

**HEARING FOR THE PURPOSE OF RECEIVING
TESTIMONY FROM THE HONORABLE
MICHAEL REGAN, ADMINISTRATOR, U.S.
ENVIRONMENTAL PROTECTION AGENCY**

HEARING

BEFORE THE

**COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES**

ONE HUNDRED EIGHTEENTH CONGRESS

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CONTENTS

	Page
Bost, Hon. Mike, a Representative in Congress from Illinois, submitted letter .	91
Johnson, Hon. Dusty, a Representative in Congress from South Dakota, submitted letter	94
Langworthy, Hon. Nicholas A., a Representative in Congress from New York, submitted letter	104
Miller, Hon. Mary E., a Representative in Congress from Illinois:	
Submitted article	95
Submitted tweet	101
Submitted website snapshot	102
Perez, Hon. Marie Gluesenkamp, a Representative in Congress from Washington, submitted letter	111
Scott, Hon. David, a Representative in Congress from Georgia, opening statement	4
Submitted letter	106
Thompson, Hon. Glenn, a Representative in Congress from Pennsylvania, opening statement	1
Prepared statement	3
WITNESS	
Regan, Hon. Michael S., Administrator, U.S. Environmental Protection Agency, Washington, D.C.	5
Prepared statement	6
Supplementary material	113
Submitted questions	117

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WEDNESDAY, APRIL 19, 2023

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Committee met, pursuant to call, at 10:02 a.m., in Room 1300 of the Longworth House Office Building, Hon. Glenn Thompson [Chairman of the Committee] presiding.

Members present: Thompson, Lucas, Austin Scott of Georgia, Crawford, DesJarlais, LaMalfa, Rouzer, Kelly, Bacon, Bost, Johnson, Baird, Mann, Feenstra, Miller of Illinois, Moore, Cammack, Finstad, Rose, Molinaro, De La Cruz, Langworthy, Duarte, Nunn, Alford, Van Orden, Chavez-DeRemer, David Scott of Georgia, Costa, McGovern, Adams, Spanberger, Hayes, Brown, Slotkin, Caraveo, Salinas, Perez, Davis of North Carolina, Tokuda, Budzinski, Sorensen, Vasquez, Crockett, Jackson of Illinois, Casar, Pingree, Carbajal, Craig, Soto, and Bishop.

Staff present: Adele Borne, Wick Dudley, Halee Fisher, Ricki Schroeder, Patricia Straughn, Erin Wilson, John Konya, Paul Babbitt, Daniel Feingold, Emily German, Ashley Smith, Michael Stein, and Dana Sandman.

**OPENING STATEMENT OF HON. GLENN THOMPSON, A
REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA**

The CHAIRMAN. The Committee will come to order. And I am going to yield to my good friend, the Ranking Member here, just to offer a little blessing over our proceedings today.

Mr. DAVID SCOTT of Georgia. Thank you, Mr. Chairman.

Dear Heavenly Father, we come before your throne of grace to, first of all, say thank you. You help us in so many ways. We appreciate that deeply. And as we are here gathering to deliberate on how to keep our agriculture system strong, we ask for your blessing. Guide us in the right way, that we make the right decisions in terms of our agriculture system. And we thank you because we know that agriculture is the signature bond of God Almighty in terms of His creation. This is what we pray for.

And we thank you for helping us take care of our farmers and all of those millions who rely on us to make the right decisions at the right time. Thank you, Dear Heavenly Father. And with these, we ask and say thank you, and amen.

The CHAIRMAN. Amen. Thank you, Ranking Member.

Welcome, and thank you for joining us for today's hearing. We are here to hear from Administrator Michael Regan from the Environmental Protection Agency. And after brief opening remarks, Members will receive testimony from our witness today, and then the hearing will be open to questions. I will take the liberty of offering my opening statement.

Once again, good morning, Administrator Regan, good to see you, glad to have you here. Thank you for taking the time to be with us today.

And while the scope of this Committee's jurisdiction over the EPA actions is limited, nearly every decision coming from the EPA has the potential to disproportionately impact rural America and those living and working there. I think we can all agree farmers, ranchers, and foresters are the original conservationists, and no one cares more for the environment than those with livelihoods that depend on it.

In the first hearing I hosted as the Chairman of the House Committee on Agriculture, Members heard of a variety of challenges American farmers and ranchers are currently facing. A recurring theme throughout the hearing was uncertainty, mostly stemming from nonsensical regulations and policies perpetuated by the Biden Administration. From my vantage point, it appears the EPA and USDA are not only playing in one another's sandbox, but are perpetuating wrongheaded priorities. EPA wants to dictate what producers grow and how to grow it, and USDA is laser-focused on expanding funding and policies related to climate.

Historically, EPA has over-regulated the agriculture industry, and this continues today, whether it be the war against crop protection tools, regulatory whiplash about what defines the *Waters of the United States*, or *WOTUS*, or a top-down prescription of electric vehicles. American farmers and ranchers need access to crop protection tools to control damaging pests and weeds, increase yields with fewer inputs, and implement voluntary incentive-based conservation practices such as reduced- and no-till.

Until recently, producers relied on the science-driven, risk-based registration and registration review process established under the Federal Insecticide, Fungicide, and Rodenticide Act, affectionately known as FIFRA, to provide certainty surrounding the use of these tools. Over the past 2 years, the agency has sought to restrict or cancel several important chemistries, including chlorpyrifos, atrazine, rodenticides, organophosphates, and many more. Additionally, it is concerning to hear USDA's expertise and advice was ignored in many of these decisions.

These actions erode public trust in the regulatory process, undermine confidence in the scientific integrity of the EPA, and cause extreme uncertainty for producers who seek to provide the world with the safest, most abundant, and most affordable food and fiber supply in the world. Simply put, any decisions related to crop protection tools should be based on actual science, not political science.

Additionally, and something of a bipartisan interest, is uncertainty created by the Biden Administration's effort to redefine *WOTUS*. This is the third time in 7 years the agency has attempted to rewrite this definition under the Clean Water Act (Pub.

L. 92–500, Federal Water Pollution Control Act) and comes only 2 years after the Navigable Waters Protection Rule finally provide a long-awaited certainty for farmers, ranchers, and landowners. And while producers wait for the Supreme Court’s decision on a case related to WOTUS regulations, the Biden Administration’s definition is far from being durable, as claimed by the EPA. In fact, the rule has already been blocked from going into effect across 26 states.

Further, both the House and Senate recently passed a bipartisan resolution of disapproval, and I was proud to cosponsor that resolution, and I would like to thank Ranking Member Scott for joining us in the effort to provide certainty for those who need it most. I am disappointed President Biden once again turned his back on rural America and vetoed this resolution.

In your confirmation hearing, you, Administrator Regan, promised to have an open-door policy for farmers, and this commitment to listen, combined with your understanding of agriculture, seemed very promising to many. However, the regulatory agenda being pursued by this Administration constantly misses the mark and exposes rural America to further ambiguity and wrongheaded policies. In 1956, President Eisenhower said, quote, “Farming looks mighty easy when your plow is a pencil and you are 1,000 miles away from the cornfield,” end quote. Well, this rings true today, and I implore the agency to spend more time in the field and less time proposing disastrous untested rulemakings.

Administrator Regan, I want to thank you again for being with us today. It is greatly appreciated. This hearing is long overdue, and I know my colleagues are looking forward to this discussion. [The prepared statement of Mr. Thompson follows:]

PREPARED STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS
FROM PENNSYLVANIA

Good morning. Administrator Regan, thank you for taking the time to be here with us today. While the scope of this Committee’s jurisdiction over EPA actions is limited, nearly every decision coming from the EPA has the potential to disproportionately impact rural America and those living and working there.

I think we can all agree farmers, ranchers, and foresters are the original conservationists, and no one cares more for the environment than those whose livelihoods depend on it.

In the first hearing I hosted as the Chairman of the House Committee on Agriculture, Members heard about a variety of challenges American farmers and ranchers are currently facing. A recurring theme throughout that hearing was uncertainty, mostly stemming from nonsensical regulations and policies perpetuated by the Biden Administration. From my vantage point, it appears EPA and USDA are not only playing in one another’s sandbox, but are perpetuating wrongheaded priorities: EPA wants to dictate what producers grow, and how to grow it, and USDA is laser focused on expanding funding and policies related to climate.

Historically, EPA has over-regulated the agriculture industry. This continues today, whether it be the war against crop protection tools, regulatory whiplash about what defines a *water of the United States* (WOTUS), or a top-down prescription of electric vehicles.

American farmers and ranchers need access to crop protection tools to control damaging pests and weeds, increase yields with fewer inputs, and implement voluntary, incentive-based conservation practices such as reduced- and no-till. Until recently, producers relied on the science-driven, risk-based registration and registration review process established under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to provide certainty surrounding the use of these tools.

In the past 2 years, the Agency has sought to restrict or cancel several important chemistries including chlorpyrifos, atrazine, rodenticides, organophosphates, and many more. Additionally, it is concerning to hear USDA expertise and advice was ignored in many of these decisions.

These actions erode public trust in the regulatory process, undermine confidence in the scientific integrity of the EPA, and cause extreme uncertainty for producers who seek to provide the world with the safest, most abundant, and most affordable food and fiber supply in the world.

Simply put, any decisions related to crop protection tools should be based on actual science—not political science.

Additionally, and something of bipartisan interest, is uncertainty created by the Biden Administration's efforts to redefine *WOTUS*.

This is the third time in 7 years the Agency has attempted to rewrite this definition under the Clean Water Act and comes only 2 years after the Navigable Waters Protection Rule finally provided long awaited certainty for farmers, ranchers, and landowners.

While producers wait for the Supreme Court's decision on a case related to *WOTUS* regulations, the Biden Administration's definition is far from being 'durable,' as claimed by the EPA. In fact, the rule has already been blocked from going into effect across 26 states. Further, both the House and Senate recently passed a bipartisan resolution of disapproval. I was proud to cosponsor that resolution and would like to thank Ranking Member Scott for joining us in the effort to provide certainty for those who need it most. I am disappointed President Biden once again turned his back on rural America and vetoed this resolution.

In your confirmation hearing, you, Administrator Regan, promised to have an 'open door policy' for farmers. This commitment to listen, combined with your understanding of agriculture, seemed promising to many; however, the regulatory agenda being pursued by this Administration constantly misses the mark and exposes rural America to further ambiguity and wrongheaded policies.

In 1956, President Eisenhower said, 'Farming looks mighty easy when your plow is a pencil, and you're a thousand miles from the corn field.' This rings true today, and I implore the Agency to spend more time in the field and less time proposing disastrous, untested rulemakings.

Administrator Regan, thank you again for being with us today. This hearing is long overdue, and I know my colleagues are looking forward to this discussion.

I now yield to the distinguished Ranking Member, Mr. Scott.

The CHAIRMAN. And I now yield to the distinguished Ranking Member, Mr. Scott.

**OPENING STATEMENT OF HON. DAVID SCOTT, A
REPRESENTATIVE IN CONGRESS FROM GEORGIA**

Mr. DAVID SCOTT of Georgia. Thank you very much, Mr. Chairman.

And first, I would like to begin my comments by thanking you, Chairman Thompson, for bringing us together for this hearing today. This hearing today allows us to learn more about what Administrator Regan is doing at the Environmental Protection Agency to work with our farmers, our ranchers, our foresters in order to ensure that Americans are enjoying a bountiful food supply, clean air, and clean water. With passage of our Inflation Reduction Act (Pub. L. 117-169) last term, we made historic investments in rural America to help our farmers and rural communities mitigate climate change and continue to lead the way on renewable energy. These investments in infrastructure in our farm bill and forestry programs will pay dividends for farmers well into the future and help ensure clean air, clean water for future generations in years and years to come.

And with that in mind, we should also strive to focus on issues that are within the House Agriculture Committee's jurisdiction so that we can bring the most impactful information and action in crafting the farm bill that has become more and more urgent every day. I want to thank you, Administrator Regan, for your time, and I want to thank you for calling me and having our discussion. And we are going to learn more and more about what you are doing and

plan to do not only with the farm bill but all the other multitude of issues that we are depending on you to provide leadership for. Thank you.

The CHAIRMAN. The gentleman yields back. I thank him.

The chair would request that other Members submit their opening statements for the record so our witness may begin his testimony and to ensure that there is ample time for questions.

I am pleased to welcome Administrator Michael Regan from the Environmental Protection Agency to the Committee today. Administrator Regan, thank you for joining us, and we will now proceed with your testimony. You will have 5 minutes, and the timer in front of you will count down to zero, at which point your time has expired.

Administrator Regan, please begin when you are ready.

**STATEMENT OF HON. MICHAEL S. REGAN, ADMINISTRATOR,
U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON,
D.C.**

Mr. REGAN. Good morning, and thank you, Chairman Thompson, Ranking Member Scott, and Members of this Committee. I appreciate the opportunity to appear before you today to discuss EPA's engagement on agricultural law and rural policy matters. When I joined the agency 2 years ago, I made it clear from the beginning my strong desire to work closely with the farming and ranching community to identify practical, science-based policies that protect the environment and ensure a vibrant and productive agricultural system. During my tenure, I have visited a farm in Kansas and an ethanol facility in Iowa. I have held joint events for Secretary Vilsack in Alabama and North Carolina, and I have hosted agriculture leaders, and CEOs in my office at EPA.

Agricultural and rural communities across the nation are very important to me and to President Biden. I was raised in rural eastern North Carolina, and I am deeply familiar with how our agriculture producers worked tirelessly to put food on our table. I also know that farmers and ranchers are tremendous conservationists and stewards of the land, in part because their livelihood depends on sustaining natural resources from generation to generation.

At the same time, many producers find themselves on the frontlines of the climate crisis, facing increasing impacts from extreme weather events like storms, widespread flooding, prolonged drought, and more frequent wildfires. I want you to know that our agency is committed to supporting America's farmers and ranchers to ensuring they can produce an abundant and uninterrupted supply of food, feed, fuel, and fiber, while also continuing to deliver on our mission of protecting public health and the environment. My testimony today will highlight the ways in which we are furthering these goals.

I would like to begin with an update on pesticide policy. EPA's role under FIFRA is to evaluate the human health risk and any environmental impacts from pesticide use and weigh them against the benefits. I am committed to following the science and following the law to make the best decisions concerning these regulations.

As you are aware, multiple Administrations have struggled with balancing the scientific and legal policy considerations that arise

from both FIFRA and ESA. On numerous occasions over the past 2 decades, Federal courts have ruled that EPA has been out of compliance with the ESA when registering pesticides, and the agency has faced an increasing number of lawsuits for failing to meet its obligations under the law.

This Administration has taken to heart the charge from Congress within the 2018 Farm Bill by reinvigorating the Federal inter-agency coordination and the broader stakeholder engagement process. Last year, we announced that the agency will meet its ESA obligations before registering any new conventional active ingredient. We also published a comprehensive ESA–FIFRA workplan that seeks to forge a long-term strategy with full stakeholder participation and input in an effort to protect listed species, reduce our legal vulnerabilities, and provide predictability to our farmers.

Another issue of significant interest to agriculture is biofuels. As you know, renewable fuels help diversify our nation’s energy supply. Biofuels are also important to rural economies and provide good-paying jobs and income to farming communities. Getting the Renewable Fuel Standard Program back on track has been a key priority for me since arriving at EPA. Last year, we finalized Renewable Volume Obligations that placed the program on a stable trajectory for responsible growth. In fact, the RVO for 2022 represents the largest volume finalized by this agency. We are now at an important juncture in the RFS program. In December, EPA proposed growth-oriented targets for 2023, 2024, and 2025. We received a significant amount of stakeholder input during the public comment period, and we are currently considering this input as part of the process towards finalizing the rule in coming months.

Another topic of interest to the agriculture community is the definition of *Waters of the United States*. In recent years, the only constant with WOTUS has been change, with definitions shifting from Administration to Administration and from court decision to court decision. This has resulted in confusion, inconsistency, and uncertainty. So in December, EPA and the Army worked together to provide a durable definition of *WOTUS* that we believe is clear, consistent, and reasonable, while protecting wetlands and facilitating agricultural production. The final rule codifies several exclusions from the definition of *Waters of the United States* in the regulatory text, and these exclusions deliver clarity and certainty to a broad range of stakeholders, including farmers, ranchers, and landowners.

So in conclusion, EPA’s mission is to protect public health and the environment, and I believe our mission goes hand-in-hand with supporting America’s agricultural and rural communities. Thank you again for the opportunity to visit with you all, and I look forward to answering questions and learning how we can work together effectively. Thank you.

[The prepared statement of Mr. Regan follows:]

PREPARED STATEMENT OF HON. MICHAEL S. REGAN, ADMINISTRATOR, U.S.
ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, D.C.

Good morning, Chairman Thompson, Ranking Member Scott, and Members of the Committee. Thank you for the opportunity to appear before you today to discuss EPA’s engagement on agricultural and rural policy matters.

I joined the Agency 2 years ago, and I made it clear from the beginning that I have a strong desire to work closely with the farming and ranching community to identify practical, science-based policies that protect the environment and ensure a vibrant and productive agricultural system. During my tenure, I've visited a farm in Kansas and an ethanol facility in Iowa. I've held joint events with Secretary Vilsack in Alabama and North Carolina, and I've hosted agricultural leaders in my office at EPA.

Agricultural and rural communities across the nation are very important to me—and to President Biden. I was raised in rural eastern North Carolina and am deeply familiar with how our agricultural producers work tirelessly to put food on our table. I also know that farmers and ranchers are tremendous conservationists and stewards of the land, in part because their livelihood depends upon sustaining natural resources from generation to generation.

Of course, the challenges facing our food and agriculture system are significant. Producers find themselves on the front lines of the climate crisis, facing increasing impacts from extreme weather events like severe storms, widespread flooding, prolonged drought, and more frequent wildfires. This volatility threatens to erode agricultural productivity even while the global population surges toward ten billion people by mid-century.

I want to you to know that our Agency is committed to supporting American farmers and ranchers to ensure they can produce an abundant and uninterrupted supply of food, feed, fuel, and fiber while also continuing to deliver on our mission of protecting human health and the environment. My testimony will highlight ways in which we are furthering these goals.

Pesticides

I'd like to begin with an update on pesticide policy. EPA's role, under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), is to evaluate the human health risks, and any environmental impacts from pesticide use and weigh them against the benefits of the pesticide use. We are also responsible for meeting obligations under the Endangered Species Act (ESA) to avoid jeopardizing federally listed species or adversely modifying designated critical habitat when we take certain actions under FIFRA. I'm committed to following the science and the law to make the best decisions concerning pesticide regulations.

As you are aware, multiple Administrations have struggled with balancing the scientific and legal/policy considerations that arise from both FIFRA and ESA obligations. On numerous occasions over the past 2 decades, Federal courts have ruled that EPA has been out of compliance with the ESA when registering pesticides, and we have faced an increasing number of cases against EPA for not completing the required effects determinations for federally listed species or consultation with the National Marine Fisheries Service or U.S. Fish and Wildlife Service as necessary.

This Administration has taken to heart Congress's charge within the 2018 Farm Bill by reinvigorating Federal interagency coordination and the broader stakeholder engagement processes. Last year, we announced that the Agency will meet its ESA obligations before registering any pesticide product containing a new conventional active ingredient. We also published a comprehensive ESA-FIFRA workplan that seeks to forge a longer-term strategy, with full stakeholder participation and input, in an effort to protect listed species, reduce our legal vulnerabilities, and provide predictability to farmers.

EPA's Office of Pesticide Programs is funded through a combination of annual appropriations, as well as industry fees authorized by the Pesticide Registration Improvement Act (PRIA). Our Agency has received a record number of registration requests in recent years, and while we have completed a record number of actions, despite a shrinking workforce, we recognize the need to do more.

President Biden's FY 2024 Budget includes a much-needed funding increase that would help EPA accelerate its pesticide review process, bringing greater predictability to farmers and other pesticide users while strengthening protections for human health and the environment.

I also want to thank Congress for reauthorizing the Pesticide Registration Improvement Act (PRIA 5) in the FY 23 Omnibus Appropriations Bill in December. The legislation authorized EPA's Office of Pesticide Programs to collect increased industry user fees to fund staff and other resources and will enable greater efficiency through process and technology improvements.

Renewable Fuels

Another issue of significant interest to the agriculture sector is biofuels. As you know, renewable fuels help diversify our nation's energy supply, improving energy

independence and security. Biofuels are also important to rural economies, providing good paying jobs and income to farming communities.

Getting the Renewable Fuels Standard (RFS) program back on track has been a key priority for me since arriving at EPA. Last year, we finalized Renewable Volume Obligations (RVO) that placed the program on a stable trajectory for growth in the program. In fact, the RVO for 2022 represents the largest volumes ever finalized by this Agency.

We are now at an important juncture in the RFS program. In December, EPA proposed growth-oriented targets for the next 3 years: 2023, 2024 and 2025. Because the Energy Independence and Security Act of 2007 (EISA) does not include specific volumes after 2022 for any fuels, this is the first time that EPA is setting all these biofuel targets without using those outlined in statute. We received a significant amount of stakeholder input during the public comment period, and we are currently considering this input, along with robust engagement with the U.S. Department of Agriculture (USDA) and other interagency partners, as part of the process toward finalizing the rule in the coming months.

Waters of the United States

In December, EPA and the Army announced a definition of “Waters of the United States” (WOTUS) that is founded on the pre-2015 definition and updated to reflect consideration of Supreme Court decisions, the science, and the agencies’ technical expertise.

For several decades after the passage of the Clean Water Act, agencies followed a consistent, predictable definition of waters of the United States. In recent years, however, the only constant with WOTUS has been change. The definition of WOTUS has changed from Administration to Administration and from court decision to court decision. This has resulted in confusion, inconsistency, and uncertainty.

EPA and the Army have worked to provide a durable definition of WOTUS that is clear, consistent, and reasonable while protecting wetlands and facilitating agricultural production. We recognize that America’s farmers and ranchers are stewards of the land and have a tremendous stake in protecting water quality. That’s why it was so important for us to get this rule right.

The final rule codifies several exclusions from the definition of “waters of the United States” in the regulatory text. This delivers clarity and certainty to a broad range of stakeholders, including farmers, ranchers, and landowners. These exclusions include prior converted cropland, certain ditches, many swales and erosional features, certain artificially irrigated areas, certain artificial lakes and ponds, certain water-filled depressions, and certain artificial reflecting or swimming pools.

In addition, the final rule defines prior converted cropland consistent with USDA’s definition, and we are committed to partnering with USDA to ensure we implement the term clearly and consistently. To support this goal, EPA, USDA, and the Army issued a joint implementation memo upon publication of the final WOTUS rule to ensure that Federal wetland programs, including those that identify prior converted cropland, are administered in an efficient and effective manner.

The Clean Water Act also provides the agricultural community with permitting exemptions that apply even in those circumstances where jurisdictional waters occur in agricultural areas. The statute itself identifies normal farming activities that do not require permits, and the definition of WOTUS does not change that. This includes many common activities like plowing, seeding, and minor drainage, as well as activities like the construction and maintenance of irrigation ditches, and maintenance of drainage ditches.

EPA and the Army conducted extensive outreach to agricultural stakeholders throughout the rulemaking process, meeting with dozens of farm groups on this issue between the pre-proposal phase and public comment period in 2021–2022. In addition, EPA’s Farm, Ranch and Rural Communities Federal Advisory Committee, which is made up of more than thirty farmers, ranchers, and agricultural stakeholders to provide independent policy advice to the Agency, submitted WOTUS recommendations in January 2022. This Committee’s feedback was incorporated into the final rule in meaningful ways.

During these outreach efforts, stakeholders often raised concerns about challenges pertaining to implementation of the definition of WOTUS rather than specifics of the regulatory text. In response, EPA and the Army convened WOTUS regional roundtables in the spring of 2022 for a diverse range of stakeholders to provide the agencies with a better understanding of the various regional perspectives on implementation. The agricultural community was prominently represented throughout this process, and five of the ten roundtables were organized by agricultural organizations.

Nutrients and Water Quality

Nutrient pollution is a continuing and growing challenge with profound implications for public health, water quality, and the economy. Excess nutrients contribute to harmful algal blooms, areas of low oxygen known as “dead zones,” and high levels of nitrates that contaminate waters used for recreation, drinking water, wildlife, pets and livestock, and aquatic life—while also damaging the economy in many communities. Last year, EPA released a policy memorandum entitled, *Accelerating Nutrient Pollution Reductions in the Nation’s Waters*. This memo reaffirms EPA’s commitment to working with Federal partners, state agencies, farmers and ranchers, utilities, and other stakeholders to advance progress in reducing excess nutrients in our nation’s waters.

The framework includes several key strategies, the first of which is focused on deepening collaborative partnerships with agriculture. EPA will seek to expand upon our existing efforts with USDA, deepen partnerships with agricultural industry stakeholders, and highlight the work of those innovators who are demonstrating new models and approaches to reduce nutrient runoff.

We also plan to champion innovative financing and use the full flexibility of the Clean Water Act regulatory framework to achieve our goals. This includes spurring development of more effective technologies, driving market-based approaches, and strengthening agriculture-water sector partnerships.

PFAS

Harmful per- and poly-fluoroalkyl substances (PFAS) are an urgent public health and environmental issue facing communities across the country. PFAS have been used for decades in a wide range of products and industries, persist in the environment, and pose risks to human health.

The food supply in the United States is among the safest in the world. At the same time, we understand that PFAS contamination presents unique and complex challenges to farmers and ranchers. That’s why EPA is working to bring all of its resources and authorities to bear to provide science-based solutions to protect public health, including our food and agricultural system.

In October 2021, EPA released our PFAS Strategic Roadmap, which laid out plans to restore Federal leadership and advance key actions to safeguard public health, protect the environment, and hold polluters accountable that have manufactured and released significant amounts of PFAS into the environment. Recent actions include proposing to designate PFOA and PFOS as CERCLA hazardous substances and meeting with representatives from the agricultural community to discuss their views on the development of an enforcement discretion policy under CERCLA. EPA has also proposed a national drinking water standard for six PFAS substances, and we have begun distributing \$10 billion in bipartisan infrastructure law funding to address emerging contaminants in water, including PFAS, much of which will provide critical investments for small, disadvantaged, and rural communities.

We have also announced our commitment to finalize a risk assessment for PFOA and PFOS in biosolids by the end of 2024. The risk assessment is a comprehensive effort to determine the risks to human health and the environment based on exposure to PFOA and PFOS in biosolids, including the potential impacts on crops and grazing lands through land application. The Risk Assessment will help EPA determine what standards for biosolids, or other actions, may be necessary to mitigate those risks.

In addition, Congress provided EPA with \$8 million in the FY 2023 omnibus appropriations bill to prioritize new Federal research that will help farmers, ranchers, and rural communities manage PFAS in agricultural settings. The Agency will work with USDA to invest in agronomic research to better understand PFAS uptake in plants and animals to reduce exposure in our food supply and promote farm viability.

EPA is committed to working with our Federal and state partners and the agricultural community to ensure the continued safety of the food supply while protecting farmers, ranchers and their families from the potential risks of PFAS exposure.

Rural Infrastructure

I am proud of EPA’s ongoing work to help rural water systems and communities. Thanks to the bipartisan infrastructure law, our Agency has a historic \$43 billion to invest in our nation’s water infrastructure through state revolving funds, and nearly ½ of these dollars must go out as grants or forgivable loans to disadvantaged communities, which includes many rural communities. We’re also providing more than \$150 million in technical assistance grants over the next 5 years, and that includes dedicated resources to support rural communities.

We know that an estimated 2.2 million people across the country lack basic running water and indoor plumbing in their homes. The bipartisan infrastructure law presents a historic opportunity to address this challenge. That's why EPA and USDA Rural Development are partnering with states, communities, and Tribes on a pilot program called "Closing America's Wastewater Access Gap." EPA and USDA-RD will jointly leverage technical assistance resources to help historically underserved communities identify, and pursue, Federal funding opportunities to address their wastewater needs. This initiative will be piloted in Alabama, Kentucky, Mississippi, New Mexico, North Carolina, West Virginia, as well as in the Santo Domingo Pueblo in New Mexico and the San Carlos Apache Tribe in Arizona. The initiative will also provide a roadmap that can be scaled to additional communities across the country.

Climate Change

Finally, I was proud to announce last year that EPA has rechartered our longstanding Farm, Ranch and Rural Communities Federal Advisory Committee (FRRCC), which provides independent advice and recommendations to the Agency on environmental issues important to our agriculture and rural communities. I appointed nearly twenty new committee members and charged the committee with evaluating the Agency's policies and programs at the intersection of agriculture and climate change.

For the next 2 years, the FRRCC will consider how EPA's tools and programs can best advance our nation's agriculture sector's climate mitigation and adaptation goals. By identifying and leveraging voluntary, incentive-based opportunities; public-private partnerships; and market-based approaches, EPA can support farmers and ranchers in their efforts to reduce emissions, sequester carbon, and accelerate a more resilient food and agriculture system.

Conclusion

EPA's mission is to protect human health and the environment, which is a responsibility I take very seriously. I believe this mission goes hand-in-hand with supporting American agriculture and rural communities. Clean water, clean air, and healthy soils are fundamental to the success of U.S. agriculture, and I believe we share a mutual commitment to science-based decision making and a desire to leave our planet better than we found it.

Thank you again for the opportunity to visit with the Committee this morning. I look forward to answering your questions and learning how we can work together more effectively to create a thriving agricultural system that will meet the needs of our farmers and the needs of our nation, now and in the future.

The CHAIRMAN. Well, thank you, Administrator Regan, really, for your important testimony today.

At this time, Members will be recognized for questions in order of seniority, alternating between the Majority and Minority Members and in order of arrival for those who joined us after the hearing convened. You will be recognized for 5 minutes each in order to allow us to get to as many questions as possible.

And I will recognize myself for 5 minutes.

Administrator Regan, the USDA Office of Pest Management Policy, OPMP, has experts who not only understand how EPA implements the pesticide registration and registration review process under FIFRA, but they also understand the agriculture industry and what mitigation measures can actually be implemented. However, the EPA has recently rejected or ignored recommendations from the Office of Pest Management Policy, providing uncertainty for producers. Administrator Regan, does EPA not value the input it receives from other Federal agencies like USDA?

Mr. REGAN. We absolutely do. We value the input we receive from staff, and I value my personal and professional relationship with Secretary Tom Vilsack. So we are working in very close coordination on a whole host of issues.

The CHAIRMAN. Well, because your agency has frequently ignored input from USDA, Congress passed language last year that re-

quires EPA to take into account feedback from USDA when developing mitigation measures as part of interim decisions. Administrator, how do you plan on following this language to ensure that USDA feedback is actually implemented in your decisions and not just with Secretary Vilsack; but, quite frankly, with the professionals that we have deployed within USDA that your staff should be consulting with?

Mr. REGAN. I can tell you that we are consulting with them, and we are taking that feedback into consideration since I have been there for the past 2 years, whether it is in my front office or throughout the agency with career staff. We are seeing constant engagement, constant meetings, co-hosting meetings with external stakeholders to be sure that we are getting all of the information to make the decisions we make.

The CHAIRMAN. Well, I want to follow up with that with one more question in terms of: if you are doing that, and there are some that suspect that hasn't happened as effectively as it should in consultation, but how often are there individuals from the White House putting their thumb on the scale when it comes to issues, whether it was related to WOTUS, pesticides, a number of issues that just appear to be anti-farmer? I mean, in terms of the consultation, you talk about your relationship with Secretary Vilsack and professionals. How about contact from the White House? And who is having that influence?

Mr. REGAN. Well, I can say that the White House has delegated that authority to me. I am the regulator. I have been focused on designing these regulations. And as far as our regulations are concerned and our litigation strategies, I do those as the Administrator in consultation with Secretary Vilsack, and then we apprise the White House of when and how we are going to make these decisions. I, fortunately, have not had any fingers on the scale as it relates to doing the business of EPA when it relates to our agricultural practices.

The CHAIRMAN. Well, it just feels like the White House is weighing in because we know your background. I appreciate your background. I appreciate you, and I think with your background, I know you would do the right things for the American farmer.

So last November, EPA rejected Pennsylvania's revised Chesapeake Bay Watershed Implementation Plan, their WIP. With the 2025 deadline looming, EPA has continued to move forward with an impractical timeline for states to meet the targets across the six-state watershed. And given the scale of this restoration, we must be realistic about our goals and our timelines, and it is essential that the EPA works collaboratively with farmers, not punitively. But given that the targets are not going to be met before the deadline, do you think that timeline needs to be extended beyond 2025?

