S. Government Accountability Office, “EPA Science Advisory Board: Policy Statement on Science Quality and Integrity,” GAO-17-526R, June 8, 2017, <https://www.gao.gov/assets/gao-17-526r.pdf> (accessed January 25, 2023).
47. 31 U.S. Code § 3729 et seq., <https://www.law.cornell.edu/uscode/text/31/3729> (accessed March 20, 2023).
48. See Pruitt Memorandum, May 9, 2018.
49. H.R. 4383, Federal Advisory Committee Act, Public Law 92-463, 92nd Congress, October 6, 1972, <https://www.congress.gov/92/statute/STATUTE-86/STATUTE-86-Pg770.pdf> (accessed March 20, 2023).
50. 15 U.S. Code Chapter 56A, <https://www.law.cornell.edu/uscode/text/15/chapter-56A> (accessed January 27, 2023).
51. Indian Environmental General Assistance Act of 1992, 42 U.S. Code § 4368b, <https://www.law.cornell.edu/uscode/text/42/4368b> (accessed January 27, 2023).
52. See U.S. Environmental Protection Agency, Office of General Counsel, *EPA Legal Tools to Advance Environmental Justice*, May 2022, <https://www.epa.gov/system/files/documents/2022-05/EJ%20Legal%20Tools%20May%202022%20FINAL.pdf> (accessed January 25, 2023), and U.S. Environmental Protection Agency, Office of General Counsel, Office of Policy, “Interim Environmental Justice and Civil Rights in Permitting Frequently Asked Questions,” August 2022, <https://www.epa.gov/system/files/documents/2022-08/EJ%20and%20OCR%20in%20PERMITTING%20FAQs%20508%20compliant.pdf> (accessed January 25, 2023).
53. 2 U.S. Code §§ 2000d-2000d-7, <https://www.law.cornell.edu/uscode/text/42/chapter-21/subchapter-V> (accessed January 27, 2023).
54. *Students for Fair Admissions, Inc. v. University of North Carolina*, No. 1:14CV954 (M.D.N.C. Sep. 30, 2019), <https://www.leagle.com/decision/infdc020191008j38> (accessed January 27, 2023).
55. U.S. Environmental Protection Agency, *EPA Region 2 Environmental Justice Action Plan*, p. 24, https://www.epa.gov/sites/default/files/2016-03/documents/region_2_environmental_justice_action_plan.pdf (accessed January 27, 2023).
56. U.S. Environmental Protection Agency, “Summary of the National Environmental Policy Act, 42 U.S.C. §4321 et seq. (1969),” last updated September 12, 2022, <https://www.epa.gov/laws-regulations/summary-national-environmental-policy-act> (accessed January 27, 2023).
57. 31 U.S. Code § 1115, <https://www.law.cornell.edu/uscode/text/31/1115> (accessed January 27, 2023).