Mr. REGAN. Well, we definitely recognize that we are not going to meet that 2025 deadline, and so we've met and we are doing a recalibration of that 2025 goal. So we have made a lot of progress, but we also know that we have a long way to go. The decision to rethink how we accelerate momentum through 2025 and beyond I believe will offer some relief to the agriculture community. So we

are doing a reset. We are doing more engagement on how we meet this multi-state approach, and I feel good about the path forward.

The CHAIRMAN. In the interim, does EPA intend to ramp up on-farm inspections over the coming year in the Chesapeake Bay region? If so, what can producers expect?

Mr. REGAN. No, I think what we have done is we have taken a step back as a multi-state workgroup, and we said that the 2025 deadline is too hard to meet. There were some expectations that were set and some actions that had not been taken up until this point, so we need to recalibrate.

The CHAIRMAN. All right. Thank you very much. My time has expired. And I am now pleased to recognize the Ranking Member for 5 minutes of questioning.

Mr. DAVID SCOTT of Georgia. Thank you, Mr. Chairman. Administrator Regan, I recently joined a bipartisan group of my House colleagues that is sending you a letter, which I would ask that we enter into the record, Mr. Chairman.

[The letter referred to is located on p. 106.]

The CHAIRMAN. Without objection.

Mr. DAVID SCOTT of Georgia. And this letter regards the Renewable Volume Obligations proposed by EPA for 2023 to 2025. As noted in the letter, the Energy Information Administration has projected a doubling of renewable diesel capacity by the year 2025. With EPA's proposed targets for biomass-based diesel accounting for less than ten percent of the volume increase estimated by EIA, how do you account for this divide? And can you commit to us setting blending targets, blending targets that will support the expected growth and promise of these industries?

Mr. REGAN. Well, thank you for the question, Congressman. Let me just say that in 2022 we set the highest volumes ever in EPA's history, so we are proud of that. What we plan to do is continue that trajectory. As you know, we proposed a rule, and so we are in that proposal phase, and there aren't too many things I can comment during this time of comment. But what I can say is 2023, 2024, and 2025 we will continue that positive trajectory. We are taking in a lot of comments on the role of biodiesel. We are taking a lot of comments in on these amounts, so we are taking a very close look at those. And I can assure you we have met with a number of stakeholders who have offered us a lot of new data, and we believe that will be reflected in the final rule.

Mr. DAVID SCOTT of Georgia. Thank you for that. Now, last week, you announced emission standards for new cars, and that announcement led to concerns from the biofuels industry and our farmers in regards to the Administration's view on the role biofuels have been playing and can continue to play in reducing emissions and powering our cars and trucks. So tell us, what would you say to our farmers and our domestic biofuels industry the role you see biofuels playing in the future?

Mr. REGAN. Well, I think we see a significant role. It is called walking and chewing gum at the same time. I think that when you look at the policies of this EPA and the investments that we are making in biofuels and advanced biofuels just by the last RVO volumes we set and the ones that we are anticipating setting and in the partnership that I have with Secretary Vilsack and Secretary

Buttigieg as we look at the role of biofuels with aviation fuels, we see a tremendous market for biofuels that is complementary to the EV fuels future. So we think that we can do both. We see a balance here. And in both cases, we are trying to follow the markets, follow technology, and follow the science as well.

Mr. DAVID SCOTT of Georgia. Okay. Thank you for that. Now, Administrator Regan, where is EPA on the registration review process? Last Congress, when we passed PRIA 5, we extended the registration review process well into 2026. Do you think EPA is on track to meet this deadline?

Mr. REGAN. Well, I want to thank Congress for including the fifth reauthorization of PRIA in the 2023 omnibus bill (Pub. L. 117-328, Division HH—Agriculture, Title VI—Pesticides). This has been extremely helpful, and we know that PRIA is critical to providing EPA with those resources. We are still digging out of the backlog. We are still digging out of some of these backlogs that we are seeing, so more staff would mean a more efficient process, and that is why you would see some of the requests that you have seen in our budget.

Mr. DAVID SCOTT of Georgia. Well, thank you for that, Administrator. And you are doing a wonderful job. And whenever I can be helpful, please call on me.

Mr. REGAN. Thank you.

Mr. DAVID SCOTT of Georgia. Thank you.

Mr. AUSTIN SCOTT of Georgia [presiding.] The chair now recognizes former Chairman Lucas for 5 minutes.

Mr. LUCAS. Thank you, Mr. Chairman.

Administrator Regan, as you are well aware, the work done at your agency, especially the IRIS assessments, often crosses committee jurisdictions and requires interagency collaboration and coordination. From my perch as Chairman of the House Science, Space, and Technology Committee, I have seen issues arise when the agency scientists at USDA and EPA are at odds, a primary example of EPA's action regarding chlorpyrifos uses when USDA's Office of Pest Management Policy provided your agency with evidence that certain uses could be retained to meet safety standards, but EPA chose to ignore that evidence.

So I guess my first question is, in your written testimony, you spoke about your strong desire to work closely with the farming and ranching community to identify practical, science-based policies to protect the environment and ensure a vibrant and productive agricultural system. Can you explain then why the scientific expertise at USDA has been sidelined on this issue and on various others such as the atrazine mitigation measures, just to name a few, Administrator?

Mr. REGAN. Well, I will start with the chlorpyrifos because that is one that our agencies have talked quite a bit about. And I think what the constraint was is the court weighed in and said that they were fed up and frustrated with EPA's inaction, so they set a high bar and a timeline that was really hard to meet. And so I would argue that the difference between USDA and EPA on this instance isn't the science. It is how we had to apply what the court required for us to do. And they set a bar that was too high for us to meet in the time that they gave us using the science that we had. So

we made the best decision that we can make with the science that we had to comply with the mandate from the court, which that mandate from this court was much different for chlorpyrifos than it has been for any other pesticide we have seen.

Mr. LUCAS. Because of your stated commitment to science-based decision-making in carrying out the mission of the EPA to protect human health and environment, do you believe—in a general sense I guess I am asking—that science and technology play a critical role at EPA and should be utilized by other Federal agencies?

Mr. REGAN. I do. I do believe science and technology play critical roles.

Mr. LUCAS. Do you think that every EPA Administrator now and in the future should place a high importance on science and technology activities of the agency?

Mr. REGAN. Absolutely. And I believe if that had been done in the past, we wouldn't have had 50 years of ignoring the ESA and this Administration would not find itself in the position that it is in.

Mr. LUCAS. Do you think that in your position, the Administrator, more frequently coming before secondary committees like you are doing today for Agriculture, would help better coordinate activities and shed light on the cross aspects of EPA's work?

Mr. REGAN. Any way we can be transparent, any way we can exchange information, I will raise my hand for that.

Mr. LUCAS. Well, having the privilege of being both a Member of the awesome Agriculture Committee and the Science, Space, and Technology Committee, where we are very focused on research and science in the future, I look forward to seeing you in front of the Science Committee. Matter of fact, we will get you the invitation fairly soon, and together, we will work on these issues and try to make sure that science is the predominant force when we make decisions.

I respect the courts. I respect differences of opinion. But when the science is generated by people closer to the issue in the field and the use, I think we have to give them the benefit of the doubt.

But again, thank you for being here today, Mr. Administrator. We are going to have a lot of good visits in the coming days, I am sure.

I yield back, Mr. Chairman.

Mr. REGAN. Thank you.

Mr. AUSTIN SCOTT of Georgia. Thank you, Mr. Lucas.

The chair now recognizes Ms. Spanberger for 5 minutes.

Ms. SPANBERGER. Thank you very much.

Thank you, Administrator Regan, for joining us today, and thank you to the Chairman and to Ranking Member Scott for holding this hearing.

Last week, I convened a farm bill summit in my district to hear directly from Virginia crop and livestock producers, farm groups, and conservation organizations about their priorities as we work to craft and advance the farm bill. We had more than 100 people in attendance and heard from a wide range of commodities and perspectives. One topic that came up throughout the day was that conservation practices that producers and growers were choosing to implement on their operations. We also discussed the USDA con-

ervation programs that Virginia producers utilize in order to make those investments in best management practices. Unfortunately, we also heard from some farmers who had been waiting for quite some time to gain access to these programs due to demand outpacing funding and workforce shortages at NRCS. I am proud that we have significantly increased funding for these oversubscribed voluntary conservation programs so that more producers like those that I represent can access them without the long wait times. We also need to look at how to strengthen the NRCS workforce and ensure boots are on the ground to implement these programs—and I will get off my soapbox on that—because we know that these programs are good for farmers' bottom lines, but they are also beneficial to water quality, which brings me to your visit here today.

They are beneficial to water quality in their surrounding communities and watersheds, and much of Virginia is in the Chesapeake Bay watershed. And I am proud of the steps that we are taking as a region and as the Commonwealth to improve the health of the Chesapeake Bay. But there certainly is more work to be done.

Can you share some of your insights on how investments in conservation through the farm bill, investments in conservation practices in the agriculture sector have and can continue to improve water quality in vulnerable bays, rivers, and estuaries such as the Chesapeake Bay. And certainly these waterways are such drivers of Virginia's economy. Sir?

Mr. REGAN. Well, thank you for that question, and I will say, over the past 40 years, EPA has invested more than \$1.5 billion through the Chesapeake Bay program. And thanks to the bipartisan infrastructure law (Pub. L. 117-58) recently, we are deploying an extra \$238 million specifically to the Chesapeake Bay. It is because of the strong partnership with agriculture organizations in the watershed that we have really made a lot of progress and appreciate constructive engagement with farmers and agricultural organizations across the bay states, but especially in Virginia.

I will give you an example. Just a few months ago, the Chesapeake Bay program awarded \$500,000 in bill funds leveraging more than \$1 million total to support Virginia dairy farmers. And this is focusing on implementing conservation plans and reducing nutrient runoff in partnership with the Maryland-Virginia Milk Producers Cooperative and the Virginia Department of Conservation and Recreation. So that is just one example of conservation in partnership not just with ag organizations in the state but with EPA.

And USDA and EPA, we have established a new Federal Task Force on Crediting Chesapeake Bay Conservation Investments. This task force has and will continue to work on and identify more fully committing to how we recognize credit programs for farmers. So those are a couple of examples where conservation is playing a lead role, not regulation, and EPA's relationships with our states and our farmers are really ensuring that we see success there.

Ms. SPANBERGER. And I appreciate you mentioning the dollar amount in terms of EPA funding that we were able to leverage for the benefit of communities. Certainly across Virginia, our aquaculture continues to grow. Our rivers and lakes are not only a source of great pride for Virginians but also major economic driv-

ers. And as we are seeing a substantial growth in our oyster and aquaculture industries, making sure that we are bringing back the health of the bay and our rivers is a top priority for so many Virginians. So I thank you for highlighting the types of programs where EPA does join with USDA to ensure that investments and programs, again, voluntary programs to the benefit of, in your example, dairy producers can also have that downstream quite literally impact. Certainly, we know that farmers are the original conservationists, so I would just continue to encourage you—and I appreciate you are doing it, would love to see more of it—ensuring that farmers and producers are at the table when we are discussing environmental challenges, water cleanliness challenges in the portfolio of EPA. So thank you for your work, sir, and I yield back.

Mr. REGAN. Thank you.

Mr. AUSTIN SCOTT of Georgia. Thank you. I now recognize myself for 5 minutes.

Administrator Regan, glad to see you here. If I understand your résumé correctly, your father was an extension agent for somewhere around 30 years?

Mr. REGAN. Yes.

Mr. AUSTIN SCOTT of Georgia. All right.

Mr. REGAN. Well, he was an extension agent around 14, and then the National Guard pulled him back into active duty.

Mr. AUSTIN SCOTT of Georgia. Oh, well, that might be even better. That means if you were wrong, you got corrected.

Mr. REGAN. Oh, absolutely.

Mr. AUSTIN SCOTT of Georgia. Educated both ways. That is awesome. Well, I have a tremendous amount of respect for our land-grant institutions and our extension agents, and I appreciate your comments about following the science because agriculture needs to follow the science. The farmers want to follow the science.

I am concerned that when it gets to the courts that the science sometimes gets ignored, and decisions that should be made by Congress, by the agencies when they are determined in the courts, they end up being done in many cases without regard for the impact on production agriculture.

And, as you know, I am from Georgia. You are from North Carolina, so many of our crops are going to be the same. The chemicals we use are the same. It has been mentioned before herbicides like glyphosate, Dicamba, atrazine, I mean, when we are going to use no-till or minimal-till, things that are actually very good for the environment, we have to have those chemicals or we can't use those growing practices. And, when those things are taken off of the market, it means that we have to burn a whole lot more diesel at a much higher cost to the farmer and, candidly, the environment.

Mr. REGAN. Yes.

Mr. AUSTIN SCOTT of Georgia. And I just wonder if you could talk more about the importance of using herbicides and the fact that we need to be looking at all of the facts. When you take these herbicides off the market and you have to transit the field multiple times because you can't use herbicides so you are burning more diesel, you have to cut the dirt deeper with the bottom plow instead of using no-till, the damage that is being done to the environment

simply by the courts not taking into account the impact on production agriculture and good environmental practices when they take these chemicals off the market.

Mr. REGAN. Thank you for that question. And I couldn't agree with you more. And we find ourselves slightly in a conundrum, which I would consider not necessarily a technicality, but because of a lack of incorporating the ESA into our decision-making, now we are all in this pressure cooker. I believe that our farmers should have every tool in the toolbox. And so there are a couple things we can do. I think the first thing is making sure that we are looking at the science and making sure that the science is correct. I also think that when we have situations like Dicamba, it is not about just ripping it off the market. It is about making sure that our farmers have the education so that we can avoid the overspray and having millions of dollars of crops disrupted because some farmers need that pesticide.

But then there is this sort of lack of funding at EPA. We have so many new market entrants that are ready to hit the streets that could be tools for our farmers, but we haven't gotten them through our review process because we have too few employees to do so.

So, yes, I think we can make sure we are applying the science correctly, don't artificially take products off the shelves, but then there are a lot of new products that farmers are ready to see and use that we need to get those out the door as well.

Mr. AUSTIN SCOTT of Georgia. But in many cases it is the court that is issuing the ruling that defies logic. I mean, this isn't an EPA issue, but, I mean, if baby powder caused cancer, we would all have cancer, right? I mean, and yet we have courts issuing rulings that are taking products that we have all used—glyphosate is an example of one. I have used Roundup multiple times. If it caused cancer, I feel sure that I would have cancer, and I don't. So I am very worried about the courts not taking into account the science and the impact on production agriculture. And that is one of the things as we write the farm bill that maybe we can give some direction to the court on.

That said, while I have you, before I go, I do want to mention one thing. It bothers me to see our forest lands being cut down and solar panels put up on it. I don't understand how that is a square deal for the environment or the taxpayer. And I can tell you in my area of the state, the solar subsidies are so high that they are paying 30 to 40 percent more than land is worth to anybody else, and then they are cutting down the forest and putting solar panels up on it. I do think that is something that if we are going to be honest about what is good for the environment, we have to be honest about what is good for wildlife and the watershed and everything as well, not just carbon. And that is something that any help from your Administration with making sure that those subsidies aren't so high and aren't able to be used to cut down forest land, I would appreciate it.

My time has expired. I would now go to Ms. Caraveo from Colorado. Sorry.

Ms. CARAVEO. No, that is fine. Thank you. And thank you to Chairman Thompson and Ranking Member Scott for hosting our hearing this morning.

Administrator Regan, thank you for being here to provide your testimony.

I represent Colorado's leading producers of sugarbeets. Sugarbeet producers in my home state face serious economic losses and a big step backward in their sustainability achievements because of the aggressive invasive weed Palmer amaranth. There is currently no approved crop protection tool for use by sugarbeets for Palmer control registered in the United States. Colorado has asked for emergency use of a product registered in Europe, metamitron. As I mentioned, my sugarbeet producers in Colorado will be facing serious economic losses and harm to soil health if this solution is not approved.

So, Mr. Administrator, I was wondering, what is the EPA's timeline for getting a product into the hands of farmers in my state to mitigate this emergency?

Mr. REGAN. Well, thank you for that question, and I want to be sure to say that we understand the sense of urgency. Our team has been working on that, and we received the request for a section 18 emergency exemption for sugarbeets. We are still evaluating the safety of the product, metamitron, I believe that is the term, and it appears to me that it is more realistic based on the process that it will be 2024. We will work hard for 2023, but I think this conversation is instructive of the amount of litigation we have faced by short-circuiting some of these processes that has come back to haunt us.

Ms. CARAVEO. And given that you mentioned section 18, which currently authorizes the EPA to allow emergency exceptions for unregistered uses of pesticides to address emergency conditions such as this one, keeping in mind safety still—and that our farmers are still waiting—are there any new authorities that the EPA needs to address emergencies in a more timely manner?

Mr. REGAN. Let me take that question back to my staff, and I will pose that question. I can tell you, and you will see this reflected in our budget, I think the biggest thing that we need right now are resources for staff. We have a staff that is reflective of the 1980s and 1990s. It is just not competitive in the 21st century, especially when we look at pesticides and herbicides. And so we just need the bodies, the scientists, the engineers, the folks in our office that can screen these new products so that we can get them in the market. We want to do that. We have talked with a lot of people in the farming community. They want that, too, which is why they are advocating for a stronger EPA budget in this specific division.

Ms. CARAVEO. Thank you. And I certainly understand the need for the people and the bodies there to make sure that things are safe but also that we are addressing the needs in agriculture.

Another issue that I wanted to touch on was the Pesticide Registration Improvement Act of 2022, which requires EPA to develop and implement a Vector Expedited Review Voucher program to incentivize the development of novel tools and crop-protecting pesticides to manage mosquitoes that transmit diseases such as malaria, dengue, Zika, and yellow fever. I can tell you when I was studying in medical school, we learned about these diseases as something that happened in other countries, not things that were going to affect the United States. But with mosquitoes becoming re-

sistant to current pesticides and the fact that we are seeing these diseases now in areas where they have not been seen before, I am very concerned about insect-borne diseases from a public health perspective. So what steps is EPA taking to ensure that the statutory deadline of December 29, 2023, for developing and implementing this program is being met?

Mr. REGAN. On that specific program, I will have to have staff get back to you on that in terms of the specific timeline. I know our staff is working hard and diligently on it, but I want to give you a solid answer for that one.

Ms. CARAVEO. I appreciate that, Mr. Administrator, and thank you for everything that you do. I yield back my time.

Mr. AUSTIN SCOTT of Georgia. The chair now recognizes Mr. DesJarlais for 5 minutes.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

Administrator Regan, thank you so much for being here today, very important topics, as we all know.

The new EPA and Army Corps of Engineers WOTUS rule scales back the 2020 navigable waters rule exclusion for prior converted croplands (PCC). Was USDA consulted on this change?

Mr. REGAN. Yes, we consulted with USDA on the entirety of the rule.

Mr. DESJARLAIS. How might this change impact landowners when PCC determinations are being made?

Mr. REGAN. Well, number one, I will say this. I will say that the navigable waters rule that existed prior to this Administration was vacated by multiple courts, so we were going back and starting over not from the Obama rule or the prior Trump rule but pre-2015. And so what we have done is we codified. We worked with USDA, and we created and clarified exclusions to support farmers, worked directly with USDA on exclusions for prior converted croplands, certain ditches that drain drylands, certain swales and erosional features, certain artificially irrigated areas, and certain artificial lakes and ponds. So we went back and we wanted to codify exclusions and exemptions within the regulatory text, and that is what we did in this rule.

Mr. DESJARLAIS. Okay. Well, it is expected that the Supreme Court in coming months will rule on the pending *Sackett v. EPA* case, which could have significant ramifications on the determinations of *Waters of the U.S.* What was the rationale for EPA moving forward with this new WOTUS rule before the Supreme Court rules on the *Sackett* case?

Mr. REGAN. I say two reasons. The first is the looming litigation for not having an updated rule because the previous rule was vacated. Second, we learned from the navigable waters rule and the Obama rule. What we did was we put a more narrow definition of *navigable waters* rule that we thought would thread the needle. And then we went and we codified all of these exclusions and exemptions. We will respect the Supreme Court's ruling obviously. What we didn't want to do was face litigation for not acting for 2 years and then start from scratch once we got the *Sackett* ruling.

Mr. DESJARLAIS. Okay. Farmers and ranchers in my State of Tennessee and many other states continue to be extremely concerned that the new WOTUS rule greatly expands the Federal Gov-

ernment's jurisdictional reach far beyond the limits that Congress intended under the Clean Water Act. I have also heard that the exemptions, particularly the prior converted cropland exclusion, are incredibly confusing and difficult to apply. The agency has said the changes they made are to keep the understanding of PCC consistent with how it is used under the Swampbuster Program.

EPA has adopted USDA's change and use policy, and unfortunately, it has come to my attention that when stakeholders asked EPA and the court to clarify its meaning, they were provided conflicting answers. EPA stated that a farmer could change the use of their land and keep their PCC status as long as wetland characteristics had not returned. However, the Army Corps asserted that a farmer will lose their PCC status if they change the use of the land out of the agriculture production, regardless of returning wetland characteristics.

It is incredible that two government agencies are reading identical language and coming up with two different conclusions. So with that in mind, can you tell me how you think the PCC change in use policy is workable for the farmers?

Mr. REGAN. Well, I might be biased, but I would say I am right, and I think Secretary Vilsack agrees with me. So I will take this back to the Army Corps, to the highest levels, and we will see if we can reconcile why we are getting different definitions on the ground.

[The information referred to is located on p. 113.]

Mr. DESJARLAIS. A lot of people would appreciate if you could clarify that, so I thank you for that.

Mr. REGAN. Absolutely.

Mr. DESJARLAIS. And, additionally, how is a farmer supposed to use the exemption when they—well, you kind of already answered that question on the conflicting interpretation, so I will look forward to your response on that if you can get back to me. And I will yield back my time.

Mr. REGAN. Okay.

Mr. AUSTIN SCOTT of Georgia. The chair now recognizes Ms. Salinas for 5 minutes.

Ms. SALINAS. Thank you. And thank you to Chairman Thompson and Ranking Member Scott for holding today's hearing. And thank you, Administrator Regan, for coming before our Committee.

In your testimony you detailed a pilot program called Closing America's Wastewater Access Gap aimed at providing technical assistance resources to help historically underserved communities identify and pursue Federal funding opportunities to address their wastewater needs. And I can tell you, I have a number of them in my district and in various communities around the district, so I am very interested in this kind of technical assistance that agencies can provide to rural communities. My district in Oregon encompasses many small specialty crop farms and rural communities, and many of the ag stakeholders I have met with don't have the extensive resources required to learn about and access USDA and EPA opportunities. A hazelnut farm, for example, doesn't have a team of lawyers or grant writers to wade through the various complexities of some of these programs.

So can you outline how technical assistance programs like the one you highlighted have benefited rural and underserved stakeholders and what the potential could look like for additional technical assistance? And how should this Committee help give you the tools to really bolster some of this technical assistance, especially when it comes to the bipartisan infrastructure law and Inflation Reduction Act and get these dollars to where they are needed most?

Mr. REGAN. Well, thank you for the question. And both Secretary Vilsack and I recognize that there were different kinds of technical assistance needed on the ground. We wanted to maximize the dollars we received from the bill, so we created a joint program that has provided technical assistance from both EPA and USDA. We have chosen 11 pilot areas. And so right now in real time we have 11 pilot communities from Mississippi to New Mexico, North Carolina to Alabama, Kentucky to West Virginia and Arizona to provide a roadmap for how we scale up unified technical assistance. We believe that it is a lot more than just building capacity and giving folks access to grant writing, but it is some of that expertise that needs to be applied to that technical assistance along with these dollars.

And so this is an area that we would love for you all to pay close attention to because we have these pilots going. I think we launched them 3 or 4 months ago, and we are going to start seeing some results, so we want to codify those results and export that all over the country.

Ms. SALINAS. Thank you. Additionally—and I am shifting a little bit—as stewards of the land, farmers have an immense role to play in addressing the climate crisis. Measures taken by farmers to sequester greenhouse gas emissions will benefit the environment and their pocketbooks if we structure Federal incentives and programs successfully. One important step is measuring and understanding all the benefits of various on-farm practices like the use of cover crops. How is EPA engaged with the USDA and other Federal agencies to actually collect data on emissions from ag and soil and plant and carbon sequestration? And is EPA providing assistance to USDA on how to measure, report, and verify ag-related emissions reductions?

Mr. REGAN. We are. I think we have a really strong relationship there I would say. For the past 30 or so years, we have overseen the task of preparing the official U.S. Greenhouse Gas Emissions and Sinks Inventory, and that is a commitment under the UN Framework Convention on Climate Change. So this includes chapters on agriculture and land use. This is an area where our staff, in concert with the USDA, are looking at the metrics, the data, and the like and pulling that into this overall framework.

Listen, we believe that our farmers and our conservationists need to be rewarded for actions that they are already taking. And the best way for us to do that is to begin to codify that and understand what is happening and then exclude them from some of the regulatory actions that we are thinking about because they are already ahead of the game.

Ms. SALINAS. Great, thank you. And I yield back.

Mr. AUSTIN SCOTT of Georgia. The chair now recognizes Mr. LaMalfa for 5 minutes.

Mr. LAMALFA. Exclude them from regulatory actions you are thinking about as good behavior, huh? Well, welcome, Administrator Regan. I have been very perplexed by some of the actions EPA has taken especially in my area in northern California in concert with the Army Corps of Engineers on land use and reinterpretation of Clean Water Act and long-standing, and the intention of Congress when the Clean Water Act, Clean Air Act (Pub. L. 88-206), Endangered Species Act (Pub. L. 93-205) were initially passed.

But I am going to shift gears from that to forestry here that I want to talk about in Committee today. We are very concerned that the usage of fire retardant—and this is the material that aircraft have been using for years and upgrading in different formulas, but currently, a formula that works very well and has been seen as safe for the environment that your department is working towards requiring a 2 to 3 year process to develop a permit for continued use of this fire retardant. Again, this is the pinkish, reddish stuff that the aircraft apply towards forest fires to prevent the spread of them in California during a fire.

I just cannot imagine how taking this tool away upon the millions of acres we are burning every year, especially in the West, is going to be a good idea while we wait for a brand-new process to relitigate whether this is a good material. It would require states to now have to step forward with their own permits and take even more time to add to the process. If we don't have this tool, what tool are we going to use in its place? Just straight water or put more people's lives on the ground in danger in trying to do hand work around these fires? So, Mr. Administrator, what plan does EPA have to ensure the continued use of this fire retardant at least in the interim while it is being hashed out whether a permit is going to be needed in the future every time there is a fire?

Mr. REGAN. I appreciate the question. I would like to make it clear that a lawsuit was filed against the Forest Service for the discontinued use of that tool, so it is not something that the EPA decided to do upon its own volition. Upon understanding that the Forest Service was being litigated, Secretary Vilsack and I put our heads together, and we have an agreement in place that will allow for the continuation of this fire retardant until we can put in place a Clean Water Act permit that would basically bolster the Forest Service from litigation. So we have a plan in place that we believe we can do that is guided by the law and will not interrupt protecting the communities and our forests and our wildlife from wildfires.

Mr. LAMALFA. So you guarantee, along with Secretary Vilsack, that there will not be an interruption, a hiccup in the availability of the use of this material during the interim time between now, as fire season approaches, and when this permit process is put in place?

Mr. REGAN. We have already got the agreement in place.

Mr. LAMALFA. Okay. Very good. I appreciate that because what we are talking about is there is already a prescription that this material would not be applied within a 300' or larger buffer around

certain deemed critical areas, streams, ponds, like that. And the track record for not getting it into these areas, let alone into standing water, has been very tremendous. These aircraft are guided by pilot planes and such, so the track record is good. And this stuff is basically fertilizer as-is, so we cannot afford to lose this tool.

When we are talking also about forest management, prescribed fire has been in the past historically a good tool. It needs to be used correctly. It needs to be used in the right conditions, right weather, *et cetera*, but what we are looking at is that a possible rule change by the agency is going to further enforce particulate matter 2.5 microns and hinder the Forest Service, state agencies', Tribes', private landowners' ability to use this tool prescribed fire would be. So what is the intention of the agency to enforce PM_{2.5} and make it maybe impossible to use fire?

Mr. REGAN. Well, we are looking at PM_{2.5} standard to be sure that we are protecting public health all over the country. I think that when you think about how PM_{2.5} and prescribed burning and wildfires interact, we have something in this program called an exceptional events clause. And as we take comment on this new rule, not only does prescribed burning qualify in this exceptional events clause, but we are actually taking comment on how we can improve—

Mr. LAMALFA. So my time is really short. So all prescribed fire could be used as this exception? Because it is extraordinary when I had a million-acre fire in my district, the Dixie Fire, that the plume went all the way across the country and reached the East Coast, and large cities were told they could not go outside due to health reasons.

Mr. AUSTIN SCOTT of Georgia. The gentlemen's time has expired.

Mr. LAMALFA. So that is extraordinary—

Mr. AUSTIN SCOTT of Georgia. Administrator, would you like to make a quick comment on that quickly?

Mr. REGAN. I will say that we understand the transport of pollution, but prescribed fires are necessary and predictable, so there are exceptional events that will qualify for that and would account for the amount of pollution we are taking a look at and how to take preventive measures to keep people safe.

Mr. AUSTIN SCOTT of Georgia. Thank you, Mr. Administrator.

Before I recognize Mr. Davis, I want to give you the order. Unless somebody comes back, it will be Davis, Pingree, and Bishop on the Democratic side, and on the Republican side, it will be Rouzer, Bacon, and Johnson just so people are prepared for that.

Mr. Davis, you are now recognized for 5 minutes.

Mr. DAVIS of North Carolina. Thank you so much. And to the Chairman and to our Ranking Member, we appreciate you having us here.

Good morning, and thank you, Mr. Administrator Regan, for coming to the House Agriculture Committee today. And I believe the last time we did it, it may have been on Jones Street.

Mr. REGAN. That is right.

Mr. DAVIS of North Carolina. But it is definitely good to see you. I am glad to have a fellow North Carolinian join us today and one who definitely knows eastern North Carolina and my home district so well.

Mr. REGAN. Thank you.

Mr. DAVIS of North Carolina. Last month, the Environmental Protection Agency published new proposed rules that will severely limit levels of PFAS permissible in drinking water. PFAS in drinking water is a major issue, as I know you understand, across North Carolina. In late 2022 the North Carolina Department of Environmental Quality tested various county municipal water systems and found that five counties in the first district had PFAS levels above the minimum reporting level indicated in the 2022 EPA interim health advisory.

Mr. Administrator, I must imagine you are working with NC DEQ. I just so happen to have been on flights with the Secretary back and forth coming here to D.C. But my question is what is the EPA doing to support NC DEQ and local eastern North Carolina communities to try to monitor PFAS levels in drinking water to ensure that PFAS levels do not continue to increase to an astronomical level that puts the health of constituents at risk?

Mr. REGAN. Absolutely. Well, thank you for that question. And you and I both know we have dealt with this with Chemours and contamination of our precious Cape Fear River. I had specifically in mind small rural communities like the ones we grew up in when we designed this regulation. And so it is out in the proposal phase now, but the good news is we are setting these standards at a level that are protective of public health. But in addition to that regulation, I also had in the back of my mind that President Biden's partnership with Congress gave us \$10 billion in resources to focus on PFAS and emerging contaminants. So we plan to distribute those resources out so that water utilities are prepared to tackle this problem.

More importantly, I think \$3–\$5 billion of that is specifically targeted for small rural utilities. And so what we want to do is we want to be sure that we have health standards that are protective, but we also want to have state and Federal resources that we are going to cobble together to help these systems get through this tough time.

Mr. DAVIS of North Carolina. Great, thank you. And just a quick follow-up along the lines of the PFAS and if you could just elaborate a little bit more here, and that is as EPA currently understands, does high PFAS levels in water systems that farmers are using pose risk to consumers of those commodities?

Mr. REGAN. Yes, we believe that levels of PFAS that exceed certain limits that are scientifically supportable can cause longer-term damage. And so it is an issue that is long overdue in terms of this country addressing it, and it is unfortunately, not just North Carolina. It is West Virginia, it is Ohio, it is New Mexico, Nevada. And so this is a serious issue for our country. But I will say that this Administration is the first Administration to ever set a drinking water standard for PFAS. And we are not just doing it for two, we are looking at six. And we have more to go. So we want to be cognizant that as we set these limits, we are protecting public health, but we are also taking a very strong look at the implications to agriculture and to our water systems. And so we want to be very thoughtful as we pursue this path.

Mr. DAVIS of North Carolina. Super. And obviously, you have made investments here. EPA is making those investments. And what we also understand, too, is prioritizing new Federal research to help farmers, ranchers, rural communities manage PFAS. My question is, coming from eastern North Carolina and having attended an HBCU yourself, NC A&T, is the EPA and USDA planning to prioritize HBCUs in this process? And I would say, as you answer this question, I knew you grew up in Goldsboro, worked on the farm there, so I appreciate you. And we worked right down the street essentially from each other, but thanks for all you are doing.

Mr. REGAN. That is right.

Mr. DAVIS of North Carolina. But I would love to hear your contributions or interest in HBCUs.

Mr. REGAN. Well, I think I heard someone earlier say an appreciation for land-grant institutions. North Carolina Agricultural and Technical State University is where I graduated from, and yes, we are going to be sure that universities that have not had a seat at the table can join the table. We have world-class research organizations that are embedded in communities, rural, low-income, African American communities that need to participate in the science and research, so we are going to be sure that they are a part of the plan.

Mr. DAVIS of North Carolina. Mr. Chairman, I would say either eastern North Carolina pride or Aggie pride, but I yield back.

Mr. AUSTIN SCOTT of Georgia. Well, and I would just tell you that Fort Valley State University will be expecting a seat at the table.

Mr. Rouzer is recognized for 5 minutes.

Mr. ROUZER. Well, thank you, Mr. Chairman. And, Mr. Regan, Administrator, great to see you. Always good to have you here and especially appreciate you being here today, and glad my colleague on the other side of the aisle addressed the PFAS issue. I do appreciate all the work that EPA has done on that front.

I want to talk a little bit about the broader issue here, and it is not just for EPA but all Federal Government agencies, quite honestly. And that is, we tend to get buried in our silos, but in the meantime, we have to understand that we are competing in a very global environment. In China, for example, if they want to build a canal, they just go and build a canal. They don't worry about endangered species. They don't worry about any other product that may be polluting the environment. They just go do it. Obviously, they are not only a competitor, China is our main adversary, probably for years to come. And so I think it is important for all of our agencies, whether it is issuing new rules or regulations or whatever it may be, to take into account the effect of those as it relates to our standing and our ability to meet the challenges ahead.

Which brings me to some of the actions of EPA. So in November of 2022 the EPA released Proposed Interim Decisions for 11 rodenticides, including classifying most of them as restricted use. In June 2020, the EPA announced proposed revisions to the 2020 Proposed Interim Decision for atrazine that included a picklist of mitigation measures that producers would be required to implement when using it. January 11, 2022, the EPA announced a new policy for evaluating and registering new active ingredients in con-

ventional pesticides. January 2022, the EPA announced the reregistration of Enlist One and Enlist Duo that included use restrictions impacting more than 200 counties. And the recent ESA workplan proposed numerous mitigation measures that growers would be required to implement when using pesticides, costing producers millions at a time. Now, instead of strengthening the toolkit of our farm families, we are creating barriers to production, cutting off necessary pest and disease prevention tools.

I think it is one thing to look at these in a vacuum, but I think today's time requires that we think beyond our agencies and beyond our narrow scope of focus and realize that we are in a very intense, sensitive, and competitive situation worldwide. And our rules and regulations need to take that into account. So that is my comment on that.

Adding to that, fertilizer, China and Russia are the top two fertilizer producing countries in the world. Now, millions of dollars have been awarded through USDA grants to expand domestic fertilizer production, but our country has been put in an economic disadvantage due to the overly burdensome regulatory environment that results in these expansions rather than happening now, they are happening 7, 10 years from now, if then. And this all includes the overly complicated regulatory programs governing the reuse of phosphogypsum.

So, Mr. Administrator, what is the Administration, in your agency, doing to provide some regulatory certainty that would encourage the investment of billions of dollars to increase the amount of domestic fertilizer supply in the U.S.?

Mr. REGAN. Well, thank you for that question, and I will say that on the first part of that I do agree with you that we are not looking at these in silos but looking at them holistically. So what we are doing there is on the heels of litigation as we propose using these pesticides and herbicides differently or removing them from the market. We are in strong consultation with USDA and all of our ag communities. We recognize that we are inhibiting efficiency if we don't move as quickly as we can. And I hate to say the courts have such a significant role here, but they do. I think when we look at phosphogypsum, this is something that, again, our staffs are working hand in hand, arm and arm in. And the one thing that really sort of differentiates the way the Secretary and I approach this is we both have agreed that USDA has a job and laws that oversees it. I have a job and laws that oversees me. And we try to work within reason with each other. But one of us, based on our program, is going to be the one that appears before the judge. And so we work hard together, and then we sort of defer to the other on how to navigate those legal hurdles that we both face.

Mr. ROUZER. Mr. Chairman, I see my time has expired.

Mr. AUSTIN SCOTT of Georgia. Yes, sir. The chair now recognizes Mr. Vasquez for 5 minutes.

Mr. VASQUEZ. Thank you so much, Mr. Chairman.

Administrator Regan, thank you for attending today's critically important hearing. I am here today because I believe my constituents, like those of my colleagues, deserve to have clean air and safe drinking water. It is a basic human right.

New Mexico's six National Forests and millions of acres of land managed by the BLM, over 25,000 farmers and ranchers, are hugely important engines that power our state's economy. However, I am concerned about the presence of these harmful chemicals found in New Mexico's farms, in our watersheds, in our drinking water, and, most recently, in our military installations. Just last year, a dairy farmer in New Mexico made national news after it was discovered that his dairy herd had been contaminated by PFAS from a nearby military base and was forced to euthanize nearly 4,000 cattle. That is a life-altering catastrophe for a rural farmer in my district.

A 2018 report by the Air Force concluded that PFAS at Holloman Air Force Base, also in my district, the groundwater there was found to have exceeded 18,000 times the lifetime recommended exposure levels set by the EPA. Again, that is 18,000 times the recommended level. The health of my constituents and agricultural sector alike are of paramount importance to my district, especially when PFAS has been linked to various chronic disorders and illnesses.

Administrator Regan, how is the EPA working with the Department of Defense to ensure that drinking water is safe for constituents like mine and free from the forever chemicals such as PFAS?

Mr. REGAN. Well, thank you for that question. And, this is interesting. I think the President said from day 1 he expected all of us to work together. And fortunately, whether it is USDA or DOD, I have people who want to work with EPA.

Secretary Austin and I have been focused on this from the very beginning. There are two tacks that we're taking. The first is setting the drinking water standard, which I will be honest with you required a lot of consultation between USDA, EPA, and DOD. And so we proposed that drinking water standard. Now what we have working through the interagency process are the cleanup levels of these PFAS contaminants. And so that is going through the interagency process. I think that we know that many of our lands have been contaminated. I want to be clear, we are not going after the farmers. We are not going after agriculture. We are not going after the water utilities. We are going after those who pollute the lands.

Mr. VASQUEZ. Thank you, Administrator. I appreciate that. In communities like mine such as the City of Las Cruces that have dealt both with the EPA and the Department of Defense oftentimes having communication between the two agencies to reach settlements with the respective municipalities or in some cases small towns, mutual domestic water associations, rural co-ops has been difficult as we don't receive the same information from each agency. So I encourage EPA to work as close as possible with the Department of Defense in these rural areas when it comes to water contamination issues.

Mr. REGAN. And I can tell you Secretary Austin is committed to this. We have had a lot of conversations about this topic, the impacts to not only our soldiers during active duty but they usually retire in the communities where these bases reside. There is impact to morale and a lot of things to think about. So Secretary Austin is laser focused on this, I can assure you of that.

Mr. VASQUEZ. Thank you, Administrator. And, as you know, water is the lifeblood in the Southwest, certainly in New Mexico. We have rising temperatures, coupled with record drought and water shortages that have made water more valuable than ever. Eighty-seven percent of our water supply in our state comes from our groundwater, and severe declines in groundwater have forced us to rely highly on dwindling supply of surface water. Just recently, New Mexico State University was selected by the EPA as a grant recipient of funding for the Environmental Justice Technical Assistance Center. This \$10 million funding, which we are very grateful for, is a critical step forward to providing assistance to underserved communities, especially those in remote areas, to help secure water resources for the future.

Administrator, how specifically will these centers like this one at New Mexico State University help constituents and rural communities and in Tribal communities ensure access to safe drinking water?

Mr. REGAN. Well, \$177 million is going to 17 of these centers all across the country to help with our rural, our low-income, our Black and Brown communities have access to these resources. I think communities understand themselves much better than the Federal Government does, so what we have done is we have given these resources to well-established organizations that know how to connect with grassroots. And it will be distributing knowledge, as well as resources to build capacity so that these communities are competitive for the \$3 billion in the Inflation Reduction Act that are geared towards environmental justice and equity.

Mr. VASQUEZ. Thank you, Administrator. And one last question. How will you define *success* for these technical centers?

Mr. REGAN. I am sorry?

Mr. VASQUEZ. How will you define *success* for these technical centers?

Mr. REGAN. I think success will be having multiple grassroots organizations have the resources, and we see the kinds of solutions that we need to see that really encourage job growth, the economy, clean environments, but also solutions that can be exported all over the country. Communities, they know their people better than we do, and there are solutions that are in these communities that we have to tap into.

Mr. VASQUEZ. Thank you, Administrator.

Mr. Chairman, I yield back my time.

Mr. AUSTIN SCOTT of Georgia. The chair now recognizes Mr. Bacon for 5 minutes.

Mr. BACON. Thank you, Mr. Scott. Thank you, Mr. Regan, for being here. We appreciate hearing your testimony.

I want to be respectful but candid with you right up front on the WOTUS ruling. I have heard from our farmers and ranchers anger at this Administration for reinstating this rule. When I ran in 2016 as a challenger, that was the number one concern I heard from farmers and ranchers was we need to get rid of the WOTUS rule and the way it was being enacted.

The 115th Congress we were able to rescind the rule, much to the appreciation of our farmers and ranchers. Now in this Administration it is being reinstated. I heard from the President of the

Farm Bureau saying that the rule is impossible to interpret, that farmers and ranchers don't know what it really means. And so I just wanted to be straight and candid with you. There is anger. I think any goodwill that this Administration had built with farmers and ranchers, it is gone with this ruling. This is a kick to the gut as some of them have told me.

With that, I want to ask you about some of the type of projects you are working on in Omaha. As you are most likely aware, in Omaha we have one of the largest residential superfund sites in the United States as a result of a former smelting facility that was there. We appreciate EPA's \$30 million investment recently to address testing and remediation of the lead contamination in our district.

There is another superfund site in my district in Valley, Nebraska, that has been added to the national priority list due to concentrations of TCE (trichloroethylene) found in the groundwater. It is my understanding that EPA has been conducting investigations on this site since 2019, so for 4 years, but I have not been aware of any actions actually being taken by EPA to date other than these investigations. Can you provide any update on the current status on these investigations? And, additionally, is anything being done agency-wide at EPA to streamline this investigation process so we can get to remediation and get the work done? Thank you.

Mr. REGAN. I appreciate that question, and I'll have to get back to you on the specifics of the investigation.¹ I do know that EPA and the City of Omaha renewed the cooperative agreement for 7 additional years with \$12.7 million in funding. We also have a cooperative agreement with Douglas County Health Department, and in 2023 celebrated the renewal of an agreement for an additional 7 years, \$29 million in funding.

That is what I know about that relationship there, but the investigation, I will have to get back to you on that one.

Mr. BACON. So, for your team, it is in Valley, Nebraska. It is on the western part of our district, and the investigation has gone on for 4 years. And obviously, we want to start taking action and doing cleanup.

So with that, thank you. I yield back.

Mr. REGAN. Thank you.

Mr. AUSTIN SCOTT of Georgia. The chair now recognizes Ms. Pingree.

Ms. PINGREE. Thank you very much, Mr. Chairman. Sorry about that. I shouldn't touch the technical equipment.

Thank you very much, Mr. Administrator. It is wonderful to see you, and I very much appreciate you taking the time with this Committee and the work that you are doing.

I want to talk a little bit more about PFAS. I know it has already come up today, and I appreciate the work the EPA has done on the drinking water standard. That is a really important thing to achieve. But you and I have had a chance to talk before about the issues related to PFAS contamination on farms. And in Maine we have unfortunately learned way too much about this, particularly related to the spread of biosolids on farms, resulting in PFAS con-

¹ **Editor's note:** the information referred to is located on p. 113.

tamination that is in crops, humans living on the property, and animals eating those crops. I have had opportunities to talk with Secretary Vilsack about this and what resources are needed at the USDA to help address PFAS contamination. And he emphasized the need for further research.

As you know, we were able to put \$8 million into the Fiscal Year 2023 Interior appropriations bill for EPA to work with USDA on the research impacts on PFAS and agriculture, including PFAS uptake on plants and animals. And it just seems like there is a lot we don't know. So can you update us a little bit about the status of the research, where you think it is headed, and what else can we do to help the EPA on this?

Mr. REGAN. Well, thank you for that question, and thank you for your leadership in helping us to get that \$8 million in 2023.

So we are working with USDA to fund research to better understand PFAS uptake in the plants and animals. I would like to say though, and I think Secretary Vilsack and I both agree that America has the safest food supply in the world, and we are confident in that. But we do need to have more research, as we have all thought about. And so at EPA, our Office of Research and Development intends to award one or more competitive research grants and has recently started the planning process for the request for applications phase. So we intend to work really, really closely with the interagency PFAS Research and Development Working Group, also called our PFAS Strategy Team, so that we can coordinate as a whole-of-government family, not just with myself and Secretary Vilsack but the President has convened a number of cabinets to do so. This \$8 million is going to go a long way, and it is going to laser focus our research and development staff to do exactly what you envisioned.

Ms. PINGREE. Great. That is wonderful to hear. And I do appreciate you mentioning earlier the DOD because, as we know, and we have heard from some of my colleagues, that near DOD sites are also where some of this contamination is found. And I do want to agree with you. We have a very safe food supply in this country, and I hate it when this kind of chemical contamination happens, yet we don't know enough about it to help determine for farmers what is safe. And for consumers, we don't want them to be frightened about all sites.

On a somewhat different tack just talking a little bit about climate change and agriculture, and this Committee has done a lot of work on the soil health, climate-friendly agriculture, and certainly that is a big priority for the USDA is making farmers our partners in sequestering more carbon and reducing the impact of carbon in the atmosphere, carbon and methane. How critical do you think it is that we use the farm bill with those voluntary incentives to make sure the farms which are now characterized as something about nine percent, nine to ten percent of emissions in this country, so we can help bring down the level to net zero and be partners with farmers? So where do you see the value in that since climate change is a big part of your portfolio of course?

Mr. REGAN. It is critical, and that is why last year I announced that EPA had rechartered our long-standing Farm, Ranch, and Rural Communities FACA, which is providing independent advice

to EPA on environmental issues important to not just the agency but agriculture. And so for the next 2 years, this FACA will consider how EPA's tools and programs can best advance U.S. agriculture's climate mitigation and adaptation goals in the non-regulatory sense. So we have an independent FACA. For most of them I have appointed, and they are laser focused on how to make EPA the best partners possible in looking at agriculture's role in mitigation and adaptation. I find it to be one of the most intriguing and most engaging FACAs that we have, and they are providing a lot of solutions to the agency.

Ms. PINGREE. That is great to hear because, as you have heard earlier, we want this to be a science-driven understanding. We need more facts. We need more metrics and measurements that make it easier for farmers, and farmers certainly need the technical assistance, which I know you can provide. So thanks again for the work you are doing, and I will yield back.

Mr. REGAN. Thank you.

Mr. AUSTIN SCOTT of Georgia. I am going to get a brief roster update before we go to the next question on the Democratic side. I have Adams, Crockett, and Bishop. And then on the Republican side I have Bost, Johnson, Mann. And, Mr. Bost, you are recognized for 5 minutes.

Mr. BOST. Thank you, Mr. Chairman.

And, Administrator, thank you for being here.

Last week, the EPA proposed its new Federal vehicle emissions standards, claiming that it would accelerate the transition to a cleaner transportation future. But nowhere does it mention biofuels or even the importance of consumer choice, only electric vehicles.

I represent a rural area, matter of fact, the bottom $\frac{1}{3}$ of the State of Illinois. I mean, most people around the nation that don't come from Illinois don't understand how rural deep southern Illinois is. And it is 34 counties. There are 22 EV charging stations in 34 counties, 22, less than one per county. By taking that narrow-minded approach, you are not only leaving biofuels behind, but you are leaving rural America behind as well. Now, considering EVs make up only single digits of the market share of vehicles, it sounds like this rule is government manipulation of the markets. The DOE has found that the U.S. corn ethanol has 44 to 52 percent lower GHG emissions than gasoline.

With that being said, do you support the use of biofuels as a clean energy source? And is the agency working to determine the sale of year-round E15 across the country for the summer of 2023 instead of pushing for EV vehicles only?

Mr. REGAN. Well, I appreciate the question, and you have given the opposite argument of what I hear from the other side. I think when I set the highest RVO levels the agency has ever set in 2022, the EV crowd had some questions about that, but we moved forward. And we plan to pursue that trajectory in 2023, 2024, and 2025 in terms of continuing to have those RVOs go up.

We also are excited about responding to those eight Governors in looking at year-round E15 for 2024. We took that request very seriously. We tried to ramp it up in a timely fashion to have 2023 included, but we are probably just not going to be able to do that. So what we will be looking at is the same thing we looked at last

year, which is a case-by-case analysis of whether or not E15 will be needed in 2023. And in that case, we would have to use our emergency waiver.

And then we are also really excited and I am proud to be part of the task force that is looking at the role of biofuels in aviation fuels. We are engaging with the Department of Treasury and the USDA and the like. So I think that this Administration has made a very strong, strong, strong investment in biofuels, especially advanced biofuels, and it is reflected in these RVOs, E15, and aviation fuel.

Mr. BOST. I know that is what you said, but the report says nothing about it, and that is a problem. That is a problem because you are not providing an all-in strategy that I believe is necessary for our rural communities. And the problem is, is that we end up—from what I see from this Administration—this is directed at the whole Administration—they are more worried about selling a message, whether it is true or whether it is not, or whether we are ready to advance or not, and they are willing to sacrifice the farmer and our economy to do so.

My colleagues and I though also—my second question, sent a letter last week expressing our concern over the EPA's proposal of the Renewable Volume Obligations for advanced biofuels and in particular biomass diesel fuel. Now, the proposed RVO undercuts the biomass-based diesel growth to just about 190 million gallons over 3 years. And when in 2022 alone the RVO increased biomass diesel fuel was 330 million gallons. What data did the EPA use to reach the 190 million gallons over 3 years? And will the final rule increase blending targets to biomass-based diesels to reflect that industrial growth that is going to occur?

Mr. REGAN. Well, I appreciate that question, and I have met with the biomass diesel folks to kind of talk through that. We were using the number that USDA uses, and I sort of recognized that they are also looking at some infrastructure that they believe will be in place over the next 5 to 10 years that will be able to facilitate a larger volume. So what I can say there, because we are in a proposal phase, is that we have engaged, we have taken the comments, and we are taking a look at how we come out with our final in terms of that number.

Mr. BOST. And I am running short of time, but I need to understand, do you ever take into consideration what it may do to the markets in the future?

Mr. REGAN. I am sorry?

Mr. BOST. What will it do to the markets? Because we deal off of markets, so we do our production based on—I am cutting it short, but I will get that to you and see if we can get an answer for it.

Mr. REGAN. I would love to follow up with you on that.

[The information referred to is located on p. 114.]

The CHAIRMAN [presiding.] That would be great. If you would follow up with Mr. Bost on clarifying the question and following up in writing, that would be greatly appreciated.

Now, I am pleased to recognize the gentlelady from North Carolina—oh, she is already gone.

Ms. ADAMS. Thank you, Mr. Chairman.

The CHAIRMAN. There you go. I thought so.

Ms. ADAMS. Thank you very much.

The CHAIRMAN. Congresswoman Adams.

Ms. ADAMS. Yes, I have had double meetings today.

And thank you, Administrator Regan, for being here. Thank you for your testimony. It is nice to see a fellow North Carolinian and an Aggie in the committee room. Thank you for the incredible work, and I know that is just what Aggies do, so Aggie pride.

Mr. REGAN. Aggie pride.

Ms. ADAMS. There have been several lawsuits brought against EPA recently for its failure to strengthen its Clean Water Act program for concentrated animal feeding operations, which are now forcing the agency to scrutinize its regulation of nutrient runoff. I have heard concerns that a significant number of CAFOs evade Federal permitting requirements, and the small minority that do have Federal permits have weak or ineffective water quality controls. For example, by EPA's own count, of the 1,222 large CAFOs in North Carolina, only 14 have Clean Water Act permits. So do you agree that EPA needs to change the way it regulates this form of nutrient runoff? And are you open to meeting to discuss these reforms with me?

Mr. REGAN. Well, thank you for the question, and in light of some recent lawsuits and the statements you have made, in January, as part of our Effluent Guidelines Program plan, EPA announced that it is going to undertake a very detailed study of concentrated animal feeding operations to determine if a rulemaking for CAFOs is warranted. So we are moving forward with that, and we intend to gather information addressing issues such as economic feasibility of new technologies and practices for reducing discharges from CAFOs, among other issues.

Ms. ADAMS. Great. In January, EPA announced that it would be engaging in a detailed study of nutrient runoff from CAFOs to determine whether the agency should strengthen point source standards. As the agency has acknowledged, these operations are disproportionately concentrated in low-income communities and communities of color. So what is EPA's plan for engaging with environmental justice committees and ensuring that its study fully addresses the pollution burdens that they face?

Mr. REGAN. We have a very strong engagement strategy. Under President Biden's leadership, EPA now has an Office of Environmental Justice and External Civil Rights, 200 employees that have been reorganized to focus on environmental justice and equity issues full-time. And so they are working very closely not only with our water office to look at these effluent guideline issues but also our air office to begin looking at some of the air-quality issues that our communities have been struggling with.

Ms. ADAMS. Thank you. In fall of 2022 EPA announced that it was considering rescinding a Trump-era rule that exempted CAFOs from reporting hazardous air emissions from animal waste under the Emergency Planning and Community Right-to-Know Act (Pub. L. 99-499, Title III, Emergency Planning and Community Right-to-Know Act). What is the status of this rescission process, and will EPA be moving to reinstate earlier reporting requirements, and if so, on what timeline?

Mr. REGAN. Well, and that rule in 2019 changed how reporting had been done in every preceding year prior. That rule was challenged in litigation, and so what we are doing now is we are considering how to address the reporting of air emissions from CAFOs under EPCRA. We have a proposed rule that is currently under development at OMB for review, and so that would be the tool that we would use to address it.

But also, in addition to that proposed rule, we have a companion proposal to solicit information specifically from small farms so that we make sure those smaller farms are treated fairly in this process. We want to make sure that all of our stakeholders are being taken seriously and into consideration. And so we have a process with OMB, with this other solicitation, and our community engagement strategies to be sure that everybody is getting equal protection under the law.

Ms. ADAMS. Great. Well, thank you again, thank you for your incredible work, and I appreciate the opportunity to see you again today.

Mr. Chairman, I yield back.

Mr. REGAN. Thank you.

The CHAIRMAN. I thank the gentlelady. I now recognize the gentleman from South Dakota, Congressman Johnson, for 5 minutes.

Mr. JOHNSON. Mr. Administrator, thanks for being here. Just by way of preface, I will ask that a letter from a number of my colleagues to you about the tailpipe emissions standard be entered into the record, Mr. Chairman.

The CHAIRMAN. Without objection.

[The letter referred to is located on p. 94.]

Mr. JOHNSON. No doubt you know, sir, that proposal has been met with a fair amount of concern, so I would just ask that you work with biofuels advocates and others in the liquid fuels space to make sure that, to the greatest extent possible we can move forward together because I think the proposal misses the mark.

But what I want to spend most of my time on, sir, is just a colloquy with you on E15 in summer months. Give me a sense, sir, of where you think we are at.

Mr. REGAN. We are excited to be responding to the petition of the eight Governors. We started our rulemaking process there. So we are moving along that path. I know the original ask was for both years 2023 and 2024. It looks like the rulemaking will only be able to be applied to 2024 because there would be a significant disruption in pricing, consumer pricing and the like if we move too quickly in 2023. So we feel very confident that E15 being sold year-round will be eligible and ready to go in 2024; 2023 is a little too soon for that rulemaking.

Mr. JOHNSON. And I have heard during interpretations of this, but for those eight states, making E15 available doesn't do anything to keep E10 from being available. Is that right? I mean, people would have the option to have either fuel sold?

Mr. REGAN. I would have to circle back with that. I think our focus for that rulemaking is for E15.

Mr. JOHNSON. Yes, it is my understanding and my hope that giving them the same Reid Vapor Pressure waiver that E10 has would

mean that both products would be available. If that is not the case, please follow up because—

Mr. REGAN. And we are talking about the 1 psi, correct?

Mr. JOHNSON. Yes, right.

Mr. REGAN. Yes.

Mr. JOHNSON. There have been some people who have been concerned that at some point giving E15 this additional flexibility at some point takes it away from E10. That is not my understanding, but I just want to make sure I am reading these documents right.

Mr. REGAN. We will get back with you on that.

[The information referred to is located on p. 114.]

Mr. JOHNSON. So from a broader perspective, I mean, talk to me about what is the Administration's vision for E15 maybe not just in those eight states, but where do we need to be going from a broader perspective?

Mr. REGAN. Well, I think we are taking a look at that. The way that agencies process work is we get these petitions from Governors, we are legally required to respond to those petitions. I think we have responded to the eight that we have received. And, as you can see, we are taking action. What we do is we have to do a modeling analysis of what we believe the air quality impacts would be based on the number of states—

Mr. JOHNSON. So, Mr. Administrator, I am sorry. I wasn't clear enough in my question. So let's set aside your regulatory process. Last Congress on a bipartisan vote this House voted to allow year-round E15 across the country. Does your agency or the Administration have a view on whether or not that would be good policy?

Mr. REGAN. I think it would depend. I can't speak to whether or not we have provided the technical assistance to that law or that proposed law that would take into account any air quality impacts. Listen, we would have to do the appropriate modeling, which we are doing and have done for these eight states. We would have to do that for the country, and we would have to look at and determine if there are any adverse impacts from year-round sale of E15 nationwide. I can't say we have done that technical analysis yet.

Mr. JOHNSON. And obviously, back when we cared—and we still care about smog of course, right? I think carbon has grown. More people care about carbon than perhaps about smog, and there has been a tremendous amount of progress made with regard to smog in urban America. It was really that issue related to Reid Vapor Pressure and when do these products evaporate into the atmosphere and what impact does that have on smog that caused this question and about to what extent should biofuels be made broadly available. The reality is though, as you know, sir, E15 has a lower Reid Vapor Pressure rating than E10 does, so making E15 more broadly available doesn't do anything to hurt smog. Quite to the contrary, it would help go from a carbon perspective and a smog perspective, and so I would just ask that the Administration lean into this incredible opportunity for our country related to biofuels a bit more than it seems like you are today.

One other thing about pesticide labeling with the little time I have left, sir, shortly after being confirmed, you said—and I am talking about pesticide labeling. "Scientific integrity is one of EPA's foundational values, and as Administrator, I am committed to en-

sureing that every decision we make meets rigorous scientific standards.” Do you stand by that statement and any context you can provide for us *vis-à-vis* pesticide labeling?

Mr. REGAN. I do. I stand by that statement. I stand by that statement.

Mr. JOHNSON. Thank you.

The CHAIRMAN. Thank you for the answer. That is good. The gentleman’s time has expired. I now recognize the gentlelady from Texas, Congresswoman Crockett, for 5 minutes.

Ms. CROCKETT. Thank you, Mr. Chairman. Thank you, Ranking Member. And thank you, Mr. Regan, for your time. I want to first thank you for the work that the EPA does to protect our environment and, by extension, not just the American people but people around the world.

As a Member of this Committee, I am proud to be able to support some of your agency’s work through the farm bill. There are so many essential programs we support in the farm bill that are relied upon not just by American producers but all families both in the U.S. and around the world. Our farmers and ranchers make growing decisions well in advance and can’t just change what they are growing mid-season. That is why it is essential that we not only reauthorize the farm bill but do so in a way that is regular and predictable. Otherwise, working families across this country who are finally starting to see prices come down at the grocery store will be subject to increased costs as growers go into the planting season without certainty about what the farm bill will be.

Sadly enough, actions by Members of this body not on the Committee severely jeopardize the regular bipartisan reauthorization of the farm bill. Let me be clear. The Speaker holding the debt ceiling hostage to cut SNAP benefits and enrollment will lead to more inflation and greater hunger. That is a fact. So I sincerely hope that the Members of this Committee are able to work with the Chairman and Ranking Member in passing a clean, bipartisan farm bill because in addition to the overall issues we would face, there are very important environmental programs that we cannot let expire.

One of the areas that I want to highlight and ask about today is on the sustainable aviation fuels (SAFs). And just to give you a little bit of background, I am from Texas, but Dallas, Texas, specifically. We have a few airplanes there. We have American Airlines, we have Southwest Airlines, which I know is everyone’s favorite right now, and I have a number of airports, so we do lots of flying. And so I have had lots of conversations as we are dealing with FAA reauthorization, as well as the farm bill.

At a time when our producers are saying at every one of our listening sessions how much they need additional revenue, not only do SAFs provide significant environmental benefits but support a domestic energy supply source by our farmers.

So, Mr. Regan, could you explain to the Committee the demand for SAF, its importance for sustainability, and what that demand means for our U.S. farmers?

Mr. REGAN. Well, thank you for the question. And no doubt I believe it is good from an environmental standpoint; but, as you pointed out, there is an economic play here as well. And also when

we think about our energy security benefits, it is great in that regard.

Sustainable fuel is one of the most important steps that I believe the aviation industry can take to cut down emissions but also to support our farmers. EPA, the Departments of Energy, Transportation, and Agriculture have created a Sustainable Aviation Fuel Grand Challenge roadmap. This is our effort to demonstrate our support for our farmers but also for sustainable aviation fuel and its role and the role it should play in fuel and transportation of the future.

Ms. CROCKETT. Thank you for that. I hope this conversation shows how important it is that we reauthorize the farm bill. Great progress is being made, but without the essential support we provide, the entire supply chain—and when I say the entire supply chain, I am talking—let me go back to SNAP benefits. If we take that money out of the entire kind of picture, then we know that that is less money that is going into farmers' pockets because that is less money that is overall out there.

Since I have just a little bit more time, I want to switch and talk about something else. I was glad to see that the Biden Administration filed a brief in the *Edwin Hardeman v. Monsanto* case supporting the right of states to regulate pesticides under FIFRA. Could you talk about the importance of the existing regulatory regime?

Mr. REGAN. Well, speaking as a former state regulator, I believe it is important that the Federal Government, especially EPA, plays its role to set standards to keep all people in this country safe. I think that there are certain benefits that states have to go above and beyond in order to shape delegated authorities in a way that they believe are more protective of their communities. And so we have a very respectful relationship or I have a very respectful relationship with all of the state environmental secretaries all across the country, and that ability to have some autonomy, I believe, is what makes our whole system great.

Ms. CROCKETT. Thank you so much for that. And just to be clear, as a former practicing lawyer or recovering lawyer, I do think it is important that we have the ability that when our communities are being disproportionately affected, that we have the ability to say that we are going to sue on behalf of our constituents. So thank you so much.

Mr. REGAN. Thank you.

Ms. CROCKETT. With that, I will yield back what I don't have.

The CHAIRMAN. There you go. The gentlelady's time has expired. I now recognize the gentleman from Kansas, Congressman Mann, for 5 minutes.

Mr. MANN. Thank you, Mr. Chairman.

Administrator Regan, thank you for being here today. I represent the big 1st District of Kansas, which is more than 60,000 farms, ranches, feedlots, ethanol plants, and agribusinesses. And farm country has made it loud and clear that they cannot survive when the government burdens them with nonsensical regulations and red tape.

Administrator Regan, I am especially concerned with your proposed revisions to the interim decision for atrazine, an herbicide

primarily used on corn and sorghum for weed control and a key tool for farming on more than 72 percent of the corn acres in my district, which is the western $\frac{2}{3}$ of Kansas.

As you know, EPA announced those revisions that included a picklist of mitigation measures that producers would be required to implement when using atrazine. While the EPA did provide USDA with an opportunity to comment on those mitigation measures prior to announcing the revisions, none of USDA's feedback was incorporated into the proposed mitigations. Why not?

Mr. REGAN. Well, I won't agree to the premise that none were. What I can say is that this was remanded back to us by a court because of actions that the last Administration took, and so there is some guidance from the court that we are having to follow from a legal standpoint. I think we have proposed a lot of flexible mitigation measures for atrazine that farmers can actually choose from. We have asked for comments. Remember, this is a proposal. We have asked for comments. And at the request of the agriculture community, we have also convened a Science Advisory Panel this year to make sure that we are getting this right.

So I think the conversation is still happening not just with USDA but with the farmers. But I think Secretary Vilsack and I would agree that we have respectfully taken and received each other's advice. But I think you heard him say when he testified before you, he has certain decisions he has to make as the Secretary of USDA, and I have to as EPA Administrator.

Mr. MANN. Understood. Well, I would just urge you to work with USDA to incorporate scientific and agriculture producer-focused feedback. If these regulations go through, you are going to see a dramatic decline in the productivity of acres across rural America, food inflation like we have not seen before. And that is saying a lot, given the last couple years. So I hope you realize the seriousness with which these regulations will impact our producers. We should be thanking our producers for feeding us, not punishing them and making their job even more difficult with practices that have been implemented for decades. So I urge you and appreciate your help in making sure that we don't see that occur.

And also—and this has been mentioned a little bit before—EPA's recent announcement on the delay of summer sales of E15 in several states. And you discussed why you are waiting for 2024 instead of implementing in 2023. While I appreciate the permanent allowance for this beginning in 2024, eight Midwestern states that requested it, Kansas obviously is missing from that list. So a couple questions. I guess, one, do you support year-round E15, and would you like to see it made permanent by this Congress?

Mr. REGAN. What I would say is if this Congress is drafting any legislation to move in that direction, we want to be able to provide technical assistance so that we can do so. When we look at these petitions that we receive, obviously, we do modeling and analysis to determine what that impact would be in those eight states, and that is what we have done. My assumption is we would have to do the same for the entire country if that were the direction that the Congress would like to move in. So I would like to reserve judgment as to whether or not I would like to see it until I understand if there are potential adverse impacts to public health.

Mr. MANN. And I would just say we have had Republican and Democratic Administrations that have approved summertime sale of E15. I would like to think we have gotten past that. I would appreciate your support as you are looking at it.

In regards to that, does EPA's announcement allowing for permanent E15 sales in the eight Midwestern states or will EPA's final rule around summer sales include a provision allowing EPA to approve a Governor's request for summer sales in the future? In other words, if you are from a state that is not a part of those original eight, will there be a process and a mechanism for other Governors and other states to join in? Because, best-case scenario, eight would turn into 50, and we would all just move on.

Mr. REGAN. I do know that there is a process that is available to all, and eight have chosen to do so.² We have looked at those eight and that impact. It is my assumption but I can check with you that if others wanted to opt into a similar opportunity, that they would go through a similar rulemaking that we are going through now with those eight.

Mr. MANN. I would appreciate if you would consider that in the rulemaking process because I think there is a good chance there are going to be a lot of other states, Kansas included, that want to be included.

Last question, though, we are running out of time. Would you explain why EPA moved forward with the WOTUS rule before the Supreme Court ruled on *Sackett v. EPA*?

Mr. REGAN. Multiple courts had vacated the previous rule, and so there was no rule in place in theory. We were looking back at pre-2015. And so what we decided to do was move forward and try to engage our agriculture community, look at some exemptions and some exclusions, codify those, give a more narrow definition than in the Obama rule, and then be prepared to adjust to whatever the *Sackett* ruling was going to be.

Mr. MANN. Thank you.

The CHAIRMAN. The gentleman's time has expired.

I am now pleased to recognize the gentleman from Georgia, Congressman Bishop, for 5 minutes.

Mr. BISHOP. Thank you very much, Mr. Chairman and Mr. Ranking Member.

Administrator Regan, thank you very much for being here. I appreciated your comments that the 2024 EPA budget request hearing held by the House Appropriations Committee last month, that while EPA is taking pesticides and herbicides off the market, that you need to be replacing them. So thank you for thinking of how that impacts our farmers to produce the food, the flowers, the fiber, and the fuel that we use every day.

I serve middle and southwest Georgia, and farmers in my district need certainty in their crop protection tools. I know that you need permanent staff in place just to address the Endangered Species Act obligations, let alone to increase the number of product registration reviews that you can do to get through that process more efficiently and to find replacements when the courts revoke the tolerances of the existing products. So I am hopeful that my col-

² **Editor's note:** the information referred to is located on p. 114.

leagues on both sides of the aisle will consider the farmers in the pesticide review process when looking at the EPA's budget for Fiscal Year 2024.

Mr. Administrator, let me turn to FIFRA emergency exemptions. The FIFRA section 18 allows for emergency exemptions for unregistered uses of pesticides to address emergency conditions. With long-term drought taking over the nation and natural disasters becoming more frequent and more severe, we know that climate change is real and it is affecting the number of pests that our farmers have to face. Researchers at the University of Georgia have already identified several weeds that have become resistant to herbicides and pesticides. And I imagine that as we get warmer and the spring feels like summer here in D.C. already, insects will grow to numbers that our available crop protection tools will not alleviate.

Can you tell us, what are the conditions for FIFRA's emergency exemptions? Are they just environmentally-based conditions or are they economic as well? Is the agency seeing an uptick of requests for emergency exemptions? And can you elaborate on the agency's approach to this uptick? Also, what is EPA doing to combat resistance in pesticides? And can you talk about how you are managing use to ensure that these important products remain effective tools for our producers?

Mr. REGAN. Well, thank you for that question, and I will start with the latter point, which is we are working very hard with managing the litigious environment we are in around some of the major tools that we discussed as to whether or not they can be used the way we are proposing and hoping to finalize, so that is one way is to create an avenue where we have addressed ESA and we can keep some of these products on the market.

I think we are all recognizing that we have a number of products that we would like to see get through scientific review that we believe are stronger but less environmentally impactful, more efficient, and we just need to get them on the market. And in order to do that, as you have said earlier, we are asking for some resources to get the right people in so that we can get most of these products on the market.

The science is there, the technology is there. We have the ability to arm our farmers with as many tools as they need. It is about getting them through that process. And I believe that if we are effective in doing that job, which we hope we can do, then we have much less of a need and a reliance on doing things at the last minute or under emergency conditions. And so that is our laser focus there.

Mr. BISHOP. Thank you. I am aware and I have heard comments that Secretary Vilsack has weighed in on several EPA matters, including *Waters of the United States*. And I am wondering if you can share with us how the EPA and USDA interact and collaborate on other issues as well, specifically, how EPA approaches consultations with USDA's Office of Pest Management Policy and prioritizes their comments on EPA's pesticide-specific dockets? And does EPA or the Scientific Advisory Panel review USDA's chemical use and statistics during the pesticide registration review process? And if so, what are the outcomes of considering USDA's data?

Mr. REGAN. The answer to the second part of that is yes. We take all that advice very seriously, and it goes through a rigorous process. And I would argue from an insider's perspective that a lot of, if not the majority of, USDA's advice is taken. It may not materialize in every single thing that happens, but we take that advice and we internalize that advice, especially as it relates to pesticides and stakeholder engagement on pesticides.

I would say on WOTUS, I think we all came into this situation knowing that two Administrations prior didn't get it right. Multiple Supreme Courts have weighed in on this. Multiple courts have weighed in on this, and there is some ambiguity in the way the Clean Water Act is written. We tried to learn from the prior two failures. We tried to learn from what the Supreme Court has laid out, and we tried to put something that was durable in place.

Mr. BISHOP. Thank you. My time has expired.

The CHAIRMAN. The gentleman's time has expired. I am now pleased to recognize the gentleman from Iowa, Congressman Feenstra, for 5 minutes.

Mr. FEENSTRA. Thank you, Chairman Thompson. And thank you, Ranking Member Scott. And then thank you, Administrator Regan, for being here. I think you are the first Administrator from the EPA that has been here since 2016, so I applaud you for doing this, I really do. And you and I have talked on the phone. We have talked via Zoom and things like that, and I am grateful that you allow us to engage with you.

I know my colleagues have asked this question. I just want a little more clarity. Obviously, Iowa, 42 ethanol plants, E15 is such a big deal. Emergency waiver for just this summer—and the reason I asked for an emergency waiver for this summer is that we can save families 90¢ a gallon on E15. Is this something we can still look at?

Mr. REGAN. It is, and I want to be very careful because I think prior Administrations attempted to issue E15 waivers, and they were overturned by the court, and that is because when you do it in an emergency setting, the law is very prescribed. You have to look at conditions on the ground at a certain time and meet certain thresholds. And so what the eight Governors have done, they have petitioned us, which we are going through a formal rulemaking process. So yes, at any time that we are asked to consider E15, we do, but if it is done through the emergency waiver, there are certain constraints that we have—

Mr. FEENSTRA. I understand. It is getting hot outside. Summer is coming. I am just asking, when can we have the ruling, do you think? I mean, do you see it in a week? Everybody is asking me, all my ethanol plants, everybody. Any idea?

Mr. REGAN. I can tell you we are looking at—

Mr. FEENSTRA. No, no, no—

Mr. REGAN.—the conditions on the ground and—

Mr. FEENSTRA.—I get it. I get it.

Mr. REGAN. If I give you an answer today, I can guarantee you that somebody is going to file in the court and it is going to be kicked out tomorrow.

Mr. FEENSTRA. I know. Well, it is so important, and it saves our consumers 90¢ a gallon. When gas is so high, it is really a big deal,

okay? So I am urging you to sooner than later because summer is right around the corner. I think it would be so important for our nation to do it this summer.

A quick question also. Your agency just came out with obviously the new tailpipe regulations last week. Fifty-four percent of the new vehicles sold in the U.S. need to be electric by 2030. This is my question. EPA is using the Clean Air Act to justify these rules, all right, for regulating emissions. So in the agriculture community, this is what they are asking is if you can regulate emissions under the Clean Air Act, can you regulate emissions from a cow?

Mr. REGAN. No. We do not have the authority to regulate—

Mr. FEENSTRA. Because you are taking a pretty big step on regulating emissions from a tailpipe. Is that any different than a cow and the flatulence that is coming out of a cow?

Mr. REGAN. What we proposed last week are technology standards, tried-and-true technology standards—

Mr. FEENSTRA. Okay. I understand that.

Mr. REGAN. My point—

Mr. FEENSTRA. I am not trying to put you in a lurch here. Could it also be from a tractor?

Mr. REGAN. There are certain regulations that govern emissions from tractors, from small engines, from large engines, from mobile sources, from stationary sources. If it burns increasing emissions it fits into our profile somewhere.

Mr. FEENSTRA. Yes, yes. I fully understand. Thank you. Thank you for that. I appreciate you answering that.

One other question on rodenticides.

Mr. REGAN. I have the same problem.

Mr. FEENSTRA. Yes. So, obviously, you said the U.S. expressed frustration by the restrictions and it would be devastating to the U.S. agriculture community just going down the path. How can we justify these rules for the agricultural community abandoning this? This is going to be a big deal.

Mr. REGAN. It is, and this sort of fits into an earlier question about all of these pesticides and herbicides that we have been litigated on. I think we have met with USDA and other agencies to ensure that this proposal is practical and won't undermine food production or safety, so it is still in the proposal phase. We are looking very closely at these comments.

Mr. FEENSTRA. Yes, yes. Well, I want to thank you for your comments and, again, always being open with me. I really appreciate that.

I will just say from Iowa, I mean, these are sort of big overarching issues that, as the breadbasket to America, we are really concerned about. You add WOTUS on top of this and things like that. I mean, the fear is, does the Administration, does the EPA understand that we are the breadbasket to the world, and can we do things to be productive instead of punitive? And that is a great fear.

So my time is up. Thank you for being here, and I look forward to positive things that can help agriculture in the future. Thank you.

Mr. REGAN. Absolutely. Thank you.

The CHAIRMAN. The gentleman yields back.

We now recognize the gentleman from Florida, Congressman Soto, for 5 minutes.

Mr. SOTO. Thank you, Mr. Chairman.

Mr. Administrator, thanks for your patience today, and you have shown yet again you are a class act. I have been through some of these big hearings with you in Energy and Commerce, too, and I appreciate your knowledge and dedication to the country.

In central Florida, we have huge theme parks, but we also have a major cattle, citrus, blueberries, and strawberry agriculture in the area, and it is our second-largest industry. And the EPA plays a critical role, which is why we are so pleased to have you here as we are working on another farm bill.

With the IRA passed, we are hopeful the Inflation Reduction Act will reduce emissions by 40 percent by 2030. Climate change is a threat to America's agriculture, but it would be great to get your opinion on how you see climate change affecting agriculture across the nation.

Mr. REGAN. You know, just in a whole host of ways. In my home State of North Carolina, a lot of viable ag property is now facing saltwater intrusion and looking at droughts in some parts of our country and floods in the other parts of our country. I think that our farmers are on the frontlines, but I also know that our farmers are also on the frontlines for solutions as well. And that is why I have reauthorized our Farm, Ranch, and Rural Communities Federal Advisory Committee because it is there where I get a continual, steady drumbeat of how we can put solutions in place to deal with some of these climate impacts from a mitigation standpoint, as well as an adaptation standpoint.

Mr. SOTO. Absolutely. And in central Florida, we face more extreme heat, which is affecting agriculture, as well as intensifying hurricanes, which have really hurt a lot of our local citrus in particular.

I want to thank you for concurring with the states' waiver in the recent rectified pesticide that they are utilizing to help combat citrus greening, so we greatly appreciate that. Are you seeing a rise in the need of advanced pesticides because of climate change and other stresses that our farms are facing right now?

Mr. REGAN. We are. We are seeing, essentially, this is part of my frustration is not having the budget and the workforce. We have a lot of products that need to go through review that could be on the market that would put a lot more tools in the hands of our farmers. We just need to get it to them. We sometimes argue over pesticides and herbicides that have been out for a long period of time, and we have health data that show that they can be dangerous. But in addition to getting that right, there are a slew of new products and new technologies that we should be deploying because our farmers need every single tool they can get.

Mr. SOTO. If you could describe two or three of what you think are your most important visions as EPA Administrator to help farmers across the nation, what would they be?

Mr. REGAN. I think we really need to—and the President set this tone, right? Biofuels and advanced biofuels will have a role in this low-carbon economy. We need to make sure that that message is understood and that our rural communities know that they have

a seat at the table from an environmental and economic standpoint, so I think that is critically important. I think the way that our agriculture community adapts to this changing climate is critical. Food, fiber, fuel, right? I mean, we know that we need those not just domestically but to continue to be competitive internationally. And so I have heard a lot about being in the seat or the position of putting a lot of undue regulations on folks. That is not what I want to do. The job that I do is through the lens of my grandfather, who was a small farmer. So what I am trying to do is work alongside Secretary Vilsack and others to be sure that we are not taking away tools but we are giving tools to our farmers and ranchers.

Mr. SOTO. Well, Mr. Administrator, when we had Under Secretary Xochitl Torres Small in our district, she got to see John Deere's facilities of the district that are working on electric farm equipment such as plows and the like. Are you seeing a rise in electrification in farming, and what does that portend for the future of addressing climate change?

Mr. REGAN. Listen, it is the whole gamut. I was in a small town in Kansas not too long ago, sitting in a million-dollar piece of farm equipment that is precision farming at its finest and then getting out of that piece of equipment and looking at how they are using drone technology. I mean, it is just amazing, and looking at all of the conservation tools to use in water, our crops, and the like.

Listen, farmers are some of the most innovative and technologically savvy people in this country, so we need to start talking about it in that way. And that is what this EPA is trying to do.

Mr. SOTO. Well, when you see disruptions because of Ukraine's war with energy, it is critical we electrify farming as best we can. Thank you, Mr. Administrator.

Mr. REGAN. Thank you.

The CHAIRMAN. I thank the gentlemen.

I now recognize the gentlelady from Illinois, Congresswoman Miller, for 5 minutes.

Mrs. MILLER of Illinois. Thank you.

Administrator Regan, you claim that the EPA and this Administration are helping agriculture, but you have created artificial incentives for solar panels that are causing farmland owners around the country, including my home State of Illinois, to abandon farming on farmland and instead put up solar panels to collect the huge subsidies. So I would like to know, do solar panels contain materials that are considered hazardous by the EPA?

Mr. REGAN. EPA doesn't incentivize solar panels, we are a regulatory agency. And we, through BIL and IRA, are incentivizing more resilient ways to facilitate energy. But, we regulate just about everything in this country, and so if there is something that provides any kind of hazard or harm, it is our job to ensure that no one is overly exposed, especially our rural and our farming communities.

Mrs. MILLER of Illinois. This Administration absolutely is incentivizing solar panels replacing farming on prime farm ground, so according to the EPA's own website, solar panels contain hazardous waste, including lead and cadmium that are harmful to human health and the environment. Mr. Chairman, I would like to

enter into the record a section of the EPA's website titled, *Are Solar Panels Hazardous Waste?*

The CHAIRMAN. Without objection.

[The website snapshot is located on p. 102.]

Mrs. MILLER of Illinois. Thank you.

Has the EPA conducted long-term research into the impact solar panels have on agricultural land or farm soil?

Mr. REGAN. I am not quite certain if we have or not.

Mrs. MILLER of Illinois. Okay. Are you aware of extensive public reporting that landfills will not accept solar panels because they are classified as hazardous materials? And are you aware of a major report in LOS ANGELES TIMES from 2022 titled *California Went Big on Rooftop Solar. Now That is a Problem for Landfills?*

Mr. REGAN. There are a lot of reports out there. What I can say is that most of the solar manufacturers want their product back because they are recycling these panels, and most landfills are prepared to handle the disposal of solar panels. Listen, in North Carolina, I understand the concern of solar panels being in competition with farmland, but the reality is, is that a lot of our farmers are not getting the compensation that they believe that they should, and they are having to find secondary and tertiary forms of income and participating in the solar market is a personal choice. It is a private choice, and so—

Mrs. MILLER of Illinois. Well, it is being driven by the Administration's dollars from Biden's policies.

But I would like to enter into the record another article, *California Landfills are Filling Up with Toxic Solar Panels.*

The CHAIRMAN. Without objection.

[The article is located on p. 95.]

Mrs. MILLER of Illinois. Okay. Mr.—

Mr. REGAN. And I think we have seen solar panels competing with agriculture and farmland well before President Biden. I am from the State of North Carolina, from the eastern part of the state, and I have seen solar panels taking up agricultural land for over a decade—

Mrs. MILLER of Illinois. It is really amping up in my area in rural Illinois where we have the prime farm ground, flat, black dirt. It is being replaced by thousands of acres of solar panels that it is going to have a reclamation problem in the future.

Mr. Administrator, I am very concerned that you are promoting a situation where prime farmland will become unstable or need serious remediation because of these solar panels. We just had solar panels catch on fire on the roof of a school in Illinois. They are not as safe as you are portraying them. So I want to ask you also, as a general principle, do you think the EPA officials should have the right to walk onto a farmer's private property without the farmer's knowledge or permission?

Mr. REGAN. I am not aware that we are trespassing on private property at all. Obviously, that is not within the bounds of the law, so I expect my staff to respect the law.

Mrs. MILLER of Illinois. Okay. Farmers are going to be very happy to know that, and we are going to hold you to your word. Farmers don't trust the Federal Government or bureaucrats from

the EPA or from D.C. My constituents are very concerned about the spirit behind your increase in the EPA's power over farms.

So, Administrator Regan, you mentioned that the challenges facing our food and agriculture are significant, but the only challenge you mentioned is climate change. What has been devastating to agriculture production has been higher natural gas prices, which makes fertilizer more expensive, and higher oil prices, which makes diesel more expensive. The EPA has become too big, too bloated, and too powerful, and our constituents are ready to cut back your agency to end this abuse. Thank you.

The CHAIRMAN. The gentlelady yields back.

I now recognize Mr. Casar from Texas for 5 minutes.

Mr. CASAR. Thank you, sir.

Administrator Regan, thank you for joining us today.

Mr. REGAN. Good morning.

Mr. CASAR. The climate crisis threatens the stability of our farms and our food system. Farmers across our country depend on stable climate conditions to plan for production and harvest, and a changing climate impacts where and how we can grow our food. In December of 2022, the Texas Department of Agriculture released a report that found that climate change is threatening Texas' food supply. Last year was one of the driest years on record for Texas, with roughly ½ the state still in drought conditions. The drought resulted in failed crops, low yields for farmers, diminished grazing, has forced ranchers to cull their cattle, and is driving up the price of food in my state. One eggplant and okra farmer I met with in San Antonio last week, told me he no longer has access to water because the lake his family has relied on for generations is drying up. Now, his family farm that he has worked on for decades is under existential threat. How can a farmer grow anything without water?

Fortunately, the Biden Administration is taking historic steps to tackle this crisis by investing billions in drought mitigation, renewable energy, and climate-friendly agriculture practices. Administrator, your testimony mentions the work of the Farm, Ranch, and Rural Communities Federal Advisory Committee as it relates to climate change. Is there anything you can share about the committee's advice on climate mitigation at this point for the Committee?

Mr. REGAN. Well, thank you for that question, and I can tell you it is a FACA committee that I truly value. And, this FACA's focus for the next 2 years is exactly in the areas you are speaking of, both mitigation but more so adaptation. They have identified voluntary and incentive-based opportunities in public-private partnerships that EPA can support that will help our farmers and achieve some of our goals. So what they have done is they have brought to our attention some really innovative market-based incentives that we can begin to think about how that works in coordination with some of the more traditional paths that we take as an agency.

Mr. CASAR. Thank you for that important work. You also have mentioned in your testimony EPA's work to support innovators and innovation. Can you talk about the EPA's efforts focused on regenerative agriculture and the work to improve soil, water, air, and the climate?

Mr. REGAN. Absolutely. I was just visiting a farm in Kansas that really focuses on regenerative agriculture but also focused on precision farming at a level I had not seen before, which is some insight into—as we design our regulations, typically, if you are unaware of the level of technology and the practices that we are seeing on the ground, those regulations or even voluntary incentives that we are designing can't take that into account. So I don't believe you can do this job sitting behind a desk in Washington, D.C. I have been out all across this country, myself and Secretary Vilsack as well. We have hosted a lot of listening sessions, and we have done some hands-on experimentation with some of our farmers, and we are bringing that back to Washington, D.C. I think you are going to continue to see EPA adjust to what we are seeing on the ground for the foreseeable future.

Mr. CASAR. I appreciate you doing that, and I appreciate you traveling because wherever I have been across the State of Texas, this is something that we continue to hear about and appreciate that. There has to be tough and innovative short-term work for us to protect our farmers and our food system in the long-term with what it is we are facing with the environment, so I appreciate you and EPA's work and focus on this.

Thank you, and I yield back.

Mr. REGAN. Thank you.

The CHAIRMAN. The gentleman yields back.

I now recognize the gentleman from Tennessee, Congressman Rose, for 5 minutes.

Mr. ROSE. Thank you, Chairman Thompson. And thanks to Ranking Member Scott. And thank you, Administrator Regan, for being here with us today and sharing your time with us.

I want to begin by following up on the line of questioning that Representative Mann was pursuing. And I just want to reiterate the harmful impact that the ruling concerning atrazine could have on productivity, the rulemaking, and the counterproductive impact that I fear that it might have with respect to proven, effective conservation measures like reduced- and no-till practices. I know you are getting a letter that I cosigned that Representative Mann led and just hope that you will take a close look at that. I hope you will also look at all of the science, including the newer studies that provide a more complete picture of the state of science with respect to atrazine in particular.

And then second, I want to follow up on some of the prior discussion about the WOTUS rule. And I heard your explanation about why you all went forward with the new rulemaking, but I want to just say I could not more strongly disagree that with a pending ruling from the Supreme Court, that the issuance—I believe the untimely issuance of this rule is counterproductive and just provides a greater level of confusion on what was already a very confused state of affairs. So I wish you all could have held off until the Supreme Court spoke on this issue.

Frankly, I was most troubled by your—and I may have taken it out of context, but you said earlier we regulate just about everything in this country. And I think WOTUS exemplifies that as an overreach by EPA, a misreading of the authorizing legislation from this Congress. And I think it underscores that, frankly, Congress

has got to be more careful in the future in a way that could be counterproductive and limiting and that we cannot continue to allow our regulators to have the breadth of discretion that we have given them in the past if they are going to misuse and use that discretion to expand the regulatory reach and burden that they put on American farmers and the American people.

Administrator Regan, I want to shift gears. I have been troubled with a growing trend across the Federal Government where Federal agencies are sued by groups whose goals closely aligned politically with the Administration. Then the agency settles the lawsuit by entering into a friendly settlement agreement, which helps to achieve the political goals of the Administration. What really troubles me about this trend is that it appears intended to circumvent the traditional rulemaking process. Will you commit today to not allowing your agency to enter into settlement agreements designed to circumvent the Administrative Procedures Act?

Mr. REGAN. Well, I can tell you that we don't do that now. And, I can assure you that my General Counsel and all of our lawyers are fighting for the letter of the law, not for ideological purposes.

Mr. ROSE. Well, we have certainly seen examples of that happening throughout the government regulatory complex, and I hope you will be mindful that, again, that is one of those oversteps that should not happen and ultimately puts Congress in the difficult position of having to limit what discretion we allow you to have going forward.

I want to shift gears again. Administrator Regan, yes or no, are you the main climate regulator of the Federal Government?

Mr. REGAN. I think the President has made it clear that this is a whole-of-government approach, and we are looking at more than just regulations to spur economic development, growth while we combat the climate crisis.

We do have a role. Obviously, the Clean Air Act gives us the authority and, quite frankly, the mandate to regulate using the latest and greatest technologies. And so, yes, I follow the law, whether it is the Clean Water Act or the Clean Air Act, and I have an obligation to put rules out that create a competitive environment for this country.

Mr. ROSE. So personally, I have to tell you I am not sure whether EPA or at this point the Securities and Exchange Commission is the main climate regulator for the Federal Government due to the recently proposed rule entitled, *Enhanced Standardization of Climate-Related Disclosures for Investors* that the SEC is putting forward. Administrator Regan, was EPA consulted on the question of how expensive it will be for farms to comply with the proposed rulemaking from the SEC?

Mr. REGAN. We do our own cost-benefit analysis when we pursue these regulations. Obviously, we have our formula, but we consult with multiple agencies across the Federal Government. So I am not quite certain what that level of consultation was, but I can tell you we did not do the rule in a vacuum.

Mr. ROSE. I hope you will get back with me off the record about whether you were consulted and the degree to which you were.³

³ **Editor's note:** the information referred to is located on p. 115.

And thank you, Mr. Chairman. I yield back.

The CHAIRMAN. The gentleman's time has expired.

I am now pleased to recognize the gentleman from Illinois, Mr. Sorensen, for 5 minutes.

Mr. SORENSEN. Thank you, Mr. Chairman. And welcome, Administrator Regan. As a career meteorologist, I appreciate your words of a government-as-a-whole approach. It was also a pleasure to welcome you to Rockford, Illinois, a few weeks ago. It is a pleasure to see you again.

In Rockford, we saw how the investments provided in the bipartisan infrastructure law are improving access to clean water and the overall health of the people of Illinois. Of the farm bill, it is another bipartisan opportunity to make historic investments that improve water quality, by preventing runoff through conservation measures, and protecting soil health, all while creating jobs and securing our nation's economic vitality so that cities like Rockford and northern Illinois can improve the lives of everyone, including our producers. I look forward to collaborating further with my colleagues to deliver more Federal funding to these communities.

So I would love to talk a little bit more about water quality. Administrator Regan, you mentioned in your testimony that the EPA plans to use the full flexibility of the Clean Water Act, the regulatory framework, to champion innovative financing to achieve water quality goals. What technologies and market-based models is the EPA considering?

Mr. REGAN. Well, the good news for us is we have a lot of water utilities out there and a lot of water utility associations that are on the cutting edge of taking a look at how they use specific rate-based formulas that are best for their customers to access these advanced technologies, whether it be carbon filtration or other types of technologies that might be suitable for small, medium, and larger utilities. We want to provide that flexibility. Our goal is to ensure that all of these can perform at a level that meets those pollution standards that we set. And we do take into account our smaller rural communities that we know don't have the tax base. And that is one of the great things about the bipartisan infrastructure law, over \$10 billion to look at emerging contaminants like PFAS and then a set-aside of \$3-\$5 billion of that solely focused on our rural water systems. Secretary Vilsack and I have looked at our respective pools of money, we have decided to combine them, especially in our rural communities, to be sure that we are getting maximum leveraged power and potential to make our rural communities as competitive but as safe as possible.

So, we are really proud of the partnership we have not only with our other Federal agencies but state and local and county governments as well. And they play a role in how we really keep their communities safe.

Mr. SORENSEN. And I appreciate that because that affects the farm communities where we are investing, for instance, in Lanark, Illinois, and we are working with folks in Alexis, Illinois, to bring about change in these areas.

I would like to switch over to talk a little bit about PFAS for a moment. Farmers and ranchers are rightly concerned about the impact of these forever chemicals, the contaminated biosolids that

may have been used as fertilizer that now contaminate their land. Am I correct in understanding of the law that biosolids applications are generally exempt from CERCLA, the Comprehensive Environmental Response Compensation and Liability Act? Are they exempt from that liability?

Mr. REGAN. What we have done is we have made it very clear that our goal is to go after the polluters, not our farmers, not our ranchers, not our water utilities. And so we are using our enforcement discretion. We have designed our enforcement discretion policy in a way that makes it very clear that we are not coming after the agriculture industry but we are going after those who have polluted these lands in the first place.

Mr. SORENSEN. Recently, the Environmental Working Group estimated that 20 million acres of fields could be using PFAS-laced biosolids as fertilizer. In several instances, PFAS have ended up in farm animals and milk, as well as sources of drinking water. How is the EPA planning to address PFAS in biosolids?

Mr. REGAN. Well, and this is a topic that I have discussed a lot with Congresswoman Pingree, and thanks to you all and her leadership, we have received \$8 million to specifically do some research and development around the uptake of PFAS into our plants and saturation from biosolids and the like. So that is something that we are looking at very, very closely. But I want to reiterate, we believe that we have the safest food supply in the world, and we stand by that.

Mr. SORENSEN. And our farmers are great conservationists and want to do what is best not only for the current, but the next generation as well. Thank you for your hard work as well.

Mr. Chairman, I yield back. Thank you.

The CHAIRMAN. The gentleman yields back. I thank him.

I am now pleased to recognize the gentlelady from Texas, Congresswoman De La Cruz, for 5 minutes.

Ms. DE LA CRUZ. Thank you, Mr. Chairman. And thank you for being here today.

The CHAIRMAN. Congresswoman, check your microphone if you would there.

Ms. DE LA CRUZ. Hello, hello? Can you hear me? Yes? Okay.

Thank you for being here today. I frequently hear from specialty crop growers in my district, which is in south Texas, about how your agency is seeking to restrict the use of crop protection tools necessary to increase yields. Now, by increasing yield, we can reduce the need for imports from foreign countries who don't have regulatory systems that are as safe as the United States. For example, onion growers in my district rely on the herbicide DCPA (dimethyl tetrachloroterephthalate). However, the EPA issued an unprecedented Notice of Intent to Suspend this chemistry. Tell me, how do you plan to address this specific issue?

Mr. REGAN. And can you remind me of which pesticide or herbicide you are speaking of?

Ms. DE LA CRUZ. So it is the herbicide DCPA.

Mr. REGAN. Okay. I will have to get back to you on that specific herbicide.

Ms. DE LA CRUZ. So let's move on to the next thing that is very concerning to my specialty crop growers in south Texas. What we

need to know is how you are going to streamline the review process in labeling for new products of fruits and vegetables? Current labeling can take 10 to 11 years and cost millions of dollars. And so with fewer and fewer products to help our farmers, we need the insecticides, the fungicides, and even fertilizers that are lacking labels for produce. What are you able to do to help us streamline this process?

Mr. REGAN. Well, we put together a work group to focus on that. I think that what we have found ourselves in is a situation where there is a lot of litigation around our pesticides and herbicides that we are trying to dig out of because of the agency's, the courts would say, lack of focus on the Endangered Species Act. We also find ourselves under-resourced in the categories of how we can get not just new products into the market but our labeling and the like, and so we have requested resources in our budget.

Ms. DE LA CRUZ. What kind of resources are you talking about?

Mr. REGAN. Resources for more personnel. In this specific division, we have the same number of people we had in the late 1980s and early 1990s, and so we are seeing an uptick in lots of products and opportunities for market penetration. We have just got to get these products through the review process.

Ms. DE LA CRUZ. So you talked about these lack of resources. You mentioned that before, that these lack of resources is what is prohibiting the streamlining process and other things that are important to farmers and ranchers. But I would like to remind you that Congress recently provided a robust increase for OPP appropriations, and PRIA 5 increased the maintenance and registration fees that fund OPP activities. So doesn't that mean that you have the opportunity to hire more personnel?

Mr. REGAN. We are working on hiring more personnel, but the time that I spent with the entire agriculture community, I think they would tell you, too, that we are so far behind and so under-resourced and have so many products that deserve to be in the market, in their hands as tools for our farmers that we need to continue to wrap up. I mean, we have to balance the fact that we are under a tremendous amount of litigation while we are reviewing a lot of new products, and we don't have the staff and the resources to do both of those things.

So, listen, I would love to make sure that all of our farmers have all of the tools that they have, and I would like to also ensure that we are not being litigated and farmers are not being litigated and we are doing things in a very safe way. And I think that is the goal that we are pursuing.

Ms. DE LA CRUZ. Well, I think that the concern is that if we don't move faster, the ones who are really going to suffer are our farmers and ranchers, and thus, our American communities. And if we have to rely on foreign produce and foreign countries to feed Americans, then really it has become a matter of national security. So I would encourage you and the EPA to move this faster so that we will not have to rely on foreign countries to feed Americans. And with that, I yield back.

The CHAIRMAN. The gentlelady yields back.

I am now pleased to recognize the gentlelady from Michigan, Congresswoman Slotkin, for 5 minutes.

Ms. SLOTKIN. Hi there. Thank you for joining us, Mr. Administrator. I am from Michigan where our new line is the home of the most diverse agricultural state in the country with regular access to water. So we are happy to be here.

The questions I have for you are on PFAS. And just to review the setting, we are the state that had Flint, Michigan, right, an apocalyptic poisoning of an American city. So every Michigander of all stripes started looking more closely at what was in their water, right, from that event.

And PFAS is an issue that I think we have been a real leader on in the State of Michigan, both looking for it, figuring out through our universities how to deal with it, and for a long time we were pushing various Administrators before your time and into your time on setting a true scientific standard for PFAS. We were so frustrated in Michigan in prior years that we went ahead and set our own PFAS standards that was based on science because we couldn't in good conscience tell people around, for instance, some of our retired military bases that they should just feel comfortable drinking their water because the EPA just hadn't moved on a scientific standard.

So I want to thank you for making important announcements about a scientific standard on drinking water. That is very important. But the work is not complete because we need the same scientific standard for groundwater. Groundwater is connected, as we know, to a ton of things, particularly in ag, and we have the problem in our state not just with contaminated groundwater around some of our military bases, some of our industrial sites, but we have now seen in my own district how that circles around, gets into that sludge that is often then converted into fertilizer and contaminates our farmland, animals, I mean a whole host of problems. So I would love just a very quick answer. Can we count on you to do, similarly to the good work you did on drinking water, a groundwater standard based in science?

Mr. REGAN. We are moving, yes, we are. We have to do it for our drinking water, which we proposed. We are also looking at an interagency process right now looking at cleanup levels for soil and for water and other kind of contamination, so we hope to have that expedited as quickly as possible.

Ms. SLOTKIN. What does that mean, timeline? Like, are we talking 3 months, a year, 5 years? And again, long preceding you where working it hard meant that we went for a long time without a real scientific standard on the water we were drinking. So give me an estimated timeline if you could.

Mr. REGAN. Yes, EPA has already—the best way for me to say it is we have completed our homework, and now it is in the interagency process, so we are getting some feedback from OMB and from others, and, as we get that feedback, we will make those adjustments and hope we can push this rule out as quickly as possible.

Ms. SLOTKIN. Okay. Well, I would hope that within this year we could see some real movement just knowing how long these timelines are. And I have tried through my work on the Armed Services Committee to send like the big red flashing light to my former employer at the Pentagon, right, and say when this stand-

ard changes to be based in science, the U.S. military is going to have a responsibility around some of our sites for cleanup. You better start planning for that now. So if we are going to have to wait, please help our friends plan appropriately and game out what is going to happen.

Mr. REGAN. And I would say that Secretary Austin and I have had very good conversations around PFAS from day 1. He has been a very strong partner, along with Secretary Vilsack, so this is a whole-of-government approach.

Ms. SLOTKIN. Okay. Thank you for that. So tell me about the fertilizer problem, the sludge problem, this contaminated wastewater remnants that then gets put onto our farmers' fields? And in some cases in my district farmers are losing their farms because of contamination. What work are you all doing on the sludge?

Mr. REGAN. Well, the first thing is we are taking that \$8 million that you all have granted to us to continue to do the research and development around the uptake potential and what that might mean. But we have also designed our enforcement policies that explicitly look at not focusing on the farmers and those who have applied the sludge but those who have created this mess, the polluters. We are focused on holding the polluters accountable. So we will continue to do the research and development that you all have given us the money to do, and we will keep our eye trained on those who have caused this mess in the first place.

Ms. SLOTKIN. Thank you. And then one just final comment more than a question. So being from Michigan, we watched the announcement I believe last week on the new auto standards on electrification very closely. We had a big White House ceremony with all the big autos on the Rose Garden together, announcing our commitment that by 2030 we would have 50 percent of our fleet as electric. And that was done in coordination. I would just ask that going forward we realize success happens when we join hands and do this as a community rather than getting surprised by some of these standards. Thanks very much.

The CHAIRMAN. The gentlelady's time has expired.

I now recognize the gentleman from Missouri, Mr. Alford, for 5 minutes.

Mr. ALFORD. Thank you so much, Mr. Chairman. Administrator, good to see you here today. I know it has been a long day. We are almost done. We are down to the front row.

I know we have talked about atrazine and you have addressed some of those issues. We have a lot of corn farmers in our district, love the corn farmers. They are doing a great job. But this is a big issue for them. The proposed revision to the September 2020 interim decision, ID, for atrazine seeks to lower the concentrated equivalent level of concern. Can you commit to having the SAP consider other studies made available to you and the EPA that were not reviewed in the previous SAPs to make sure that the best available scientific data is used, sir?

Mr. REGAN. Let me circle back with my staff to see what has and has not been considered, and we will follow up with you on specifically those studies.

[The information referred to is located on p. 115.]

Mr. ALFORD. But it would make sense to use the best scientific data, would it not, sir?

Mr. REGAN. We definitely want to use the best scientific data.

Mr. ALFORD. Yes, good deal. I would appreciate a follow-up on that from your staff.

Mr. Regan, why does the Biden Administration want to get rid of gas stoves for 40 percent of the American people?

Mr. REGAN. I don't think that is true, but the regulations that focus on gas stoves are not within the confines of EPA, so I would have to defer the specifics in terms of the technicalities and the regulations to the Department of Energy.

Mr. ALFORD. I know the Department of Energy has weighed in on this, so has the U.S. Consumer Product Safety Commission. But the EPA has also weighed in to some degree on the safety of gas stoves and potential emissions from gas stoves that could be harmful. So what is the EPA's take on this?

Mr. REGAN. I have not been made aware of that we have weighed in on gas stoves. That is not something that I have commented on or that—

Mr. ALFORD. Are gas stoves safe for the American people? Are they safe for the environment?

Mr. REGAN. I am sure my mom is watching this hearing, and she loves her gas stove, and she seems safe to me.

Mr. ALFORD. So your mom would vote for keeping gas stoves in America?

Mr. REGAN. She sure would.

Mr. ALFORD. All right. I will take that as a good answer from you, Administrator Regan.

Last question, chlorpyrifos, I always have trouble pronouncing that.

Mr. REGAN. Me, too.

Mr. ALFORD. All right. Let's just call it the big K, how about that—or the big C. It is spelled with a C. Anyway, the Biden Administration has allocated tremendous resources allegedly out of a desire to support American agriculture, but EPA's approach to chlorpyrifos flies in the face of that. Is the White House aware of the economic harm caused by EPA's approach? And if so, what is the jurisdiction, and how does EPA intend to make producers whole?

Mr. REGAN. We are working very hard on this issue, and I have spent a lot of time with Secretary Vilsack on this issue. And I think the frustrating part about this is the courts were fed up that EPA had not moved in a specific way, so the courts rendered a judgment that set a timeline very stringent and a bar very high that is atypical of any other pesticide that we have jurisdiction over. And so we made the decision that we made based on the science but also based on our legal obligations of the requirement of the 9th Circuit Court.

Mr. ALFORD. Okay. Thank you so much. I appreciate your testimony here today. And, Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman yields back his time.

I am now pleased to recognize the gentlelady from Washington State, Congresswoman Gluesenkamp Perez, for 5 minutes.

Ms. PEREZ. Thank you, Mr. Chairman.

And thank you, Administrator Regan, for being here today. I wanted to share some concerns I have about the impact that your recently proposed rules on vehicle emissions may have on rural communities and agriculture. So just yesterday I actually sent a letter to the EPA, DOT, and DOE outlining these concerns. I sincerely appreciate the need to address the climate crisis on all fronts, but I want to ensure that we are not disproportionately impacting rural communities in my district. So it's about a 4½ hour drive across my district, big district, there are only 100 EV charging stations in my district. There are two in my county, Skamania County. Both of them are at resorts. We are also already experiencing a nationwide shortage of qualified electricians. Anyone who is in need and waiting for a residential electrician knows this. Workforce shortages, particularly those in the trades, are even more acute in rural communities. So I want to make sure that the EPA has considered the significant workforce development challenges that must be addressed to train electricians for a large-scale rollout of EV charging infrastructure. And while this rule does not affect farm equipment, I want to ensure future rulemaking keeps this context in mind.

So I am hoping that you can speak to how the EPA will keep the constraints of workforce shortages and the needs of rural communities in mind in future rulemaking on vehicle emissions, particularly when it comes to agricultural vehicles such as tractors.

Mr. REGAN. Absolutely. This is focused on cars, trucks, and heavy-duty vehicles, primarily as a technology standard that we have used for the past 40 years that takes into account the Inflation Reduction Act but also the CHIPS and Science Act (Pub. L. 117–167, Division A, CHIPS Act of 2022 and Division B, Research and Development, Competition, and Innovation Act) and other Acts that are really trying to reinvigorate domestic manufacturing here and job training. The rule that we have proposed—and it is a proposal—would kick in, in the year 2027, and it would take into account all of the components that you just described that need to be in place for this rule to take full effect and get maximum opportunity out of it.

But we have to remember it is a proposal. We are going through a public comment period. We are engaging with all of our workforce, our automobile manufacturers, and you all in Congress to be sure that what we finalize is not punitive but is an opportunity for this country.

At the same time, I think the RVOs in 2022 are the highest renewable volumes ever done by any Administration. And as we look at the set rule for RVOs for 2023, 2024, and 2025, we are going to be sure that we continue with that trajectory. We are going to walk and chew gum at the same time. There is a significant role for biofuels and advanced biofuels in this country, and we don't have to have one without the other.

Ms. PEREZ. Thank you. A few weeks ago, I received requests for Congressional funding, and one pervasive theme was municipal water infrastructure problems across the district. Is there any more romantic term in the English language than *biosolids*? I haven't found it. This touches every county in my district. Over and over, we see infrastructure that has passed its recommended lifespan,

undersized, or on the brink of collapse. In order to resolve this, municipalities are often forced to implement Band-Aid solutions or take out incredibly large loans. Some wastewater systems are also beginning to fail, releasing untreated water into local environments, which poses severe health risks to residents and neighbors.

So local governments cannot address this problem alone. I appreciate the work the EPA has done with the bipartisan infrastructure law funding and partnership from the USDA with the Closing America's Wastewater Access Gap Community Initiative. Administrator Regan, right now, the program is a pilot in eight mostly eastern states. What is the ultimate goal for this program in terms of serving communities countrywide on the West Coast where I am?

Mr. REGAN. Yes, I think we have 11, and we do have some on the West Coast as well in terms of closing the wastewater gap. And, listen, we designed these pilots so that it could be reflective of all communities across this country. Thankfully, between President Biden's leadership and Congress, we were awarded \$50 billion for these sorts of issues, not just for water infrastructure with that \$50 billion, but billions to focus on emerging contaminants and other pollutants of concern.

And so we are going to continue to be sure that these resources are distributed evenly and fairly all across the country, but these pilot projects to close this wastewater gap are important because we are getting real-time data for local solutions on how to use these resources the best.

Ms. PEREZ. Thank you so much. I yield back.

The CHAIRMAN. The gentlelady yields back.

I now recognize the gentleman from New York, Mr. Langworthy, for 5 minutes.

Mr. LANGWORTHY. Thank you very much, Mr. Chairman and Ranking Member.

Administrator Regan, I know that many of our—

The CHAIRMAN. Congressman, check your microphone if you would. Just get a little closer to it then.

Mr. LANGWORTHY. Hello? Can you hear me? Is that better? Okay.

Many of our colleagues have shared concerns over the course of the Biden Administration talking about the radical new WOTUS rule, but I think it cannot be emphasized enough just how harmful this rule will be for our agricultural industry. In speaking with farmers in locally municipalities in my district in rural upstate New York on the western end of the state and the southern tier, we extrapolated that under the EPA penalty scale, a Clean Water Act violation could run one of my producers a whopping \$56,000 a day per violation. Administrator Regan, I have a lot of small generational family farms in my district, and a \$56,000 slap a day from Washington bureaucrats will put them completely out of business forever, and there will not be new agricultural leaders coming into an area like mine in New York State to fill that void.

Administrator Regan, these new emissions standards that EPA are proposing for electric vehicles are very concerning, particularly due to the physical differences between the refueling of an electric car and a traditional vehicle, and notably, the significant time disparity, that it can take ten times longer to fill up the tank for an

electric vehicle than it would a traditional agricultural vehicle working off of diesel. This would have crippling impacts on our agricultural industry.

And with that, we have a very large dairy presence in my district. Safely and timely transportation of milk from farm to processing facility to the consumer is of the utmost importance. Considering the perishable nature of the milk and the other dairy products they transport and the distance between these facilities, it is almost a ten-fold increase in fueling time for EV trucks over the traditional vehicles. I am concerned that the EVs are not a suitable medium to transport milk products at this time at this level of infrastructure. So how can we ensure the charging times don't impede on farmers' or cooperatives' ability to move milk and quality of product?

Mr. REGAN. Thank you for the question. First of all, I would like to say that we have put forward a very aggressive biofuels agenda that coincides with this EV proposed regulation. Listen, the proposal doesn't kick in until 2027, and then that will be for cars, light-duty trucks, and some heavy-duty trucks. But there will not be a mandate or any kind of immediate transition that takes place that doesn't allow for biofuels and advanced biofuels to compete. And we are making sure of that. And that is why when we look at the set rule and as we look at the RVOs for 2023, 2024, and 2025, we want them to continue from where we left off in 2022. By the way, 2022 was the highest RVO that any Administration has ever put in place. So this President and I are very serious about biofuels.

Mr. LANGWORTHY. Thank you. I led a letter with Members of our New York delegation to our Governor, who is also pushing a very similar one-size-fits-all electrification policy to rural New York that will directly impact our farmers. And these policies that I am concerned with, along with our producers, that between the Federal and the state government, we are looking at very serious, serious problems here.

In turning to the EPA's chemical regulation process, I know that the EPA is working on a roadmap to address the Endangered Species Act process. But keeping tools in the toolbox for our growers is very important to me. And in my district, we have part of the Lake Erie Grape Belt, home of the Niagara and Concord grape. For Concord and Niagara grapes, production costs are \$1,800 an acre, and the current market price is of \$300 a ton for the fruit. A grower needs to produce 6 tons an acre to break-even. If, for example, our growers run out of tools to control a disease like black rot fungus, it could easily cut that yield in half. And at 4 to 5 tons an acre, the grower would be operating below production cost, and the business would fail.

Mr. Regan, these are the realities that specialty crop growers in my district and in Florida, Texas, and California, and everywhere else have to contend with. And when the EPA pushes ever-more stringent rules and regulations that look good on paper here in Washington, D.C., but they don't actually work on the ground, that costs an arm and a leg to our growers. We are putting our farmers out of business, and our farmers need support, not to be told to roll with the punches, that the Administration issues all sorts of new

constructs and expensive rules and regulations. And I strongly encourage a change of course here.

And with that, Mr. Chairman, I do yield back.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentlelady from Illinois, Congresswoman Budzinski, for 5 minutes.

Ms. BUDZINSKI. Thank you, Mr. Chairman. And it is great to be with you today, Administrator Regan. Thank you for joining us. I am really looking forward to working with you and your team on a host of issues, and I have really appreciated today all of your support for biofuels in particular. There has been a lot of conversation around that topic obviously today at the hearing, so thank you for that.

I do want to highlight one important issue specifically within my district and just start by telling you the story of one of my constituents, Walter Byrd. Walter Byrd is from Cahokia Heights. Cahokia Heights is just on the other side of St. Louis. It is just adjacent to east St. Louis. And Walter, like other citizens in Cahokia, has dealt with decades of flooding of both stormwater and sewage anytime there is heavy rainfall in the area. And we have a lot of rainfall. More flooding is happening within this region every year. In fact, since 2019, residents, as a part of a recent court filing, cite 91 documented instances of raw sewage coming out of government-owned pipes and into their home. Walter and his friends and neighbors suffer from both the economic devastation of their ruined homes but also the health implications of asthma, sinus infections, and bacterial stomach infections from exposure to this raw sewage. Walter is a retiree, and many other folks in the community struggle to be able to find the money for repairs when these types of flooding occur.

Walter is not alone. Unfortunately, this is a 2 decade old problem in this community that local, state, and Federal Government have not been able to solve, while residents continue to be unable to drink water and live amongst the raw sewage. This part of my district also happens to be 95 percent Black, and I think it is not an accident that we have allowed these unacceptable conditions to continue in poor communities of color.

Mr. Administrator, I know you have prioritized environmental justice, and that is wonderful, in your work and during your tenure. You have utilized your agency as a way to convene multi-agency approaches to catastrophic problems like the one I am just now highlighting for you. And that is how the Flint issue was dealt with, I know, with the support of your Administration or from the EPA at that time.

I have admired, too, how your agency has been responsible for coordinating interagency efforts to restore the Great Lakes as well. Today, I am asking you and your team, would you be willing to take on this Cahokia Heights challenge that we are facing with more of a hands-on approach by appointing a coordinator, a coordinator from your office, to help us to ensure that the infrastructure upgrades can be made possible? And I am sure you are aware Senators Duckworth and Durbin have really been leading in this space as well and have secured a significant level of Federal funding through the SRF grant program. But the community needs real-

time, immediate technical assistance in order to be able to access that funding, or this decades-old problem continues to persist, and it is very serious. So I would love to have your commitment today to tapping someone on your team to help drive this process in the community and help us to get these needed funds to where they need to be.

Mr. REGAN. You have my commitment to do that.

Ms. BUDZINSKI. Thank you so much. Thank you. I really appreciate that. That will make a tremendous difference for this community. Thank you.

Mr. REGAN. Absolutely.

Ms. BUDZINSKI. And with that actually I just want to yield back my time, so thank you so much. Thank you.

The CHAIRMAN. The gentlelady yields back. I am now pleased to recognize the gentleman from California, Mr. Duarte, for 5 minutes.

Mr. DUARTE. Thank you, Mr. Chairman. Thank you, Administrator Regan, for being here today.

Mr. REGAN. Thank you.

Mr. DUARTE. I really do want to sincerely thank you for coming and playing ball. You are answering the questions, you are engaged. That is not always what we get from every witness, especially high-level Administrators and Secretaries, and so I sincerely appreciate your playing ball.

So I know you are not tired of talking about the Clean Water Act. You seem tireless, and that would be the only reason. I was prosecuted under the Clean Water Act not by the EPA, who actually had the subject matter jurisdiction to prosecute me under the Clean Water Act, but when the EPA demurred under the Obama Administration, the case was then picked up by the Department of Justice, and the Army Corps of Engineers and Department of Justice then prosecuted me as a farmer for planting wheat in a wheat field. So I just want to go through some of the details of that and make sure that—you have done a fairly complete job explaining your *prior converted crop* plan definitions, your field hearings, your engagement with industry and agriculture to make sure that you know what a wetland is and what the rules are, and had any of those been applied appropriately, I would not have been prosecuted. And we had prior converted crop land that met all of the definitions I read in your testimony, and I believe that is why the EPA didn't prosecute me.

So I am asking you specifically, will you engage with the Department of Justice, the Army Corps of Engineers, and other agencies who may think industriously how to prosecute farmers for growing wheat in wheat fields or practicing normal farming practices on other previously converted farmlands to stay out of your subject matter jurisdiction?

Mr. REGAN. Well, thank you for that question, and I have already been consulting with DOJ, Army Corps, and USDA, and I think this is an unprecedented level of coordination. At least that is what Secretary Vilsack and others tell me because I think we need to have a better understanding of what is happening across our agencies to be sure we are interpreting these rules in the exact same way. There was another one of your colleagues that mentioned

there might be some discrepancies in interpretations as well, so if there is any specific definition or issue that you see on the horizon that may be complicated by the viewpoint of four agencies, please call that out to our Administration.

Mr. DUARTE. I would just offer that you look at the Duarte wetland prosecution expert report and go through it and just examine for yourself what was mini-mountain ranges, plow furrows 4" tall, pebble distribution surveys through the soil to see if my plowing redistributed pebbles, and you will probably have a good laugh. But then please realize that these prosecutions aren't just civil prosecutions. These are criminal prosecutions. I was threatened every step of the way with criminal penalties for planting wheat in a wheat field.

When you go to the level of criminalizing farming practices, your requirement to define what is a *violation* of the Clean Water Act and what is a *criminal offense* to the Clean Water Act is very, very important. And I would offer that the significant nexus test, some of the *farmland* definitions being used in your WOTUS rule are absolutely too vague to provide the basis for any kind of criminal prosecution. This is not filling a river. This is prairie potholes, these are vernal ponds. These are swales across farmland, literally low spots in grass fields that collect water after rainstorms.

Mr. REGAN. And many of those items that you just laid out fit into that category that we have codified as exemptions or exclusion in the language to be as clear as possible. But I will circle with my team. My understanding is this is something that Army Corps of Engineers pursued against you.

Mr. DUARTE. Army Corps and the Department of Justice Division of Environment and Water put a whole prosecution team. We had ten experts on a 450 acre wheatfield for 10 days digging up the vernal ponds 2' and 3' deep where I told them only 4" to 7" was their conclusion. So anyway, I would offer you to look at that.

I am also wanting to ask you—I agree. I farm in a sustainable winegrowing program in California, another ranch that I farm, and we like the soft insecticides. We like the soft pesticides. We try and stay away from the hot stuff when we can. And as a nurseryman, I also want that hot stuff around for when I have an exotic pest issue. I really want to whack it with some chlorpyrifos. And I have no trouble pronouncing or saying chlorpyrifos. It should be in the arsenal. I don't want to use it regularly.

But please do what you can even if it means contracting out some of the research and approval to private research firms that you can find credible to do some of the backlog. We can appropriate the EPA money and authorize it time and time again, but if EPA wants to go hire more sustainability engineers or woke yoga instructors, we can't do anything about that. So if you have short resources, please get everybody back to work, and then find out how we can use some privatization to get some of these new ag tools through the regulatory process.

And thank you very much. I yield back.

Mr. REGAN. I appreciate it.

The CHAIRMAN. The gentleman's time has expired.

I am now pleased to recognize the gentlelady from Ohio, Congresswoman Brown, for 5 minutes.

Ms. BROWN. Thank you, Chairman Thompson and Ranking Member Scott. And thank you, Administrator Regan, for being here today.

As you have indicated several times, it is important that the EPA and the United States Department of Agriculture have to work hand-in-hand to provide farmers and ranchers with the tools they require to supply food for the country. It is imperative the regulatory process at the EPA be science- and fact-based and free from political bias.

So, Administrator Regan, how has your work in the Administration improved the regulatory and review process for new and existing crop protection tools available to farmers?

Mr. REGAN. We take that very seriously, and I think we have a good roadmap to think through how we look at this review process. I think our challenge is, again, twofold. The agency hasn't done the best job according to the courts in looking at applying the ESA. And then we have had a backlog of new product registrations that are prepared to hit the market. So we have to dig out of litigation, and we have to get some new products on the market. I think we have a strong review process. We just need more resources to do it.

Ms. BROWN. Thank you. Now, when you came to Cleveland last year, we talked about lead poisoning and how Cleveland is a city that has been faced with historic disinvestment and is one of the epicenters of the lead crisis.

As you know, the problem of environmental injustice extends beyond just lead. Researchers found that increased agriculture pesticides used and related toxicity risk for humans occurred the most in areas where people of color and limited resources are, communities that are particularly vulnerable to environmental injustices. Communities of color are shouldering the biggest burden of pesticide exposure.

So, Administrator Regan, how critical is it that the EPA assists state and local agencies in performing seasonal air monitoring for pesticides in certain high-use areas?

Mr. REGAN. It is really critical that we put all measures in place, that we protect everyone equally across this country, especially those who are most vulnerable. And in the design of our Environmental Justice and External Civil Rights Program, we have created a new program office that is geared to work with all of our media offices, our air office, our water office, to provide technical expertise, legal advice, engineering advice across all of those media. And all of that trickles down to the partnership that we have with our state agencies. No two communities are exactly the same, and we recognize that. And so in order for our laws to reach their full potential and protect everyone, we are leveraging all of that infrastructure and resources down to protecting that individual. So whether it is advanced monitoring for air or water or ensuring that these historic resources from BIL and IRA get to every single person, we are going to do all of that.

Ms. BROWN. Thank you so much. And finally, what steps is EPA taking to implement more equitable policies to better protect vulnerable communities?

Mr. REGAN. We have embedded environmental justice and equity into the very DNA of the work that we do. And that is where, whether it is Lowndes County, Alabama, or McDowell County, West Virginia, in Appalachia, we have seen far too many communities across this country who are on the frontlines of pollution and disinvestment. And so our programs are designed to ensure that all of the resources that flow to EPA and flow to the states are distributed to those who are most in need, no matter the color of your skin or the ZIP Code you live in. And we have metrics in place to ensure that that happens. But we are also designing our laws and regulations to be sure that no populations are left out as well. We believe that these resources and these structural changes will create a safer and better America.

Ms. BROWN. Thank you. And thank you again for coming to Cleveland. I look forward to your return, and I look forward to continuing to collaborate with you on important matters like this.

And with that, Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentlelady yields back.

Mr. REGAN. Thank you.

The CHAIRMAN. I am pleased to recognize the gentleman from Iowa, Congressman Nunn, for 5 minutes.

Mr. NUNN. Thank you very much, Mr. Chairman. Thank you, Administrator Regan, for joining us today. I think we have walked through a lot of issues. I really want to highlight your commitment or at least the EPA's decision to look at an all-of-the-above energy solution for our country right now, particularly at a time when your son, my daughters are having expense at the gas but as well as the supply chain that provides everything for our families.

We are looking at a situation where we enjoyed having you and the President in Iowa at a little ethanol plant in Menlo. At this facility, the commitment was made that ethanol was part of this all-of-the-above solution. And at that time, the President guaranteed a waiver for year-round E15. Now, your agency has looked at a 2024 opportunity to have ethanol be part of the solution for our energy challenges. But before us today, the EPA—and we have sent a letter to this earlier in the year highlighting that we are going to shut down E15 sales over the course of this summer. I would like to understand why is that?

Mr. REGAN. Going to shut down?

Mr. NUNN. The sale of E15 year-round.

Mr. REGAN. For Iowa?

Mr. NUNN. For the country.

Mr. REGAN. I don't think we have issued a shutdown for the sale of E15. I think last year E15 received an emergency waiver, which has a limited lifespan. And so each summer, if we are going to use that emergency waiver—

Mr. NUNN. Yes. So let me ask you this. Are you going to use that emergency waiver this summer?

Mr. REGAN. Well, as I have said earlier today, we are taking a look at that. All options are on the table, and that waiver is available, but there must be certain conditions that are present. And the reason I am saying it this way is because previous Administra-

tions have used that waiver and the courts have immediately struck them down for not meeting that—

Mr. NUNN. Yes. Do you know how many days until the EPA will make the decision? Because we have been asking for this for a while.

Mr. REGAN. Sure, and others have as well, and I don't have an answer for you. I can—

Mr. NUNN. So here is my challenge. Look, Iowa farmers are already in the field. Farmers across the area, producers are already in the field. It is not a remote job. It is not something that you can phone in. The reality is we have 11 days before suppliers are going to have to make a decision whether they are going to continue the sale of E15. And the reality is, is for your family and mine in the Midwest, that is a massive increase in the price of fuel costs for those both using it and those providing that supply chain. Do you think within the next 11 days we will be able to get an answer on this?

Mr. REGAN. I can tell you that my staff has not come to me with the level of evidence that we need to make that decision today.

Mr. NUNN. What has changed from last year? Last year, we were told it was the war in Ukraine. Last year, we were told that fuel prices were high and the President himself demanded that this was a way that we could provide affordable fuel for families. What has changed from last year?

Mr. REGAN. And you have listed a number of conditions that were present last year, and—

Mr. NUNN. I would offer they are present today as well.

Mr. REGAN. And also, there were a number of conditions that DOE indicated that were present as well. And so I can tell you that I am talking with Secretary Granholm and DOE, and my folks are looking at this. I am not in a position, nor should I be legally, to tell you today, especially if the evidence isn't present right now—

Mr. NUNN. We would like to have an answer ideally within the next 11 days. I know that is a high-pressure environment, but so is the rest of the country under it.

I would like to move onto WOTUS.

Mr. REGAN. And if the conditions exist on the ground within those 11 days, then you will see this EPA move.

Mr. NUNN. I look forward to that. Thank you.

Specifically, on WOTUS, many of our colleagues have highlighted here that your ability to redefine this is costing a number of individual farms a lot of money on a daily basis. In my home State of Iowa, Mr. Regan, nearly 97 percent of my state would be impacted by the Biden Administration's definition of *WOTUS*. Now, that is the epitome, in my opinion, of a lot of government overreach into individual family farms.

So here is my ask. As opposed to the exclusions and exemptions which impact a very small number of people who have jumped through the wickets to be able to get an answer back, would EPA consider scrapping this process, restarting and working with Members of Congress to really move this forward so that individual farmers, as has been highlighted, aren't being fined up to \$50,000 a day, ultimately potentially shutting down their farm and the food network for the country?

Mr. REGAN. That offer has been made to my two predecessors and two Supreme Court Justices have weighed in, and we have seen multiple courts across the country weigh in. I can tell you that I worked with Members of Congress, I have worked with the agriculture community, and I recognize that this isn't exactly what everyone wants. But that is because there are some constraints with the law of the Clean Water Act, in addition to what we have learned from cases from Obama and from Trump. Remember, the navigable waters rule under President Trump was vacated by multiple courts. So I get the frustration. I had this frustration—

Mr. NUNN. I appreciate that. In my remaining time, I would like to say I don't want to rehash the last two Administrations. I want to talk about where this Administration is going forward to be a leader in this fight. I appreciate your time.

Mr. Chairman, I yield back mine.

The CHAIRMAN. Will the gentleman yield just a couple seconds here of your remaining time?

I would love to know when did you reach out to the Agriculture Committee, and whom did you work with on WOTUS? Because I didn't get those calls. I didn't get that collaboration. And unfortunately, Ranking Member Scott had to step out, but I think he has been on board in sharing our concerns with WOTUS, so who did you talk with when you said you have engaged the Agriculture Committee?

Mr. REGAN. Well, I talked with Chairman Scott. I mean, he was the Chairman when I came in and my staff.

The CHAIRMAN. Okay.

Mr. REGAN. We will get the names, but we have worked with a number of staff on this Committee. I have also worked very, very closely—I am not saying we agree—but worked very closely with Zippy Duvall and the Farm Bureau—

The CHAIRMAN. Specifically, you had mentioned working with the Agriculture Committee.

Mr. REGAN. Yes.

I think I said community, but I will—

The CHAIRMAN. I am sorry. Well, if you said community, I misunderstood.

Mr. REGAN. But Committee, I have worked and reached out with Chairman Scott as well, so I don't want to say we have not engaged with this Committee either.

The CHAIRMAN. Okay. Well, there is one side of the aisle you haven't engaged in, and I will follow up with Ranking Member Scott.

Now, I would recognize the gentleman from California, Ranking Member on the Livestock, Poultry, and Dairy Subcommittee, Mr. Costa, for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman. And, Administrator Regan, thank you for your patience and your answering the questions that Members have asked.

I am not going to belabor the issue on the flexibility that EPA has with regards to pesticides and herbicides in the application. We have had atmospheric weather challenges across the country and in the San Joaquin Valley. Certainly, as you noticed in the floods that have taken place, they have occurred there as well. That has

delayed spring planting, and it has changed our flexibility on how we utilize these various management tools to get our crops in the ground and to successfully harvest them at the end of this year. I will hope that EPA will be flexible in their management and jurisdiction in every region of the country, including California.

I have been wanting to get down and sit with you to talk about another issue, and that is the San Joaquin Valley Air Pollution Control District. Are you familiar with the San Joaquin Valley, Administrator Regan?

Mr. REGAN. I am, yes.

Mr. COSTA. You know that it is perhaps the richest agriculture region in the country?

Mr. REGAN. Yes, I do.

Mr. COSTA. You know California and the \$51 billion last year at the farm-gate?

Mr. REGAN. Governor Newsom reminds me all the time.

Mr. COSTA. Yes. Well, good. Good. The valley where we farm there is dynamic, and it is diverse, but we have a mountain range on the east side that is 14,000'. At the back end is the Tehachapi, which is 5,000' to 6,000'. On the west side it is like a bathtub are the Coast Range Mountains. We are in a locked-in air basin. Do you know that?

Mr. REGAN. Yes, I understand.

Mr. COSTA. Okay. And so trying to reach attainment status is a challenge that we have been working on for decades. Do you understand that?

Mr. REGAN. I absolutely am aware of that.

Mr. COSTA. I created the San Joaquin Valley Air Pollution Control District back in 1988 when I was in the state legislature, and we have tried mightily to comply with all the standards. I have supported CAFE standards. I have supported a host of other clean-air standards. But it is difficult because the valley has grown at a higher rate in population and utilization than other parts of California. Do you know that?

Mr. REGAN. Yes.

Mr. COSTA. Do you know that the 80 percent or more of our emissions are mobile-related emissions, and less than 20 percent are stationary sources of emissions?

Mr. REGAN. Which is typical of most of the country, yes. Mobile sources—

Mr. COSTA. Yes, and do you realize that I-5 and Highway 99 are major transit corridors, along with the two major railroads, Burlington Northern and Union Pacific, in which air pollution is created that goes in and through the valley but is not responsible so much by the people who live there? Do you understand that?

Mr. REGAN. You know your community much better than I do, sir.

Mr. COSTA. Well, of course I do. I have represented it for 41 years, nine out of the ten counties. So what has happened is—and I have been wanting to sit down with you, and I want to give you an opportunity to help me solve this problem. We have met with your regional administrator Martha Guzman, and we had a conversation here in the last 2 weeks. It was unsatisfactory. EPA, in my opinion, because of actions you have taken earlier this year,

you have put yourself in a box, and I want to try to help you get out of the box. Do you want to punish the people of the San Joaquin Valley—and I have supported all the bipartisan infrastructure package—from receiving their fair share of transportation funds because of this box that you have put yourself in, in terms of our ability to comply with the latest standards?

Mr. REGAN. I don't think I am in a box, and I think we have a discussion—

Mr. COSTA. Do you want to punish the people of the valley and prevent them from receiving monies that they, as taxpayers, deserve—

Mr. REGAN. We have a solution to avoid any kind of disruption to—

Mr. COSTA. Well, then why don't you sit down and talk with me so we can work through this?

Mr. REGAN. I have never been offered to, but I absolutely will.

Mr. COSTA. No, I have been trying to reach you here for the last week to sit down and have a conversation—

Mr. REGAN. Well, we can talk after this—

Mr. COSTA. You have been busy.

Mr. REGAN.—I will give you my cell phone number—

Mr. COSTA. I understand. I have been busy, too.

Mr. REGAN. This is the first time that I have heard—

Mr. COSTA. We are all busy.

Mr. REGAN.—you wanted to talk.

Mr. COSTA. What?

Mr. REGAN. This is the first time I have heard that you want to talk about this issue.

Mr. COSTA. Really? Well, then you have to talk to your staff because we have been trying to reach out to you for days.

Mr. REGAN. Well, as far as I understand, this problem has been going on for more than days.

Mr. COSTA. No, no, no, I know, but—

Mr. REGAN. And my senior leadership has been working on this—

Mr. COSTA.—after the meeting that we had with your regional administrator, it was clear to me that they were on a course hell-bent to go ahead, not provide the flexibility necessary so that we could comply and submit the updated plan.

Mr. REGAN. Well, we will respectfully disagree on the facts, and maybe you and I can sit down and talk about them.

Mr. COSTA. Well, I would hope so, so we will set that up, right?

Mr. REGAN. Sounds good to me.

Mr. COSTA. I want you and I to become best friends.

Mr. REGAN. I believe that can happen.

Mr. COSTA. Good, because I am a problem solver.

Mr. REGAN. Me, too.

Mr. COSTA. Thank you very much.

Mr. REGAN. I appreciate it.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from Wisconsin, Mr. Van Orden, for 5 minutes.

Mr. VAN ORDEN. Mr. Administrator, I would like to make a general comment before I get to you.

In my former vocation, I was a Navy seal, and two of the core missions of the seal teams are counterterrorism and hostage rescue, and I would like to assure my colleagues on this Committee that the Republican Party generally, nor the Speaker of the House, are holding SNAP benefits hostage, and that using inflammatory language like this will not help us move forward to pass a farm bill in a timely manner. I believe that is counterproductive.

You are very proud to tell us that your RVOs are bigger this year than a long time, is that correct?

Mr. REGAN. The largest that has ever been done, 2022.

Mr. VAN ORDEN. That is great. Was your agency sued to make sure that those RVOs came out?

Mr. REGAN. I think this agency has been sued numerous times on the RFS.

Mr. VAN ORDEN. The answer to that question is yes. And so your agency had to be sued by industry to get those RVOs out? And this—yes, they did.

Mr. REGAN. No, I think they were sued during the last Administration and they didn't get them out. And they were sued—

Mr. VAN ORDEN. Mr. Administrator listen—

Mr. REGAN.—in the Administration before that and they didn't get them out.

Mr. VAN ORDEN. Your agency had to be sued to get these RVOs out, and here is the problem. When we are talking about not getting E15 out for this summer, it is because of your agency's inability to do your job in a timely manner. It is—

Mr. REGAN. Did the last Administration—

Mr. VAN ORDEN. Let me finish what I am saying.

Mr. REGAN. Did the last Administration do it?

Mr. VAN ORDEN. Let me finish what I am saying because it is 2023, sir—

Mr. REGAN. Yes.

Mr. VAN ORDEN.—and you are working for the Biden Administration, so your agency's inability to do your job in a timely manner does not constitute an emergency. It constitutes a crisis for our farmers and other consumers. So I am going to ask you directly because the conditions are identical or even worse than they were when you did this emergency waiver for E15 to be used year-round. The eight states have wanted to. Wisconsin is one of them that I represent. I am going to ask you directly. Use the empiric knowledge that you gathered to get this waiver to use E15 year-round, use the same information because it hasn't changed so that we can use E15 this year.

Mr. REGAN. If that were the—

Mr. VAN ORDEN. I am going to ask you to do that—

Mr. REGAN. If that were the case—

Mr. VAN ORDEN.—I'm going to—

Mr. REGAN. If that were the case, it would be—

Mr. VAN ORDEN.—move onto something else, okay? I am asking you to do that because it hasn't changed. You don't have to redo studies. That is—

Mr. REGAN. So you don't want a response?

Mr. VAN ORDEN.—BS.

Mr. REGAN. You don't want a response?

Mr. VAN ORDEN. Okay, yes. Go ahead, please.

Mr. REGAN. If the conditions were the exact same as they were last year—

Mr. VAN ORDEN. They are the same or worse—

Mr. REGAN.—I am the same Administrator, I would have issued that E15 waiver.

Mr. VAN ORDEN. Okay. I am—

Mr. REGAN. It is the same Administrator—

Mr. VAN ORDEN.—telling you right now that the conditions are the same or worse, and you are doing this, and this is a shuffle, and it is not acceptable.

All right. I want to talk about the national security and human implications of your decision to have at least 50 percent of the cars be EVs by 2030, okay? There is not a single electric vehicle that is produced that doesn't have critical components to that car manufactured or processed by the Chinese Communist Party. So because of this policy, are you telling me that the Environmental Protection Agency and the Biden Administration are willing to turn over the ability for the United States of America to transport its own people to the Chinese Communist Party?

Mr. REGAN. No.

Mr. VAN ORDEN. You are not? Well, then, you need to get rid of this rule. Do you understand the 70 percent of all the cobalt that is produced in the world comes from the Democratic Republic of Congo?

Mr. REGAN. I understand.

Mr. VAN ORDEN. And do you understand that cobalt is a key component for these EVs?

Mr. REGAN. Listen, I understand that this rule is proposed for 2027—

Mr. VAN ORDEN. Okay. Hold on now.

Mr. REGAN.—and it is a proposal. It is a—

Mr. VAN ORDEN. Okay.

Mr. REGAN.—proposal. You act like this is a mandate—

Mr. VAN ORDEN. Yes, I do—

Mr. REGAN.—that starts tomorrow.

Mr. VAN ORDEN.—because I have worked with the Environmental Protection Agency before—

Mr. REGAN. You are making a lot of—

Mr. VAN ORDEN.—so this is—

Mr. REGAN.—assumptions.

Mr. VAN ORDEN. Listen, man, are you aware that a significant portion of the cobalt that is produced in the Democratic Republic of Congo is mined by children?

Mr. REGAN. I am aware that—

Mr. VAN ORDEN. Okay. So are you aware as the leader of the Environmental Protection Agency in the Biden Administration willing to push this environmental agenda on the backs of child miners in the Democratic Republic of the Congo—

Mr. REGAN. No, that—

Mr. VAN ORDEN.—because that is the reality, sir.

Mr. REGAN. That is an absurd statement.

Mr. VAN ORDEN. That is not an absurd statement.

Mr. REGAN. That is an absurd statement.

Mr. VAN ORDEN. It is reality. I can give you article after article after article after article detailing this out. This is the reality. You guys are putting an environmental agenda over child miners in the Democratic Republic of the Congo. The Environmental Protection Agency—

Mr. REGAN. That is absolutely false.

Mr. VAN ORDEN.—and the Biden Administration are putting the national security—

Mr. REGAN. Absolutely false.

Mr. VAN ORDEN.—of this country at risk because every single electronic vehicle has components that is either manufactured or processed by the Chinese Communist Party. That is a reality.

Mr. REGAN. Absolutely false that our regulation is profiting from child labor on the continent of Africa.

Mr. VAN ORDEN. Then where are you getting your cobalt?

Mr. REGAN. Absolutely false.

Mr. VAN ORDEN. Where is the cobalt coming from?

Mr. REGAN. The—

Mr. VAN ORDEN. Seventy percent of the world's cobalt is coming from the Democratic Republic of Congo. A significant portion of that cobalt is mined by children. That is where the components are coming from. You can't miracle this one.

Mr. REGAN. The proposal—the proposal—proposal doesn't kick in until 2027. This is a conversation.

Mr. VAN ORDEN. This is wholly unacceptable.

Mr. REGAN. This is a conversation, not a mandate. It is a conversation.

The CHAIRMAN. The gentleman's—

Mr. VAN ORDEN. It is wholly unacceptable.

The CHAIRMAN. The gentleman's time has expired.

Mr. VAN ORDEN. Thank you.

The CHAIRMAN. I now recognize the gentlelady from Connecticut, Congresswoman Hayes, for 5 minutes.

Mrs. HAYES. Thank you, Chairman Thompson.

Administrator Regan, thank you for being here today. You are almost there. Thank you for your grace answering the questions of this Committee.

I am going to take a little bit of a different approach. I have some questions that really are relevant in my district. The EPA plays a critical role in the viability of farms in the United States. Today, I want to discuss the importance of your Brownfields Program.

Across our nation, communities are dealing with the legacy of industrialization and pollution. In my district in Connecticut, towns have benefited from their location along the Farmington, Housatonic, and Naugatuck River Valley as factories sprang up during the 19th and 20th centuries. Most of those factories today are gone, but the pollution remains. Decades of disinvestment have left the poorest families living near these toxic sites breathing dirtier air, drinking more polluted water, and walking on contaminated soil.

Thanks to the Brownfields Program, communities in my district are rebounding. In Cheshire, town officials are revitalizing their downtown around a former Brownfield, turning it into a shared

community art space. In Torrington, there is riverfront property that once sat as an unused factory, and it is now affordable housing. In New Britain, EPA funds have helped remediate a former greenhouse gas station and auto shop into an urban organic farm that now provides farm-to-school meals for students. And in my hometown of Waterbury, a Brownfield has now become a fish farm that sustainably produces branzino here in the United States.

My question for you today, Administrator Regan, is do you agree that the EPA's Brownfields Program can grow local, sustainable food systems for disadvantaged communities? And do you believe that this program receives adequate funding to make environmental justice communities like the ones I just described whole again?

Mr. REGAN. Well, thank you for that, and I will tell you, as the State Secretary of North Carolina, the Brownfields Program was my favorite program because of all of the things you just laid out you see in all of these communities across the country. I will say that we have asked for an increased budget this year that would help sustain a lot of the great work you are talking about and discussing all across the country. But thanks to the bipartisan infrastructure law we have about \$1.5 billion to the Brownfields Program over 5 years appropriated at \$300 million increments. This is going to transform communities all across this country, not just from an environmental standpoint; but, as you have articulated, economic development, jobs, and just confidence in some of these blighted communities. This is an awesome opportunity.

Mrs. HAYES. Thank you. And I know firsthand what that means because it is transforming my district. There are many places that literally I spent my lifetime watching blighted spaces just abandoned that are now thriving again. And to your point, thanks to the bipartisan infrastructure law, many of these factories are being transformed in a very different way.

Also, thank you for your persistence in preserving farmland as a priority. And I believe every Member of this Committee shares that priority. Specifically in Connecticut, open land is hard to come by, and the cost of land can be prohibitive for new farmers. We have many urban farmers, lots of creative strategies, a very intentional vo-ag school. My district is a combination of rural communities and cities, and I think that we have to rethink our approach to agriculture and EPA to include all communities across the country in a very different way. In your view, can remediating Brownfields preserve undeveloped farmable land? And what can the EPA and Congress do to educate the public on the safety and viability of former cleanup sites?

Mr. REGAN. I think so. I think obviously in our Brownfields Program we look at the level of cleanup needed for the project at hand and whether it is a green space or agriculture use or mixed-use planning. It would provide a tremendous opportunity, especially as you have touched on urban farming. My father was an agriculture extension agent, and I understand the importance of that educational component from agriculture. So yes. The answer is yes. I believe that together, putting our heads together with these historic resources, absolutely.

Mrs. HAYES. Administrator Regan, I thank you for your time today and for your unyielding grace before this Committee.

Mr. Chairman, I yield back.

The CHAIRMAN. The gentlelady yields back.

I am now pleased to recognize the gentleman from Arkansas, Mr. Crawford, for 5 minutes.

Mr. CRAWFORD. Thank you, Mr. Chairman.

Administrator Regan, I have a letter here dated January 26. It is signed by no less than 196 Members of Congress. Twenty-four of those Members are on this Committee. It is addressed to you, the Administrator of the EPA, as well as Michael Connor, the Assistant Secretary of the Army for Civil Works. As a reminder, this is January 26. The response dated yesterday, and it says here, "While your letter did not pose any questions, please do not hesitate to contact us in the future," yada, yada, yada. And it is not signed by the Administrator, to whom it was addressed. It is signed by Radhika Fox, Assistant Administrator in the Office of Water.

My question is why did you wait this long to respond? Is it a coincidence that we received this yesterday, the day before your testimony? And why did you not take the time to respond? The deal is there is not necessarily any specific questions posed, but this was an opportunity for you to defend WOTUS. So my assessment is by the fact that you chose not to respond, in fact, didn't sign the letter that we received yesterday, that, in effect, you are stating that there is no defense of WOTUS. Otherwise, you would have taken this opportunity to make the defense of this rule. Your comments?

Mr. REGAN. I will circle with my team to see how the decision was made. Obviously, that letter was routed to Assistant Administrator Fox because she is the head of the Office of Water. But let me look into that and determine how that was done.

Mr. CRAWFORD. I hope you will because this was either a failure of your staff to apprise you of this letter or an attempt on the staff's part or your part to not inform and respond to a letter that was dated January 26.

We will move on. Administrator Regan, last month, the EPA issued a final rule in the form of a memo that directs states to assess cybersecurity of public water systems during periodic sanitary surveys under the Safe Drinking Water Act (Pub. L. 93-523). Since this was in memo form, there was no opportunity for public review or comment. Of note, the inclusion of cybersecurity within sanitary surveys does not recognize the limited capacity of state personnel with regard to technical expertise or staffing, *et cetera*.

So my question is to what extent does the EPA know the capacity of drinking water systems across America who have trained employees who can adequately operate systems under those new guidelines?

Mr. REGAN. We have a very good understanding thanks to our relationships with our state secretaries, as well as local organizations. And I think the calculus that was made by Assistant Administrator Radhika Fox was that this was something that we could incorporate in a process that was already being underway to get this very important information.

Mr. CRAWFORD. So why does the EPA not implement bright-line or quantitative parameters in their WOTUS test even though that

could help avoid confusion and possible litigation with landowners? Could specific parameters be implemented regionally to account for regional differences?

Mr. REGAN. I am sorry?

Mr. CRAWFORD. What I am asking for is why not be more clear and concise in these quantitative parameters in the WOTUS test even though—I mean, that could help avoid a lot of confusion and possibly litigation. We know litigation is coming. Could specific parameters be implemented with regard to the regional differences that exist with respect to WOTUS?

Mr. REGAN. I think what our staff did was wrote those parameters in accordance to the way the Clean Water Act requires that we do, not overreaching and not trying to be overly prescriptive but given the flexibility that the Act affords us. We attempted to do outreach and stakeholder engagement. We did ten additional roundtables in addition to the rulemaking process so that we could be on our game in terms of implementation. And we did it in consultation with the USDA. Listen, this is a very difficult rule, as history would demonstrate, but I think what we provided was something that was durable and had learned some lessons from the prior two rules, which is why we went forward with what we went forward with.

Mr. CRAWFORD. Well, at a time of rampant inflation, and nobody—particularly hardworking men and women who put food on our tables and clothes on our back—need additional expenses thrown on them at a time when they are trying their best to continue that food supply.

So my question again is what is the rush? Why not do some due diligence on behalf of America's farmers and ranchers and the taxpayers? And particularly when we have a Supreme Court case pending and the Administration chose to move through and rush this cumbersome law and costly rule that will ultimately have to be changed? What do you say to that?

Mr. REGAN. Yes, I say that the courts vacated the previous navigable waters rule of the previous Administration, and it left a void that took us back to pre-2015. There was some litigation risk to the agency for not fully enforcing the Clean Water Act, so we began moving forward to put this rule into place.

I will tell you that we will respect the ruling of the Supreme Court, but we won't be starting from scratch. We will be able to take that ruling and move forward with something that is codified by the Supreme Court in the rule that we put in place.

Mr. CRAWFORD. Thank you. Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from Illinois, Congressman Jackson, for 5 minutes of questioning.

Mr. JACKSON of Illinois. Thank you very much, Mr. Chairman.

Mr. Regan, I would like to say a special thank you. I am very familiar with the work you have done in the under-resourced department that you have. I think we need to put that in context, that you have more to do, and your department is even more critical and more essential, and your budget does not reflect the scope and the safety and security you provide for us all.

I come from Illinois, 1st District, and we have a lead water problem. Illinois, as you know, and you have spent much time there, and I thank you for your service—has the most lead service lines in the nation. What I am incurring, and I see it nationwide—is smaller municipalities do not have the resources to tap in and reach out and understand all of the programs that are available. And I would like to ask you, are there any initiatives that we can create going into the future to reach out to the municipalities that are poor and marginalized that do not have the sophistication if you will or the administrators in-house to ensure that they access these great programs? So the programs are available, but they are inaccessible to many at the local level. If you could comment, I would appreciate that.

Mr. REGAN. Absolutely. And we used a portion of the Inflation Reduction Act to launch what we are calling these TCTAC (Thriving Communities Technical Assistance Centers) centers, and they are technical centers that are basically 17 of them across the country that are leveraging partnerships with state and local and grassroots organizations. Those TCTAC centers have about \$10 million apiece to create this network so that we can be sure that not only do these organizations, municipalities, and local organizations understand where their dollars are, but we can help build some common capacity so that they can reach those dollars.

We have about \$15 billion dedicated to lead service line replacement, \$15 billion, and then in the Inflation Reduction Act about \$3 billion focused on environmental justice and equity issues. So we have a lot of resources out there that we want communities like the one you described to have access to.

Mr. JACKSON of Illinois. And, again, I would like to personally invite you out to the district. You have been there many times before. I would welcome you to come back. And if there is a way that I can help pilot this, even though there are TCTAC, not TikTok centers, correct, that there is still the accessibility on those municipalities that are overrun with so many other issues, I would like to do my part to close the gap to reach out to those in the center if you could direct me and facilitate.

And I thank you very much for your knowledge and your time that you spent before us today and your commitment that you have shown over the years.

Mr. REGAN. Thank you.

Mr. JACKSON of Illinois. Continued success.

Mr. REGAN. Thank you.

Mr. JACKSON of Illinois. I yield my time back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentleman from Indiana, Mr. Baird, for 5 minutes.

Mr. BAIRD. Thank you, Mr. Chairman. I really appreciate the opportunity to be here with you. And I really appreciate you, Mr. Administrator, for sharing with us your perspectives. So my first question deals with the EPA and the FDA recently published white paper that proposes moving a number of animal products that are currently regulated by the EPA and place them under the jurisdiction of the FDA. This is a major regulatory change and an impact that has an influence on livestock producers and pet owners that

rely on the product for health and welfare of their animals. While this proposal is currently open for public comment, many stakeholders need more time to fully analyze the impacts of this proposal and have requested an extension.

So, Administrator Regan, I would appreciate your comments about justification for this jurisdictional change. And then following that, if you would consider extending the comment period?

Mr. REGAN. Well, thank you for that question, and that exact action has not reached my desk, so let me go back and do some due diligence on that. And for those who are governing that process, I will inquire with them about the extension.

[The information referred to is located on p. 115.]

Mr. BAIRD. Thank you. So my second question deals with biotechnology. I am a strong advocate for research, and I really think biotechnology is going to be extremely important as we try to feed the nine billion people, as well as our own people, in the future here.

But the EPA renewed their biotechnology innovation efforts under President's Executive Order on Advancing Biotechnology and Biomanufacturing, Innovation for a Sustainable, Safe, and Secure American Bioeconomy. Under the new Executive Order, EPA, USDA, and FDA are set to renew their efforts to improve the clarity and efficiency of regulatory processes for biotechnology products. According to the EPA, these efforts are intended to facilitate innovative solutions for challenges facing agriculture.

So I am just asking, my question is can you talk more about what EPA is doing to move these regulatory processes forward so that we can get more innovative solutions into the hands of farmers and ranchers?

Mr. REGAN. Well, we are. I can tell you that my folks, whether it be out of my front office with my senior advisor of ag or through all of our organizations, we are having more outreach with the agriculture community, with the farming and ranching community as we take a look at streamlining all of our decision-making, especially as we think about biotechnology, biofuels, and looking at mitigation and adaptation to climate. So we have a network in place, again, out of my front office and in the front office of my major media offices to ensure that agriculture has a seat at the table and has direct input into all of these regulatory processes we are attempting to streamline.

Mr. BAIRD. I appreciate that very much. And I think it is very important that stakeholders have a place at the table, and I think agriculture and ranchers and agribusiness do need that, so I am glad to hear your comments and your perspective in that regard.

My third question deals with the Endangered Species Act. It seems to me like with the endangered species that the EPA continues to expose itself to litigation, and I think it probably needs to really conduct an investigation or evaluation of the Endangered Species Act and then have a consultation with the U.S. Fish and Wildlife because these entities are causing significant problems for a lot of our producers and ranchers. So I would just like some idea of what your plan might be to expand any kind of consultations or contact with those agencies.

Mr. REGAN. We have been in consultation with those agencies. A number of us have been in consultation because we all find ourselves under a layer of litigation for the past 40 or 50 years that have caught up to us. And so now, collectively, all of us are trying to think through how do we settle and get out of that litigation while preserving as many tools as possible for our ranchers and farmers and then get the resources so that we can get some of these new products off the shelves and onto the market that properly take into consideration the ESA.

Mr. BAIRD. Thank you very much. I appreciate your comments. My time is up. I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired.

I am now pleased to recognize the gentleman from California, Mr. Carbajal, for 5 minutes.

Mr. CARBAJAL. Thank you, Mr. Chairman.

Thank you, Administrator Regan, for coming here today. I am reminded when I consider some of the questioning that has gone on today how, during the Nixon Administration, there was a bipartisan call for his resignation for some of the obvious things that he has become famous for. But one positive thing that he became famous for is the establishment of the EPA. And, you have a very difficult job because you have to enforce regulations that do some things that we as a society, as a country want to be done, improve our air, safeguard our water, protect the environment, protect our public health so that our Americans could have a better quality of life.

Now, the low-hanging fruit has been done early on. The floor of regulation and standards have been set. And now there is a lot more that needs to be done so we continue to improve our health and our environment, a better environment for our farmers and our ranchers, continue to work on the floor that we have established of achievements. And now it is tougher, so those regulations continue to be put forth.

I don't always agree with the EPA. Usually, it is on timing or phased-in efforts. But I just want you to know how much I respect you personally for all the work you have done and continue to do and those that have come before you. You have a tough job. I commend you for your effort and your good work.

Mr. REGAN. Thank you.

Mr. CARBAJAL. Administrator Regan, I represent the Central Coast of California, also known as paradise, but even though we are paradise, it doesn't prevent us from experiencing natural disasters, which our area was hit with two atmospheric storms recently. This caused major flooding, resulting in crop loss and millions of dollars' worth of damages. You mentioned in your testimony the challenges that farmers and ranchers face as we continue to deal with the impact of the climate crisis. Can you elaborate more on how the EPA is working with the USDA to combat these challenges?

Mr. REGAN. Well, thank you for the compliments, and thank you for the question. I think Secretary Vilsack has a number of programs that fit under his umbrella that do have some spillover into ours. And I can tell you that on the mitigation side when we look at how we can reward our farmers and ranchers for doing vol-

untary actions but also account for the carbon reductions we are seeing on the mitigation side, that is an area that we are working hand-in-hand in, among many others.

My Farm, Ranch, and Rural Communities Federal Advisory Committee is also another group of advisers that I have that are helping us think through creative mitigation opportunities to reduce climate pollution, but more importantly or just as importantly, think about how we adapt to the changing climate. So as Secretary Vilsack and I think about combating drought or flooding or, like in my home State of North Carolina, saltwater intrusion that is impacting farmland, we are really taking advice from this Farm, Ranch, and Rural Communities Federal Advisory Committee on what are some of the best practices we can put in place to adapt to this change in climate.

Our farmers are on the frontlines. Our farmers are on the frontlines. They have very tough, hard jobs. And so we don't want to be viewed as just regulators. We want to be viewed as partners. And I have tried very hard over the past years to present EPA as a partner in as many ways as possible.

Mr. CARBAJAL. Thank you. I also understand that pesticides are essential to the agriculture sector. Can you explain what the EPA is doing to look for viable alternatives to some of those most toxic pesticides to protect our farmers, to protect our farmworkers, and really just provide more tools to be able to continue agriculture prosperity but yet safeguard our environment and those that could be harmed by pesticides? And we are trying to do that in the farm bill; but, other research and efforts you are involved with would be greatly appreciated.

Mr. REGAN. Well, absolutely. And I think that, in addition to some of the more traditional pesticides and herbicides that we are trying to work and ensure that they can be utilized in the safest form possible, we are also looking at a number of exciting new products that are ready to hit the streets but need to go through a scientific review by the agency and get that greenlight. And so we have asked for in our previous budget, we are asking for in our current budget, the resources to get the personnel so that we can get these review processes underway.

Science and technology is amazing, and we have a lot of new products at our fingertips that are much safer, have less of an impact on the environment, and could be awesome tools in our farmers' toolbox.

Mr. CARBAJAL. Thank you very much.

Mr. Chairman, I am out of time. I yield back.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from Minnesota, Mr. Finstad, for 5 minutes.

Mr. FINSTAD. Thank you, Chairman Thompson and Ranking Member Scott, for holding this important hearing today. And thank you, Administrator Regan, for being here.

So a few weeks back in March when Secretary Vilsack was here before our Committee, he said that he doesn't want the EPA Administrator calling him and telling him how to do his job. So, Mr. Administrator, as a fourth-generation farmer who represents a lot of farmers in southern Minnesota, I am proud to stand up for farm

country. Farmers are the best environmentalists in the world, and we are tired of the EPA bureaucrats telling us how to farm while we are out there busy every day working to feed and fuel the world.

So with that being said, Administrator Regan, EPA's Office of Pesticide Programs is earning a reputation in farm country for being unfriendly to farmers and taking overly restrictive, unscientific approaches to regulating pesticides, including measures regarding your ESA workplan, chlorpyrifos, atrazine, and many other issues.

So in response to Mr. Lucas earlier, you said the bar the court set on chlorpyrifos was too high. So, Administrator Regan, my question for you is pretty simple. Have you read the court order? The court order actually did afford you the option to make a safety determination, and EPA already had 2020 science on hand to support retaining use of this product. Any comments on that?

Mr. REGAN. I have read the order, and my staff has read the order, and the wording of that particular judge's order went above and beyond the standard language that we use when we determine what is safe. And so, again, if you read that order very closely, you see a very frustrated judge that set a bar much higher for chlorpyrifos than any other thing that we regulate. And it was just a step too far for us to make. I don't think that EPA and USDA disagreed on the science.

And I think Secretary Vilsack is right. He doesn't want me telling him how to do his job. He knows that I have to stand in front of a judge, not him, which is why he is not wanting to tell me how to do my job with chlorpyrifos.

Mr. FINSTAD. So, Mr. Administrator, I am sure you can appreciate the frustration we in farm country have. I mean, it is like a dog chasing its tail. We look to the USDA to provide us that strong leadership and that scientific backbone to help us produce food to feed the world, and then we have the EPA and we have you saying you are fighting with the courts and lawsuits and all of these different things. To me, there seems to be some tools at your disposal, and we are just not taking advantage of them.

Moving on here, the biodiesel, renewable diesel industry provides a substantial economic benefit for my state's soybean growers. Without the RFS market, soybean prices could drop by about 13 percent. Meanwhile, the EPA has proposed volumes for advanced biofuels and biomass-based diesel for the next 3 years that are below what the industry is producing today. So are you aware that there has been over \$6 billion in announced investment to increase oilseed crush capacity, and this is now in jeopardy as a result of the EPA's RFS proposal?

Mr. REGAN. I have met with the biodiesel, biofuels groups, and they have made us aware of some information. They have also given us some information through the comment period. And listen, we are taking that information under consideration. I can't say more because this is a comment period, but I can tell you that we have heard these communities, and we are governing ourselves accordingly.

Mr. FINSTAD. I appreciate the fact that you just mentioned that you are listening. I really do. Just my advice is please continue to

do that and if we have the opportunity to meet off-line, I would love that, to talk to you about the importance this is to us as farmers in farm country and in southern Minnesota.

In the 2014 Farm Bill, Congress directed the EPA to establish a standing Agricultural Science Committee under the Science Advisory Board to provide scientific and technical advice relating to matters with significant direct impact on enterprises engaged in ag production. How many times has the EPA's Ag Science Committee met since you became administrator?

Mr. REGAN. I would have to check with my staff to get the accuracy of that number.

Mr. FINSTAD. I looked ahead. The answer is zero. Your agency has proposed and finalized hundreds of rules in the last 3 years, many with significant economic impact for farm country. How many of these rules have received review by the EPA's Ag Science Committee, as directed by Congress in the farm bill?

Mr. REGAN. It sounds like you have a number that could be or let me check with my staff—

Mr. FINSTAD. Yes, it rhymes with hero, and it is zero. The answer is zero. So, the question is do you believe that the Biden Administration's WOTUS rule limiting safe and effective crop protection tools—these have significant impacts in farm country. Don't you think the Committee's—my time is up. We will talk off-line. Mr. Chairman, I yield back.

The CHAIRMAN. I thank the gentlemen. The gentleman's time has expired.

I am now pleased to recognize the gentlelady from Oregon, Congresswoman Chavez-DeRemer, for 5 minutes.

Oh, I am sorry, wrong side of the aisle. It took me till the end to screw up this time.

All right. Ms. Craig from Minnesota—sorry about that—you are recognized for 5 minutes.

Ms. CRAIG. That is okay, Mr. Chairman. Thank you so much. You gave me time to sneeze.

The CHAIRMAN. All right.

Ms. CRAIG. Thank you, Ranking Member Scott, Chairman Thompson, and of course thank you for being with us here today, Administrator Regan.

The work that you and the Biden Administration have done following the passage of the Inflation Reduction Act to invest in innovative strategies to cut climate pollution, create good-paying jobs for Minnesotans, and accelerate our transition to clean energy across the State of Minnesota truly makes a difference in every single one of our communities. The U.S. is currently transitioning to a cleaner, greener economy to ensure that we preserve a healthy planet for our children to grow up in.

That being said, I am concerned about the EPA's approach with regard to this clean energy transition. In the past few months, despite previous support, your policies have alienated the renewable fuels sector. The EPA's proposed RVOs shifted away from investments in the Higher Blends Infrastructure Incentive Program. Biomass-based diesel supports over 75,000 jobs, contributes over \$23 billion annually to the American economy, and reduces greenhouse

gas emissions by approximately 74 percent when compared to petroleum diesel. These RVO standards overlook those advancements.

Furthermore, the EPA's proposed new car pollution rules released last Wednesday was another hit to the renewable fuels sector. These rules also overlook the strides biofuels have made in decreasing greenhouse gas emissions and further limit the biofuels market.

You referenced in your testimony that you have a strong desire to work closely with the farming community to promote practical, science-based policies that protect the environment and support the U.S. ag system. I am concerned that these proposals are not practical for the agriculture community. Not only do these recent EPA actions fail to consider the existing capabilities of the renewable fuels market and its potential for growth, but they undervalue the American farmers who rely on the same biofuels market the U.S. Government has been incentivizing for the last decade.

So, Administrator Regan, in response to the crippling effect of rising energy prices Americans have experienced across the country, in April, President Biden took bold action to address this issue through an emergency waiver to allow E15 gas to be sold during the summer of 2022. Yet here we are again. We have heard nothing on the status of a nationwide waiver for this season. As we approach the summer driving season, we are again facing the same challenges. So I guess I will just ask the question. Will the Administration act in time for the summer driving season to permit the sale of E15 year-round across the country?

Mr. REGAN. I can tell you that we haven't taken anything off the table and that the E15 waiver is being looked at as a potential tool for this summer, in addition to the longer-term strategy around our response to the eight Governors for year-round E15 waiver for those eight states in the year 2024.

Ms. CRAIG. I know that rising fuel and energy prices are impacting the budgets across the country. Let me just ask you this because with the tailpipe emissions standards that were just released, those goals are stronger than what the Biden Administration even asked for. So let me just ask you this. Given the dialogue today, the tailpipe emissions standards, does the American biofuels market industry have a future in EPA policy?

Mr. REGAN. It absolutely does. In 2022 I finalized the strongest RVO in history. And in 2023, 2024, and 2025, we are maintaining that trajectory. It was a proposal. We are taking comments on that rule holistically but also, as you pointed out, on the biodiesel side, and we are going to make adjustments based on those comments and come out with a very strong final rule. I am working with the DOT and DOE and USDA to focus on how we can ensure that aviation fuels are a strong player in the market here. So I consider us walking and chewing gum at the same time. I don't believe that these car rules are alienating agriculture or rural communities. I think that we have complementary policies so to speak that will drive us to a low-carbon future.

Ms. CRAIG. Why does the EPA wait until the last minute every single summer to issue the waiver?

Mr. REGAN. I think that it is not necessarily waiting until the last minute, but I think if you look at prior Administrations that

have proactively issued those waivers or gone too quickly, the courts have struck them down. So we have some precedence we have to watch out for. There are certain market conditions that must be present in order for EPA to utilize that waiver. And my staff is taking a constant look at when they become present, we can take action.

Ms. CRAIG. Mr. Regan, I am out of time, so I will yield back to the Chairman.

The CHAIRMAN. The gentlelady's time has expired.

I now recognize the gentlelady from Oregon, Mrs. Chavez-DeRemer.

Mrs. CHAVEZ-DEREMER. Thank you, Mr. Chairman. This is on rodenticides. And thank you for being here.

Mr. REGAN. Thank you.

Mrs. CHAVEZ-DEREMER. I appreciate it.

On November 29, 2022, the EPA released a public comment on the proposed mitigation measures for 11 rodenticides. Many of the proposed mitigation measures would place severe restrictions on the use of those rodenticides, which would hamper the ability of growers, consumers, schools, businesses, and healthcare facilities to control rats, mice, and other rodents in order to comply with food safety regulations required for rodent control. The limitation of access to vital rodenticides would harm America's public health, food supply, and infrastructure, not protect them. The proposed measures would also hamper environmental justice efforts by increasing the cost of rodent control and making food more expensive for those who can least afford it.

These proposed mitigation measures include classifying all non-consumer products as restricted-use pesticides. This would require users of these products to become licensed or state-certified applicators for some products and prohibit the surface application methods currently used to protect many of these crops.

This would also require growers to conduct carcass searches for 2 weeks after applications are made and include additional limitations on product use based on the presence of endangered species at that location. It is my understanding that in addition to impacting growers, livestock operations, food suppliers, and homeowners, these restrictions could hamper the efforts of some USDA operations such as the Animal and Plant Health Inspection Service. It could interfere with the Service's efforts to contain the spread of highly pathogenic avian flu, which has led to the death of more than 50 million chickens and turkeys.

So my question, will the EPA work with rodenticide registrants, product users, and the USDA to ensure that any new mitigation measures are practical, science-based, and allow for continued access to these vital pest-control tools?

Mr. REGAN. Well, thank you for that question. And I can tell you we are working with USDA and others. This is in its proposal stage, so we have received a ton of comments. I think we saw an uptick in poisoning to children, domestic pets, and endangered species in a combination, so I think we proposed classifying 11 from a restricted-use standpoint. But we have met with USDA and other agencies because we want them to be practical and not restrict or undermine food production and safety. It is in the proposal phase,

so I can't comment more on that but just to say we have received a ton of comments, and we want to make this as practical as possible.

Mrs. CHAVEZ-DEREMER. Thank you. Renewable energy: Marion County in my home State of Oregon, employs a waste-to-energy facility that provides 13 megawatts of renewable energy to local homes and businesses while sustainably processing the waste remaining after recycling generated in our community. In addition, Marion County recovers 7,500 tons of ferrous and nonferrous metal in their waste-to-energy facility annually. That is the equivalent to 6,000 cars' worth of steel and nine million aluminum cans. Each year, this facility diverts more than 179,000 tons from landfills, helping Oregon reach its climate-related goals. The EPA's proposed rulemaking on the Renewable Fuel Standard Program fails to allow waste-to-energy to participate, missing a real opportunity to further reduce emissions and create new and diverse pathways to repower our transportation. Will you revisit the inclusion of waste-to-energy methods in the Renewable Fuel Standard Program?

Mr. REGAN. I will take that request back to my team and have a discussion on that.

[The information referred to is located on p. 116.]

Mrs. CHAVEZ-DEREMER. That is all. I appreciate it. All right. I have one final question for you since I have some time.

Many specialty crop growers in my district rely on a variety of crop protection tools to protect the fruits and vegetables from damaging pests and diseases. The use of many of these tools is possible through the work of the IR-4 Project, which develops the data needed to add additional uses to labels and establish tolerances. Administrator Regan, can you talk about the EPA's work with the IR-4 Project to support the specialty crop producers?

Mr. REGAN. Well, listen, I think we want to support our specialty crop producers, and we are looking at all kinds of ways to provide the flexibilities and the labeling that we need to keep our specialty crop farmers, our small farmers in a most competitive posture. This has been something that has been raised a number of times today, and it is something that I have pledged to take back to my staff and take a closer look at.

Mrs. CHAVEZ-DEREMER. Great. Well, thank you for your time.

And with that, Mr. Chairman, I yield back.

The CHAIRMAN. The gentlelady yields back.

I am now pleased to recognize the gentlelady from Hawaii, Congresswoman Tokuda, for 5 minutes.

Ms. TOKUDA. Thank you, Mr. Chairman, and thank you, Administrator Regan, for being here.

We have heard a reference to China and security issues. I do view our overall defense posture, especially in my home State of Hawaii, as needing to be a whole-of-government approach, including agriculture, including our ability to feed ourselves, protect our natural resources, live up to our trust responsibilities. And for that reason, I just have a few questions that I don't think have really been touched upon today.

Cesspool conversion is a very big issue in many of our communities across our country, and I would say especially in rural America. There are approximately 88,000 cesspools in Hawaii, most of

which are small-capacity cesspools on our neighboring islands, part of my district. Last August, USDA and EPA launched the Closing America's Wastewater Access Gap Community Initiative to provide technical assistance resources to help historically underserved communities identify and pursue Federal funding opportunities, as you know. The initiative started with pilots in 11 communities across the country. Specifically, how were they identified and prioritized? I am particularly concerned about representation from our AANHPI (Asian American and Native Hawaiian/Pacific Islander) communities, geographically isolated communities like many that we find in Hawaii that are struggling with both cost and access to infrastructure. More specifically, when we look at technical assistance, are we also being mindful, and how are you taking into account language and other access barriers people may face?

Mr. REGAN. Thank you for that question. And we are definitely taking into account all of our cultural differences when we think about how we best reach our communities. We are providing more than \$150 million in technical assistance grants over the next 5 years, and we selected the Hawaii Community Foundation as one of our Environmental Finance Centers, as well as the Rural Community Assistance Program, to directly assist communities like the ones you are speaking of. We want to be sure that whether it is our TCTAC program or our Closing the Wastewater Gap for this \$150 million in technical assistance, that we are blanketing the country and not leaving any communities behind. And so our Office of Environmental Justice and External Civil Rights is really taking a close look to ensure that the money that flows through EPA, especially from IRA and BIL, create an opportunity where everyone has an opportunity for their fair share of these resources.

Ms. TOKUDA. Thank you. Again, I know we will work closely with our local counterparts as well, but definitely making sure that is provided in language that is understandable to many of our communities across our country and understanding that even technological broadband access barriers exist, making sure that it is in an accessible format is critical so we make sure, as you said, the money flows to where it is most needed right now.

When we are specifically looking at addressing cesspool conversion, property owners often must comply with all Federal and state requirements for cesspools. This can cost, as you know, tens of thousands of dollars. It is a major expense for many in Hawaii who are already struggling with the high cost of living and inflation.

Could you speak to any barriers EPA programs like the Clean Water State Revolving Fund Program, what have they been doing to really help people with this cesspool conversion issue? Do you think there are any gaps in the programs? And specifically, especially given a geographically isolated community like mine, are we looking at any innovative ways to be able to create a green workforce to actually be able to help with cesspool conversions, perhaps funding incentives for local manufacturing, innovation, R&D so as we are all looking to convert, we can do so in a way that is both economically prosperous, as well as taking care of our natural environment as well? So if you could speak to that?

Mr. REGAN. I will. I will say that when we think about the bipartisan infrastructure law, that \$50 billion is focused on water infra-

structure, \$43 billion of that goes through those state revolving loan funds, which we have seen as highly successful in the past. Of that \$43 billion, just over 50 percent must go to disadvantaged communities, communities that have faced these uphill battles for a long period of time. Under the Justice40 initiative, 40 percent of the benefits of those investments must stay within those communities, and that is where you begin to touch on job creation, economic development. And the community benefit speaks to that.

So I would say that the state revolving loan fund is a great opportunity to create all of the dynamics you just laid out, and that is in addition to choosing Hawaii Community Foundation as one of our Environmental Finance Centers for that \$150 million for technical assistance. So I believe we have a really strong program with a lot of history in terms of the state revolving loan fund. We have the technical assistance, and we have that environmental justice and equity overlay to ensure all participation.

Ms. TOKUDA. Thank you, Administrator. I know I am out of time, but I would just add, it won't be a question, but I do know that you have been doing meaningful engagement with our native communities, in particular, our Native American Tribes, and I would also put a plug in there than in terms of native Hawaiian consultation and coordination for our trust responsibilities, this is a primary area of concern, and we would like to work with you on this further.

Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. The gentlelady's time has expired.

I am now pleased to recognize the gentlelady from Florida who will be hosting this Committee's farm bill listening session on this coming Monday, Congresswoman Cammack, for 5 minutes.

Mrs. CAMMACK. Well, thank you, Mr. Chairman. I look forward to hosting everyone in the Gator Nation. Go Gators, of course. And thank you, Administrator Regan, for being here today. You state in your testimony that you have a strong desire to work with the farming and ranching communities across this country and that our farmers are great stewards of the land and are tremendous conservationists. I share that sentiment.

You also indicated that you yourself were raised in rural North Carolina and are familiar with the hard work that our producers do to put food on all of our tables. While I am glad to hear that, coming from a rural district and an agricultural background, warm and fuzzy and friendly aren't exactly words associated with the EPA when discussing matters with my producers and ranchers. In fact, I think the word *hostile* is the one most commonly used. So I hope that we can change that dynamic.

So I will just jump right into it. Administrator Regan, can you describe what vegetative filter strips do?

Mr. REGAN. Can I describe—

Mrs. CAMMACK. Vegetative filter strips?

Mr. REGAN. I am unfamiliar with that term.

Mrs. CAMMACK. Okay. What about the process of contour terracing?

Mr. REGAN. I am unfamiliar with that one as well from an expert level. I could opine, but I prefer to not give—

Mrs. CAMMACK. Well, in the recent Endangered Species Act workplan, the EPA, your agency, proposed numerous mitigation measures that growers would be required to implement when using pesticides to protect listed species, including conservation practices such as cover cropping, field buffers, vegetative filter strips, and contour terracing. However, these practices are very costly. In fact, in the State of Florida, of which I represent, this would impact producers from my home state more than any other state in the union. For example, it would cost \$1.2 million annually just to install vegetative filter strips on 5,000 acres. There are hundreds of thousands of acres under production in my home state, so you can imagine the burden that our farmers and ranchers would bear in trying to comply with this particular workplan. How do you expect our growers to comply with these burdensome regulations while facing incredible input cost increases and not go broke in the process?

Mr. REGAN. Well, I am glad we are having this conversation, and I am glad it is not a regulation but we are talking about a workplan. I think what we need to do is ensure that, as a workplan is being developed so that we can all get on the same page, that we have the right people at the table so that we are conversing and using the same language and have an understanding of how costly this is going to be. So what I would like to suggest is that I revisit this with my staff to be sure that we have the right stakeholders at the table as we continue to talk through this workplan.

Mrs. CAMMACK. Absolutely. And I would open up an invitation for you to come down to Florida to my district, visit with my producers, and they will actually show you what it all takes in order to be compliant with these regulations. I know that they would welcome that opportunity because this is quite a burden that they have to bear.

And I just want to piggyback off of my colleague from Minnesota who had a line of questioning earlier talking about the 2014 Farm Bill in which Congress directed the EPA to establish a standing Agricultural Science Committee that would provide the scientific and technical assistance. And to date—it is now 2023—they have met zero times, and there have been hundreds of proposed and finalized rules, major regulations to the tune of over \$100+ million each that are impacting our agricultural industry. And these have not been covered with this advisory committee because they have, again, met zero times.

So when we have a regulation like WOTUS, the *Waters of the U.S.* rule, that will actually put many of our producers across the country out of business and this organization has met zero times, is it the position of the EPA that it will not have an impact, an adverse, negative impact on producers across this country?

Mr. REGAN. Well, let me tell you, I have pledged to follow the science and follow the law. And if Congress has indeed instructed EPA to do something, I will get to the bottom of whether or not we have.

Mrs. CAMMACK. But that is not the question. The question is do you think that WOTUS will have a negative or positive impact on our agricultural producers?

Mr. REGAN. I believe the WOTUS that we have constructed will provide certainty and durability, right, and I think it will give a better opportunity for our farmers to have more security. And I also believe that the USDA is positioned to help us with the implementation and understanding of what is being asked for in WOTUS.

Listen, WOTUS is designed based on the Clean Water Act. I have to follow the law. And there has been no Administrator prior to me successful—

Mrs. CAMMACK. Well, and my time is expiring, so I am going to have to wrap it up here, but I am sure my producers will be happy to share with you the impacts that they will be facing under the implementation of WOTUS when you come and visit us in the district.

But I appreciate you being here today. Thank you, Administrator Regan. I yield back.

Mr. REGAN. Thank you for the invitation.

The CHAIRMAN. The gentlelady's time has expired.

I am now pleased to recognize the gentleman from New York, who, this past Friday, hosted a farm bill listening session in his Congressional district really at the home of Farm Bureau in Binghamton, New York. Mr. Molinaro is recognized for 5 minutes.

Mr. MOLINARO. I thank you, Mr. Chairman. And thank you for joining us last week.

And, Administrator Regan, I am going to tell you that I am going to ask a question regarding the Hudson River, but I will ask that question second and invite you to visit the Hudson River Valley. The Hudson River cleanup remains a major concern for us.

I want to return, though, first to—and I appreciate your time today—to the proposed tailpipe rule. And I know that you had some back-and-forth with one of my colleagues. I absolutely support transitioning to use of electric vehicles. I find obviously confronting climate change an important priority for this country and for Congress. I do. I call the Hudson River Valley home. I have dealt with conservation issues for a long time.

However, it is absolutely legitimate to argue that scaling this up under the current timeline that the rule and that the President has put in place is just insurmountable. You suggested that this was a proposed rule, and therefore, we have time until 2027 to get there, but I really would ask you how exactly do we think we can make that transition in that period of time, knowing full well that we just don't have either the supply chain, and we are reliant on, in this case, almost overwhelmingly China for this purpose?

Mr. REGAN. Well, thank you for the question. And listen, we are following the market. We have had over \$120 billion invested by the private-sector just in electric vehicles and batteries. When I say proposal, this is a proposal which has a range of numbers that we are going to be discussing over the next year so that we can finalize this rule.

Mr. MOLINARO. Well, Mr.—

Mr. REGAN. The final rule—

Mr. MOLINARO. I am sorry to interrupt.

Mr. REGAN.—would kick in, in 2027.

Mr. MOLINARO. But the President has said not only to meet the rule for 2027 but that this Administration thinks that we can achieve the goal to increase that to 50 percent by 2030. What could we point to that would make a legitimate argument that we could make the transition? I have often said the analogy is a sort of like we are standing on one side of the river looking at the other, and the Administration says, here, we are not going to build a bridge, we just want you to cross the river. How do we get there from here?

Mr. REGAN. I think on the 50 percent by 2030, the President had all of the big three autos and others standing with him making that commitment. That is the private-sector making the commitment of 50 percent by 2030.

Mr. MOLINARO. I can get them to stand with me as well, but the technology doesn't exist.

Mr. REGAN. Well, they say that it does, and quite frankly, some of them have some very ambitious goals that are, quite frankly, more ambitious than some of the numbers that are proposed in the rule that we have. And so what I can say is that we are looking at the markets. We are looking at technology. And I would agree with you that we have to have some things fall into place, which is why the President has mobilized domestic manufacturing with the CHIPS and Science Act. We have tax credits in the Inflation Reduction Act that will spur more purchases of electric vehicles. There is a convergence of things that are occurring, but I want to remind people what we have done is proposed a range of numbers that we will be discussing with labor and the automobile industry over the next year or so.

Mr. MOLINARO. I appreciate that. I think that the over-reliance on China at this point is a threat and, quite frankly, needs to be confronted.

Since I wanted to get to this question, under the current Superfund agreement related to the Hudson River, we have a once-in-a-lifetime opportunity to finally restore the Hudson to a healthy status. I will tell you that there has been increasing concern that the EPA is not going to hold the polluters to complete the cleanup. And I will say, too, as a person who has spent 30 years in elected office in the Hudson River Valley, the regional administrator and the staff there has not, in my opinion, sufficiently met the need to be aggressive in meeting that Superfund agreement. We are asking the Governor and the Attorney General of the State of New York to hold firm. What can you do to ensure the people of the Hudson River Valley that the EPA is going to not miss this once-in-a-lifetime opportunity? We will do an enormous disservice to future generations and to the Hudson River Valley if the EPA waffles. And I do observe the EPA waffling.

Mr. REGAN. I don't believe—let me rephrase that. We will not waffle. But what I think we need to do is make sure that all of the elected officials and my regional administrator are conversing on a regular basis so that we can understand what everyone is doing to meet this deadline and meet this goal.

Mr. MOLINARO. Can you assure us the EPA is going to hold firm on meeting the stated language of the agreement?

Mr. REGAN. I can assure you that we are going to hold firm on holding the polluter accountable and cleaning up the mess.

Mr. MOLINARO. I will say to you, it is clear that the EPA over time has allowed cleanup not to meet the expected standard. I worry that the EPA is not going to hold them accountable.

And, Mr. Chairman, with that, I conclude. Thank you.

The CHAIRMAN. The gentleman's time has expired.

And seeing no other Members—and we didn't miss many obviously. We had outstanding attendance here today. And as is customary, I will close with some closing comments before I adjourn our meeting.

First of all, thank you, Administrator, for your time, over 4 hours, much appreciated. Thank you to all of our Members. We had outstanding participation. The impact that your agency has on our number one industry in this country, and that is the number one industry when it comes to the economy, when it comes to the jobs, quite frankly, when it comes to the environment and to the climate for what they accomplished today already, the fact that American agriculture is science, technology, and innovation. You can see the importance of that was reflected in the attendance and reflected in maybe the emotion as well on occasion.

And thank you to our staff because we couldn't do this without our staff, the personal staffs and the Committee staff that are present.

American agriculture concerns are significant when it comes to the EPA. I have traveled to over 40 states and am going to hit a couple more. We are going to be in Raleigh, North Carolina, on Friday and then in Florida on Monday before we are back here on Tuesday to go back into session with farm bill listening sessions. And it is pretty consistent. There is a lot of concern with the EPA. I just share that with you candidly. And I heard that long before you stepped into this office in this role, but concerns about things that are going on with the Biden Administration. Again, we are not looking in the rearview mirror. We are looking out the windshield. And so we are trying to get the EPA to where it needs to be to support the number one industry.

And some of those things, obviously, that is a concern to be heard, and it is unacceptable, as pointed out, the advisory committee has not been operated. I know you talked a lot about workforce, but at the same time, I don't think there was any acknowledgment that some of your scientists—and I would think a significant number are funded by the industries that are key stakeholders because they want you to have—I don't think we got around to asking how many of EPA employees were still working virtually. It is time to go back to work in all the Federal agencies.

Their concerns are they want decisions based on real science and not political science. They want an EPA that is collaborative and not punitive. And I am not saying you disagree with these things. I am just telling you what I am hearing as I travel the country. They want policies that are voluntary and locally-led, not dictated or mandated. They want policies that provide real solutions. When changes are made like with the crop protection tools, it was pretty much unacceptable that there were not real alternative solutions provided before they were stripped of working solutions. I mean,

having ideas and a vision of what will replace them is unacceptable if those are not currently available, and taking away tools that can't be replaced is absolutely unacceptable. These are things I am hearing.

The EPA's mission is to protect human health and the environment. I don't need to tell you that. I know you are dedicated to that. Quite frankly, a robust American agriculture industry is fundamental to human health and the environment. And a weakened American agriculture industry threatens human health and the environment. Eliminating crop protection tools while predicting future tools that are yet to be created is not helpful. A tax on private property rights, as well as state sovereignty when it comes to non-navigable waters. I think there is nobody in this room on this Committee that doesn't support the Clean Water Act. And, quite frankly, it has worked. I mean, as pointed out, that was created under a Republican President, proud of that fact. But, the WOTUS rule, the way it has been done is an attack on the intent of Congress with the Clean Water Act.

You have allowed activists to begin to dictate through the courts, and that means we have certainly some members of the Judicial Branch that are trying to legislate from the bench.

There are attacks on our rural economy targeting fossil fuel production and the ethanol industry. And, quite frankly, the marriage of that liquid fuels industry is what has helped to bring down our emissions dramatically. Our emissions are so much better than anywhere else in the world because of that. And to do that in favor of a political science-based electric vehicles push that is not a climate solution because where the baseload energy comes from—if you crush the ethanol industry, which is a significant part of agriculture, if you crush the petroleum industry, you will crush the rural economy, and that is not good for any American.

And if the Biden Administration is serious about climate, there are no better climate heroes in the world than the American farmer, rancher, and forester. We know today that the data shows 6.1 gigatons of carbon are sequestered annually, 10.1 percent more than what we emit on those natural lands solutions. That is crops, livestock, and trees.

And I would encourage EPA's unapologetic support for America's hardworking agriculture families because they are the best climate heroes anywhere in the world, given their productivity, given their application of science, technology, and innovation. And, yes, and we certainly agree that it is not an industry that is static. It is dynamic.

So, Administrator Regan, thank you again for taking time to be here. I hope this opens the door to further productive interactions between your agency and the entire Committee. I heard a lot of conversation today about the importance of following sound science, and I appreciate your commitment to do so. Unfortunately, some of the actions you have taken stand in stark contrast to this commitment. In turn, farmers have lost access to necessary crop protection and production tools. I urge you to use these resources to expand grower access to the tools that they need, not to restrict already available tools and not to demonize tools before we have working

solutions. Crops are vulnerable to a lot of diseases. Government bureaucracy is probably the most harmful one.

It is clear to me there are a number of regulatory actions pursued by your agency that negatively impact American farmers and ranchers, and I would be interested to know if your agency has conducted a comprehensive study to measure the economic impact your actions have on rural America and the people who live and work there, especially the new car and truck standards.

And yes, the Biden Administration is lining up behind big business, and they are doing that because that is what—President Biden, is climate, climate, climate, which we are all in favor of. We are in agriculture. We have the climate solution, so we love tackling the climate issue. But electric vehicles, I have no doubts that the industries have been bailed out in the past by government are going to try to follow whatever the current President, the current Administration's priorities are, whether they are workable solutions or based on political science or real science. But we need you to stand with the people that provide the food, the fiber, the building materials, and the energy resources in this country, and that is the American farmer.

And so I would be interested to know if your agency has conducted a comprehensive study to measure the economic impact your actions have on rural America and the people who live and work there, especially those standards, pesticide decisions, natural resource regulations. And if this assessment has not taken place, I request that this study be done by the EPA and sent to the Committee no later than this summer.

And with that note, under the Rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplemental written response from the witness to any question posed by a Member.

This hearing of the Committee on Agriculture is adjourned.

[Whereupon, at 2:29 p.m., the Committee was adjourned.]

[Material submitted for inclusion in the record follows:]

SUBMITTED LETTER BY HON. MIKE BOST, A REPRESENTATIVE IN CONGRESS FROM
ILLINOIS

April 11, 2023

Hon. MICHAEL REGAN,
Administrator,
U.S. Environmental Protection Agency,
Washington, D.C.

Dear Administrator Regan,

We write to you concerning the U.S. Environmental Protection Agency's (EPA) recently proposed Renewable Volume Obligations (RVOs) for 2023 through 2025, announced as part of the "set" rule in December 2022.

The Renewable Fuel Standard is an important tool used to support the production and use of sustainable homegrown energy sources, and EPA's proposed RVOs represent an opportunity to facilitate further growth in this critical sector. We are concerned that the proposed RVOs for advanced biofuels, particularly biomass-based diesel, represent a step in the wrong direction and threaten to derail the significant progress made by the industry in recent years.

Biodiesel and renewable diesel utilize a variety of biomass feedstocks to produce a sustainable fuel that supports thousands of jobs and contributes billions of dollars annually to the American economy, particularly in rural communities. The American market for biodiesel and renewable diesel has experienced significant growth, with U.S. consumption reaching 3.1 billion gallons in 2022. Further, projections from the Energy Information Administration (EIA) anticipate renewable diesel capacity doubling to 5.9 billion gallons by the end of 2025.¹ EPA's proposed blending targets for biomass-based diesel account for less than ten percent of the volume increases estimated by EIA, reaching only 2.95 billion gallons in the final year.

This draft rule fails to account for the existing capabilities of the industry, let alone for its continued growth. It also fails to take into account expanded feedstock availability, including new soybean crushing capacity, enhanced distillers corn oil capture, and the recently finalized canola oil pathway for renewable diesel. Specifically, EPA fails to properly acknowledge the expanding crush capacity in the United States. Expansion and investments throughout the biomass-based diesel value chain have been vast over the past several years, in large part because of support from the Federal Government. The previous final RVO rule for 2020–2022, increased investments in the Higher Blends Infrastructure Incentive Program, and the Sustainable Aviation Fuel Grand Challenge are just a few instances where the Federal Government recently indicated support for the growing biomass-based diesel sector. As a result of this support, the biomass-based diesel industry has announced increased capacity through 2025, with 4.2 billion gallons of biodiesel, renewable diesel, and other biofuels already online as of October 2022. Additionally, more than \$4.5 billion of new oilseed cash expansions have been announced, which translates to nearly $\frac{1}{3}$ more capacity over the next 3 years. This means that the private market is already responding to previous signals of support for growth in the biomass-based diesel sector. The proposed RVOs do not acknowledge these investments on the ground, undercutting these expansions and unnecessarily putting them at risk—a potential blow to rural economies across the country.

Biomass-based diesel is a valuable component of an energy strategy that provides drivers with lower carbon alternatives at the pump. Blending biomass-based diesel into heating oil also provides a cleaner energy alternative, especially in the Northeast where oilheat remains a common home heating option. An analysis from the U.S. Department of Energy's Argonne National Laboratory found that biodiesel and renewable diesel can reduce greenhouse gas emissions by approximately 74 percent when compared to petroleum diesel. Additionally, biomass-based diesel substantially reduces particulate matter emitted from the transportation and heating sector—helping to improve air quality, particularly in urban areas. A 2022 study also found that availability of biodiesel and renewable diesel can reduce fuel prices by four percent, equaling nearly 20¢ per gallon in savings with current market prices. Further growth in this sector will continue to provide a sustainable, affordable, and American-produced energy source. Simply put, biomass-based diesel serves as an important tool for energy security and as a transition fuel that can lower emissions today.

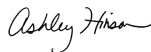
The biomass-based diesel industry supports over 75 thousand jobs and contributes over \$23 billion to the American economy annually. If finalized, the proposed RVOs

¹"Domestic Renewable Diesel Capacity Could More than Double through 2025" U.S. Energy Information Administration. February 2, 2023, available at: <https://www.eia.gov/todayinenergy/detail.php?id=55399>.

for biomass-based diesel would not only represent a missed opportunity to reduce greenhouse gas emissions, but it would also result in a negative economic impact for many farmers and rural communities.

We urge you to increase blending targets for biomass-based diesel to levels that account for industry growth and will continue to encourage the production and use of these fuels, and importantly, that the overall renewable fuel totals are increased so the additional volume does not come at the expense of conventional biofuels.

Sincerely,



Hon. ASHLEY HINSON,
Member of Congress



Hon. MARIANNETTE MILLER-MEEKS,
Member of Congress



Hon. BRAD FINSTAD,
Member of Congress



Hon. ADRIAN SMITH,
Member of Congress



Hon. MARK ALFORD,
Member of Congress



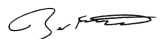
Hon. TRACEY MANN,
Member of Congress



Hon. BLAINE LUETKEMEYER,
Member of Congress



Hon. ROBIN L. KELLY,
Member of Congress



Hon. RANDY FEENSTRA,
Member of Congress



Hon. ANGIE CRAIG,
Member of Congress



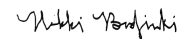
Hon. MIKE BOST,
Member of Congress



Hon. DUSTY JOHNSON,
Member of Congress



Hon. MARK POCAN,
Member of Congress



Hon. NIKKI BUDZINSKI,
Member of Congress



Hon. JAMES A. HIMES,
Member of Congress



Hon. DAVID KUSTOFF,
Member of Congress



Hon. MIKE FLOOD,
Member of Congress



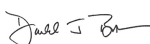
Hon. ZACHARY NUNN,
Member of Congress



Hon. JAMES COMER,
Member of Congress



Hon. EMANUEL CLEAVER,
Member of Congress



Hon. DON BACON,
Member of Congress



Hon. MICHELLE FISCHBACH,
Member of Congress



Hon. ANN WAGNER,
Member of Congress



Hon. SAM GRAVES,
Member of Congress



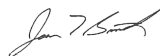
Hon. ROSA L. DELAURO,
Member of Congress



Hon. JOE COURTNEY,
Member of Congress



Hon. DAVID SCOTT,
Member of Congress



Hon. JASON SMITH,
Member of Congress



Hon. DONALD G. DAVIS,
Member of Congress



Hon. JAKE LATURNER,
Member of Congress



Hon. DARIN LAHOOD,
Member of Congress



Hon. JAHANA HAYES,
Member of Congress



Hon. ERIC SORENSEN,
Member of Congress



Hon. MICHAEL LAWLER,
Member of Congress



Hon. JOHN B. LARSON,
Member of Congress



Hon. DEAN PHILLIPS,
Member of Congress



Hon. JAMES R. BAIRD,
Member of Congress

SUBMITTED LETTER BY HON. DUSTY JOHNSON, A REPRESENTATIVE IN CONGRESS
FROM SOUTH DAKOTA

April 19, 2023

Hon. MICHAEL REGAN,
Administrator,
U.S. Environmental Protection Agency,
Washington, D.C.

Dear Administrator Regan,

We write to express concern with the Environmental Protection Agency's (EPA) proposal on automobile pollution limits. We are concerned that in furthering the Administration's goal of lowering emissions in the transportation sector, the EPA is forgoing existing technologies and methods for decarbonization in favor of pushing an "all-electric" future.

Just 2 years ago, the Administration set a target of 50% electric vehicle sales by 2030. While even that goal would be considered lofty, the proposed rule's emissions reduction target is estimated to require up to 2/3 of new vehicles sold in the U.S. to be electric by 2032—this is almost a tenfold increase over current electric vehicle sales. This proposal, paired with efforts to subsidize the purchase of electric vehicles, is unfairly choosing winners and losers in a sector that is actively working to decarbonize.

Liquid fuels have been and will continue to be a necessary component as the U.S. looks toward a lower carbon future. According to a poll by the Associated Press, nearly half of U.S. adults say that it is "unlikely" they would purchase an electric vehicle. Respondents listed several factors for not owning an electric vehicle, including costs being too high, too few charging stations, and concerns that battery technology is not ready.

Instead of engaging in divisive policy making, we encourage you to focus on present efforts that bolster the domestic supply of liquid fuels, such as the year-round availability of higher-blend biofuels, and ensuring proposed volumes under the Renewable Fuel Standard accurately reflect the industry's capacity for growth.

It is our hope that you will listen carefully and thoughtfully to industry stakeholder feedback, especially from those who help move the transportation industry forward.

Sincerely,



Hon. DUSTY JOHNSON,
Member of Congress



Hon. ADRIAN SMITH,
Member of Congress



Hon. ANGIE CRAIG,
Member of Congress



Hon. GLENN THOMPSON,
Member of Congress



Hon. MICHELLE FISCHBACH,
Member of Congress



Hon. MIKE BOST,
Member of Congress



Hon. ERIC A. "RICK" CRAWFORD,
Member of Congress



Hon. RANDY FEENSTRA,
Member of Congress



Hon. ASHLEY HINSON,
Member of Congress



Hon. JAKE LATURNER,
Member of Congress



Hon. MARK ALFORD,
Member of Congress



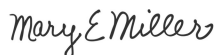
Hon. TRACEY MANN,
Member of Congress



Hon. BRAD FINSTAD,
Member of Congress



Hon. MIKE FLOOD,
Member of Congress



Hon. ZACHARY NUNN,
Member of Congress



Hon. MARY E. MILLER,
Member of Congress

Hon. MAX L. MILLER,
Member of Congress

SUBMITTED ARTICLE BY HON. MARY E. MILLER, A REPRESENTATIVE IN CONGRESS
FROM ILLINOIS

Los Angeles Times

[<https://www.latimes.com/business/story/2022-07-14/california-rooftop-solar-pv-panels-recycling-danger>]

California went big on rooftop solar. Now that's a problem for landfills



Solar panels purchased for home use under incentive programs many years ago are nearing the end of their life cycle. Many are already winding up in landfills.

(Jim Cooke/*Los Angeles Times*).

By Rachel Kisela

Published July 14, 2022 Updated July 15, 2022 7:13 p.m. P.T.

California has been a pioneer in pushing for rooftop solar power, building up the *largest*¹ solar market in the U.S. More than 20 years and *1.3 million rooftops later*,² the bill is coming due.

Beginning in 2006, the state, focused on how to incentivize people to take up solar power, showered subsidies on homeowners who installed photovoltaic panels but had no comprehensive plan to dispose of them. Now, panels purchased under those programs are nearing the end of their typical 25 to 30 year life cycle.

For the record:

7:13 p.m. July 15, 2022

An earlier version of this article mischaracterized the environmental risk posed by heavy metals in consumer photovoltaic arrays. This story has been edited to clarify that panels containing toxic materials are routed for disposal to landfills with extra safeguards against leakage, and to note that panels that contain cadmium and selenium are primarily used in utility-grade applications.

An earlier version of this article also misattributed a statement by Evelyn Butler, Vice President of Technical Services at the Solar Energy Industries Assn., to Jen Bristol, the group's Senior Director of Communications. It also misidentified the group as the Solar Energy Industry Assn.

An earlier version of this article also failed to properly attribute quotes by Jigar Shah, Director of the Department of Energy's Loan Programs Office, to their source, a 2020 interview with PV Magazine. The article has also been updated to reflect Shah's current professional affiliation as well as that of Sam Vanderhoof.

An earlier version of this article also stated that 25 years was the life cycle of photovoltaic panels; the text has been updated to reflect that 25 to 30 years is the typical service life but not a fixed limit. Additionally, in a discussion of

¹ <https://www.seia.org/research-resources/solar-market-insight-report-2021-year-review>.

² <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/demand-side-management/net-energy-metering/nem-revisit/net-billing-tariff-fact-sheet>.

transporting photovoltaic panels to recycling or hazardous waste disposal facilities, the word “cells” has been changed to “panels” for accuracy.

Many are already winding up in landfills, where in some cases, they could potentially contaminate groundwater with toxic heavy metals such as lead, selenium and cadmium.

Sam Vanderhoof, a solar industry expert and chief executive of Recycle PV Solar, says that only one in ten panels are actually recycled, according to estimates drawn from International Renewable Energy Agency data on decommissioned panels and from industry leaders.

The looming challenge over how to handle truckloads of waste, some of it contaminated, illustrates how cutting-edge environmental policy can create unforeseen problems down the road.

“The industry is supposed to be green,” Vanderhoof said. “But in reality, it’s all about the money.”

California came early to solar power. Small governmental rebates did little to bring down the price of solar panels or to encourage their adoption *until 2006*,³ when the California Public Utilities Commission formed the California Solar Initiative. That granted \$3.3 billion in subsidies for installing solar panels on rooftops.

The measure exceeded its goals, bringing down the price of solar panels and boosting the share of the state’s electricity produced by the sun. Because of that and other measures, such as requirements that utilities buy a portion of their electricity from renewable sources, solar power now *accounts*⁴ for 15% of the state’s power.

But as California barreled ahead on its renewable-energy program, focusing on rebates and—more recently—a proposed solar tax, questions about how to handle the waste that would accrue years later were never fully addressed. Now, both regulators and panel manufacturers are realizing that they don’t have the capacity to handle what comes next.

“This trash is probably going to arrive sooner than we expected and it is going to be a huge amount of waste,” said Serasu Duran, an assistant professor at the University of Calgary’s Haskayne School of Business in Canada. “But while all the focus has been on building this renewable capacity, not much consideration has been put on the end of life of these technologies.”

Duran co-wrote a recent article in the *Harvard Business Review* that noted the industry’s “capacity is woefully unprepared for the deluge of waste that is likely to come.”

It’s not just a problem in California but also nationwide. A new solar project was installed every 60 seconds in 2021, according to a fact sheet published by the Solar Energy Industries Assn., and the solar industry is expected to *quadruple*⁵ in size between 2020 and 2030.

Although 80%⁶ of a typical photovoltaic panel is made of recyclable materials, disassembling them and recovering the glass, silver and silicon is extremely difficult.

“There’s no doubt that there will be an increase in the solar panels entering the waste stream in the next decade or so,” said AJ Orben, vice president of *We Recycle Solar*,⁷ a Phoenix-based company that breaks down panels and extracts the valuable metals while disposing of toxic elements. “That’s never been a question.”

The vast majority of *We Recycle Solar*’s business comes from California, but the company has no facilities in the state. Instead, the panels are trucked to a site in Yuma, Ariz. That’s because California’s rigorous permitting system for toxic materials makes it exceedingly difficult to set up shop, Orben said.

Recycling solar panels isn’t a simple process. Highly specialized equipment and workers are needed to separate the aluminum frame and junction box from the panel without shattering it into glass shards. Specialized *furnaces*⁸ are used to heat panels to recover silicon. In most states, panels are classified as hazardous materials, which require *expensive*⁹ restrictions on packaging, transport and storage. (The vast majority of residential solar arrays in the U.S. are crystalline silicon panels, which can contain lead, although it’s less prevalent in newer panels. Thin-film

³ <https://www.kpbs.org/news/local/2022/01/20/big-decision-rooftop-solar-california-off-table-for-now>.

⁴ https://ww2.energy.ca.gov/almanac/renewables_data/solar/index_cms.php.

⁵ <https://www.seia.org/news/solar-industry-sets-records-2020-track-quadruple-2030>.

⁶ <https://www.theguardian.com/environment/climate-consensus-97-per-cent/2018/jun/04/the-latest-weak-attacks-on-evs-and-solar-panels>.

⁷ <https://weryclesolar.com/>.

⁸ <https://www.sciencedirect.com/science/article/pii/S2211467X19301245>.

⁹ <https://hbr.org/2021/06/the-dark-side-of-solar-power>.

solar panels, which contain cadmium and selenium, are primarily used in utility-grade applications.)

Orben said the economics of the process don't make a compelling case for recycling.

Only about \$2 to \$4 worth of materials are recovered from each panel. The majority of processing costs are tied to labor, and Orben said even recycling panels at scale would *not*¹⁰ be more economical.

Most research on photovoltaic panels is focused on recovering solar-grade silicon to make recycling economically viable.

That skews the economic incentives against recycling. The National Renewable Energy Laboratory estimated that it costs roughly \$20 to \$30 to recycle a panel *versus* \$1 to \$2 to send it to a landfill.

Most experts assume that is where the majority of panels are ending up right now. But it's anyone's guess. Natalie Click, a doctoral candidate in materials science at the University of Arizona, said there is no uniform system "for tracking where all of these decommissioned panels are going."

The California Department of Toxic Substances collected its first data on panels recycled by universal waste handlers in 2021. For handlers that accepted more than 200 pounds or generated more than 10,000 pounds of panels, the DTSC counted 335 panels accepted for recycling, said Sanford Nax, a spokesman for the agency.

The department expects the number of installed solar panels in the next decade to exceed hundreds of millions in California alone, and that recycling will become even more crucial as cheaper panels with shorter life spans become more popular.

A lack of consumer awareness about the toxicity of materials in some panels and how to dispose of them is part of the problem, experts said.

"There's an informational gap, there's a technological gap, and there's a financial gap that we're working on," said Amanda Bybee, co-founder of SolarRecycle.org, a website aimed at helping people understand how to recycle solar panels and how the process works.

Last year, new DTSC regulation came into effect that *reclassified the panels, changing*¹¹ the way they can be collected and transported. Previously, all panels were required to be treated as hazardous waste upon removal, which restricted transportation and storage.

Both business and residential consumers, or generators as they are called in the recycling industry, were supposed to transport the panels themselves to certified recycling or hazardous waste disposal facilities. With little tracking, it's unclear how frequently that occurred.

¹⁰<https://resource-recycling.com/e-scrap/2021/05/13/solar-panels-are-the-new-crt-but-sector-is-preparing/>.

¹¹<https://www.nrel.gov/docs/fy21osti/74124.pdf>.



Solar panels are now classified as universal waste and can be collected at more than 400 universal waste handlers in California, where they are then assessed and transported to disposal, reuse or recycle facilities. Above, solar panels are installed on a roof.
(Irfan Khan/*Los Angeles Times*).

Now, panels are classified as universal waste and can be collected at more than 400 universal waste handlers in California, where they are then assessed and transported to disposal, reuse or recycle facilities. (In cases where panels containing toxic materials are relegated to landfills, they are sent to facilities with extra safeguards against leakage.) The new regulations were intended to make it easier for people to turn in their panels, but it does not directly address the next step—recycling.

“What that [rule] does is really just changes how that material is handled, managed, stored, and transported,” said Orben of We Recycle Solar. “It doesn’t change how that material is actually processed.”

In 2016, the Solar Energy Industries Assn., a nonprofit trade association for the U.S. solar industry, started a recycling program for panels. Robert Nicholson, the manager of PV Recycling at the association, said it aims to help the industry group’s recycling partners—five so far—“develop compliant, cost-effective recycling services for end-of-life modules.”

“The majority of recyclers are already existing recyclers; they’re primarily doing e-waste or they’re doing glass,” said Evelyn Butler, the association’s vice president of technical services. “So we have had to work with them to kind of take that leap, to say: ‘We believe that the processes you’re using can accommodate the technology.’” The association also works with regulators to draft legislation that decreases the number of panels heading to landfills.

Government subsidies are one way to make solar panel recycling economically viable for the waste generators, who now bear much of the cost of recycling.

In Europe, a recently enacted regulation called the European Union Waste of Electrical and Electronic Equipment Directive places responsibility on producers for supporting their products through responsible end-of-life disposal. It requires all producers that manufacture panels for countries in the EU to finance end-of-life collection and recycling.

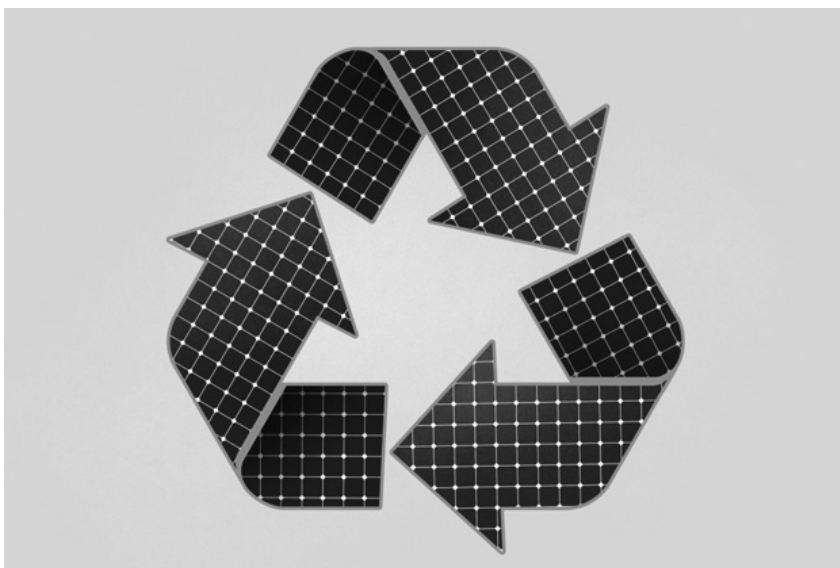
Similar legislation has been attempted in several U.S. states, including Washington, where the Photovoltaic Module Stewardship and Takeback Program will require solar panel manufacturers to finance end-of-life recycling. The initiative was

passed in 2017 and will begin implementation in 2025. It's the *only*¹² producer-responsibility law in the United States.

It's part of a larger strategy in the recycling industry *called*¹³ extended producer responsibility, in which the cost of recycling is built into the cost of a product at its initial purchase. Business entities in the product chain—rather than the general public—become responsible for end-of-life costs, including recycling costs.

In a 2020 *interview with PV Magazine*,¹⁴ Jigar Shah, co-founder of Generate Capital, a fund that invests in sustainable infrastructure, said the problem can be addressed at the very start of the product chain—by manufacturers. Shah, who is now director of the Department of Energy's Loan Programs Office, said that policy-makers need to require manufacturers to come up with a standard design that makes panels easier and cheaper to recycle.

"It's far more cost-effective for manufacturers to be forced to work together . . . where they try to greatly reduce the cost of all that collectively. That happens through policy," he said. "It doesn't happen through people opting in."



Although 80% of a typical photovoltaic panel is made of recyclable materials, disassembling a panel and recovering the glass, silver and silicon is extremely difficult.

(Jim Cooke/*Los Angeles Times*).

In April 2022, Santa Monica concluded a solar panel recycling pilot *program*¹⁵ in partnership with the California Product Stewardship Council, a public-private partnership. The stewardship council surveyed local residential solar owners and found that many, at a loss for what to do with end-of-life panels, called up installers for help.

"We did find that the solar installers were the best contact for us to learn about how many decommissioned panels were in our region," said Drew Johnstone, a sustainability analyst for Santa Monica. "Some contractors did end up just having to pile them in their warehouses, because there's no good solution for where to bring them."

Johnstone says the universal waste reclassification has made a big difference, cutting down on cost and paperwork needed for handling modules, and more handlers can accept the panels from generators.

¹² <https://frontiergroup.org/blogs/blog/fg/solar-panel-recycling-circular-economy-renewable-energy>.

¹³ <https://calrecycle.ca.gov/epr/>.

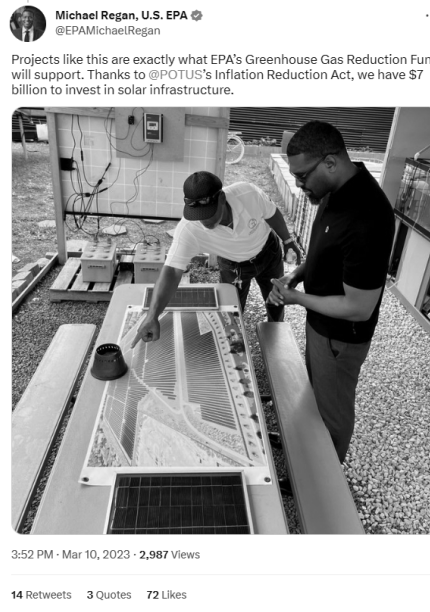
¹⁴ <https://pv-magazine-usa.com/2020/12/03/solar-panel-recycling-in-the-us-a-looming-issue-that-could-harm-growth-and-reputation/>.

¹⁵ https://www.youtube.com/watch?v=uodHTg_vi1s.

“It’s going to be a really large issue in a number of years,” Johnstone said. “So it would behoove local governments, county, state, and it can go Federal too, to have a plan in place for all these panels that will reach their end of life in 10 to 15 years.”

Kisela is a special correspondent.

SUBMITTED TWEET BY HON. MARY E. MILLER, A REPRESENTATIVE IN CONGRESS FROM ILLINOIS



<https://twitter.com/EPAMichaelRegan/status/163429609077223169>

SUBMITTED WEBSITE SNAPSHOT BY HON. MARY E. MILLER, A REPRESENTATIVE IN
CONGRESS FROM ILLINOIS



[<https://www.epa.gov/hw/end-life-solar-panels-regulations-and-management>]

Hazardous Waste Home

End-of-Life Solar Panels: Regulations and Management

Solar is a fast-growing energy source that is vital to the U.S. effort to reduce fossil fuel use. When solar panels, which typically have a lifespan of more than 25 years, reach the end of their lives and become a waste stream, they must be managed safely. Find information here about different types of solar panels and how they are regulated at end of life. If you are disposing of solar panels that are hazardous waste, then regulations under the Resource Conservation and Recovery Act (RCRA) must be followed to make sure the panels are safely recycled or disposed of.



Background

Solar panels provide clean, renewable energy from the sun, and their prevalence as an energy source has been growing. In 2020, solar panels provided about 40 percent of new U.S. electric generation capacity, compared to just four percent in 2010. Overall, 3.3 percent of electricity in the United States was produced using solar technologies in 2020. For more information on these statistics and additional solar energy generation information, visit the *U.S. Energy Information Administration Monthly Energy Review*¹ and the *U.S. Department of Energy's Quarterly Solar Industry Update page*.²

While in use, solar panels safely generate electricity without creating any air emissions. However, like any source of energy, there are associated wastes that need to be properly recycled or disposed of when solar panels reach their end of life. As the solar photovoltaic (PV) market grows, so will the volume of end-of-life panels. By 2030, the United States is expected to have as much as one million total tons of solar panel waste. For comparison, the *total generation of U.S. municipal solid waste (MSW) in 2018 was 292.4 million tons*.³ By 2050, the United States is expected to have the second largest number of end-of-life panels in the world, with

¹ <https://www.eia.gov/totalenergy/data/monthly/pdf/mer.pdf>.

² <https://www.energy.gov/eere/solar/quarterly-solar-industry-update>.

³ <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/national-overview-facts-and-figures-materials#Generation>.

as many as an estimated 10 million total tons of panels. For more information on these and other solar panel waste projections, visit the *International Renewable Energy Agency (IRENA) report on end-of-life solar panel management*.⁴

Types of Solar Panels

The two most common types of solar panels are crystalline-silicon and thin film solar panels.

Silicon Solar (mono- and poly-crystalline)

Crystalline-silicon solar PV represents over 95 percent of solar panels sold today. This type of panel contains solar cells made from a crystal silicon structure. These solar panels typically contain small amounts of valuable metals embedded within the panel, including silver and copper. Crystalline-silicon solar panels are efficient, low cost, and have long lifetimes, with modules expected to last for 25 years or longer.

Thin-Film Solar

Thin-film solar cells contain thin layers of semiconductor material, such as cadmium telluride (CdTe) or copper indium gallium diselenide (CIGS), layered on a supporting material such as glass, plastic, or metal. CdTe is the second-most common PV material after silicon, and cells can be made using low-cost manufacturing processes, but their efficiencies aren't as high as silicon solar PV.

For more about this information and types of solar panels, visit the *U.S. Department of Energy Solar Photovoltaic Cell Basics Web Page*.⁵

Are Solar Panels Hazardous Waste?

Hazardous waste testing on solar panels in the marketplace has indicated that different varieties of solar panels have different metals present in the semiconductor and solder. Some of these metals, like lead and cadmium, are harmful to human health and the environment at high levels. If these metals are present in high enough quantities in the solar panels, solar panel waste could be a *hazardous waste*⁶ under *RCRA*.⁷ Some solar panels are considered hazardous waste, and some are not, even within the same model and manufacturer. **Homeowners with solar panels on their houses should contact their state/local recycling agencies for more information on disposal/recycling.**

Overview of Hazardous Waste Regulations

Federal solid and hazardous waste regulations (*i.e., the RCRA requirements*)⁸ apply to solar panels when they are discarded. When a solar panel reaches the end of its usable life or is otherwise discarded, it becomes solid waste. Solid waste is regulated federally under *RCRA Subtitle D*⁹ and through state and local government programs.

The discarded solar panel, which is now considered solid waste, may then also be regulated under *RCRA Subtitle C*¹⁰ as hazardous waste if it is determined to be hazardous. The most common reason that solar panels would be determined to be hazardous waste would be by meeting the *characteristic of toxicity*.¹¹ Heavy metals like lead and cadmium may be leachable at such concentrations that waste panels would fail the *toxicity characteristic leaching procedure (TCLP)*,¹² a test required under *RCRA* to determine if materials are hazardous waste. If the generator of the solar panels knows from previous experience that the material would fail the TCLP test, they can determine that the waste is hazardous without the need for testing.

While heavy metals are present in most solar panels, there are a variety of manufacturers and models, with different materials used as semiconductors. Because of the variation in design and components, testing has shown that some solar panels may pass the TCLP while others fail.

⁴<https://www.irena.org/publications/2016/Jun/End-of-life-management-Solar-Photovoltaic-Panels>.

⁵<https://www.energy.gov/eere/solar/solar-photovoltaic-cell-basics>.

⁶<https://www.epa.gov/hw/learn-basics-hazardous-waste>.

⁷<https://www.epa.gov/rcra>.

⁸<https://www.epa.gov/rcra/identification-non-hazardous-secondary-materials-are-solid-waste>.

⁹<https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-overview#subtitleD>.

¹⁰<https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-overview>.

¹¹<https://www.epa.gov/hw/defining-hazardous-waste-listed-characteristic-and-mixed-radio-logical-wastes#toxic>.

¹²<https://www.epa.gov/hw-sw846/sw-846-test-method-1311-toxicity-characteristic-leaching-procedure>.

*Hazardous waste solar panels that are recycled*¹³ may be able to use regulatory exclusions available under RCRA, including the transfer-based exclusion (Title 40 of the *Code of Federal Regulations* section 261.4(a)(24)) in states that have adopted the 2015 or 2018 *Definition of Solid Waste Rule*.¹⁴ The transfer-based exclusion is a regulatory exclusion for *hazardous secondary material that is recycled*,¹⁵ as long as certain criteria laid out in the regulations are followed. This conditional exclusion is designed to encourage recycling of materials by third parties while still providing a regulatory framework that prevents mismanagement.

State Solar Panel End-of-Life Policies

Some states have enacted laws, regulations, and policies impacting solar panel waste, including:

States	Corresponding Policy
California	<i>State Universal Waste for PV Modules</i> ¹⁶
Hawaii	<i>State Universal Waste Regulations for Solar Panels</i> ¹⁷
New Jersey	<i>Solar Panel Recycling Commission</i> ¹⁸
North Carolina	<i>Department of Environmental Quality and Environmental Management Commission report on the Regulatory Program for the Management and Decommissioning of Renewable Energy Equipment</i> ¹⁹
Washington	<i>Photovoltaic Module Stewardship and Takeback Program</i> ²⁰

Note: The list above is not comprehensive.

For more information on solar panel regulatory activity at the state level, please visit your state's environmental agency website.²¹

Additional Resources

For more information on environmental impacts and benefits of solar panels, please visit the following resources:

- *Frequent questions on solar panel waste*.²²
- *EPA solar panel recycling web page*.²³
- *Solar Panel Recycling and Disposal*²⁴ guidance from North Carolina Department of Environmental Quality.
- *Solar Panel Fact Sheet*²⁵ from South Carolina Department of Health and Environmental Control.
- *Re-powering America's Land program for siting renewable energy on contaminated sites, landfills and more*.²⁶
- *EPA's Green Power Partnership Program*.²⁷
- *EPA information about State Renewable Energy Policies*.²⁸

Last Updated on August 28, 2022.

SUBMITTED LETTER BY HON. NICHOLAS A. LANGWORTHY, A REPRESENTATIVE IN CONGRESS FROM NEW YORK

February 16, 2023

¹³ <https://www.epa.gov/hw/solar-panel-recycling>.

¹⁴ <https://www.epa.gov/hw/final-rule-2018-definition-solid-waste-dsw-response-court-vacatur>.

¹⁵ <https://www.epa.gov/hw/hazardous-waste-recycling#whatis>.

¹⁶ <https://dtsc.ca.gov/photovoltaic-modules-pv-modules-universal-waste-management-regulations/#easy-faq-351191>.

¹⁷ <https://health.hawaii.gov/shwb/files/2021/06/11-273.1-June-7-2021-guidebook-with-track-changes.pdf>.

¹⁸ <https://www.state.nj.us/dep/dshw/solar-panel-recycling/>.

¹⁹ https://files.nc.gov/ncdeq/Environmental_Management_Commission/EMC_Meetings/2021/jan2021/attachments/AttachA-21-05-H329---FINAL-REPORT-Ellen--1-.pdf.

²⁰ <https://ecology.wa.gov/Waste-Toxics/Reducing-recycling-waste/Solar-panels>.

²¹ <https://www.epa.gov/hwgenerators/links-hazardous-waste-programs-and-us-state-environmental-agencies>.

²² <https://www.epa.gov/hw/solar-panel-frequent-questions>.

²³ <https://www.epa.gov/hw/solar-panel-recycling>.

²⁴ <https://www.epa.gov/hw/solar-panel-recycling>.

²⁵ <https://scdhec.gov/sites/default/files/Library/OR-1695.pdf>.

²⁶ <https://www.epa.gov/re-powering>.

²⁷ <https://www.epa.gov/greenpower>.

²⁸ <https://www.epa.gov/statelocalenergy/state-renewable-energy-policies>.

Hon. KATHY HOCHUL,
Governor,
New York State,
Albany, NY

Dear Governor Hochul:

We write to you today, in support of New York State's farmers and agricultural industry, to share our concerns regarding the Climate Action Council's most recent advancement of its Scoping Plan.

Farmers across the State of New York have worked tirelessly to develop new practices on their farms to address environmental concerns. They play a leading role in helping to reduce greenhouse gas (GHG) emissions and have been engaged on many renewable energy projects. While we understand the need to reduce GHG emissions, the Scoping Plan's transportation goals—specifically, the transition to electric vehicles (EVs)—would have a devastating impact on the survival of our state's agricultural producers.

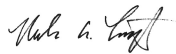
Farmers rely on a variety of different vehicles at both the farm and distribution levels to transport their goods. A lack of charging infrastructure on roads less traveled, higher purchasing and operating costs, and reliability issues of EVs when hauling perishable agricultural commodities across far distances remain unresolved concerns. Even if the state was successful in building out EV infrastructure, serious challenges would remain. As you know, charging a medium- or heavy-duty EV takes time, and it is imperative that livestock are moved in a timely manner. Reliance on EVs with long charging times could put unwanted stress on livestock and could put the animals in unsafe conditions.

Furthermore, affordable technology that would allow for the entire transition to electric farm equipment simply does not exist. While there are some small farm electric tractors that are currently available on the market, there is no EV equivalent that could replace existing diesel-powered large farm equipment such as tractors, sprayers, combines, and choppers. The Scoping Plan amounts to forcing our producers off of reliable, efficient machinery they have relied on for years with no real alternative equipment available. What's more, requiring our farmers to rely more heavily on electric charging vehicles ignores the operational realities of farming and the inconvenience of having to park equipment for hours on end to recharge. Without an adequate electric grid as the state transitions away from natural gas and other reliable, affordable fossil fuels, the Scoping Plan provides no answers as to how such a transition to electrification can be accommodated on an already strained grid. These concerns and many more remain unresolved.

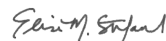
Finally, the implementation of the Scoping Plan risks shutting out the stakeholders—our state's farmers—who will be subject to any new regulations. The New York State Department of Environmental Conservation (DEC) has significant authority in drafting and promulgating these regulations to achieve the goals set forth in this plan. It is concerning that this process bypasses the legislative and regulatory rulemaking process, ultimately providing agencies with significant authority to create rules without receiving the necessary outside input.

We appreciate your consideration of the agriculture industries' concerns that the impacts of the Scoping Plan will have on farmers, and we encourage DEC to keep the agriculture industry in mind when implementing this plan in the coming year.

Respectfully,



Hon. NICHOLAS A. LANGWORTHY,
Member of Congress



Hon. ELISE M. STEFANIK,
Member of Congress



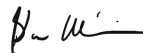
Hon. MICHAEL LAWLER,



Hon. MARCUS J. MOLINARO,
Member of Congress

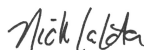


Hon. CLAUDIA TENNEY,
Member of Congress



Hon. BRANDON WILLIAMS,

Member of Congress



Hon. NICK LALOTA,
Member of Congress

Member of Congress



Hon. ANTHONY D'ESPOSITO,
Member of Congress

SUBMITTED LETTER BY HON. DAVID SCOTT, A REPRESENTATIVE IN CONGRESS FROM
GEORGIA

March 28, 2023

Hon. MICHAEL REGAN,
Administrator,
U.S. Environmental Protection Agency,
Washington, D.C.

Dear Administrator Regan:

We write to strongly express our support for strengthening the Environmental Protection Agency's (EPA) draft proposal on the National Ambient Air Quality Standards (NAAQS) for fine particulate matter pollution (PM_{2.5}), also known as soot. We were pleased that EPA reconsidered the inadequate 2020 standards, and we urge you to finalize standards no higher than 8 µg/m³ for the annual standard and 25 µg/m³ for the 24 hour standard, which are in line with the recommendations of the Clean Air Scientific Advisory Committee (CASAC).¹

Exposure to fine particle pollution causes a range of health issues, such as increased infant mortality, cardiovascular and respiratory disease, asthma attacks, diabetes, and premature death. The public health benefits that could be realized under an annual standard of 8 µg/m³ were estimated to total \$44,000–\$93,000 million annually.² Adopting the most stringent annual standard proposed by EPA—9 µg/m³—saves 4,200 lives, but adopting the standard recommended by CASAC—8 µg/m³—saves more than twice that number in the year 2032.³ These health impacts disproportionately affect communities of color, fence-line communities, and lower-income communities who are already overburdened by pollution. People of color also face worse outcomes from exposure to air pollution and stand the benefit the most from stronger standards. EPA's own analysis shows that every other race compared to Whites would see greater mortality reductions with tighter standards. For Black Americans, mortality reductions are over double for a standard of 8 µg/m³ compared to 9.⁴

According to the American Lung Association, over 63 million Americans experience unhealthy particle pollution spikes and 20 million live with dangerous levels of particle pollution year-round. Further, recent research shows air pollution and its harmful impact on human health and the environment are increasing. The American Lung Association's 2022 "State of the Air Report" found 9 million more people were impacted by particulate matter from 2018–2020 than in the previous report.

It is critical that EPA strengthen both the annual and 24 hour standards. Both standards are necessary for adequately protecting public health. The 24 hour standard is the basis for the Air Quality Index, which millions of Americans rely on to know the quality of the air they breathe each day. An inadequate 24 hour standard, like the current 35 µg/m³, can mask short-term pollution spikes that are dangerous to millions of people such as children, the elderly, and people with cardiovascular and respiratory problems and pregnant people. Strengthening only the annual standard is not enough to protect communities from dangerous short-term pollution spikes.

Strengthening particle pollution standards will improve air quality from coast to coast and will start to address historic inequities and injustices in communities suffering from cumulative exposure to multiple pollutants. People and their families have waited far too long to breathe healthy air. The science is clear and we urge

¹ U.S. EPA. *CASAC Review of the EPA's Policy Assessment for the Reconsideration of the National Ambient Air Quality Standards for Particulate Matter* (External Review Draft—October 2021), March 2022. EPA–CASAC–22–002.

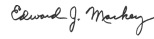
² U.S. EPA. *Regulatory Impact Analysis for the Proposed Reconsideration of the National Ambient Air Quality Standards for Particulate Matter*, December 2022. EPA–452/P–22–001.

³ *Ibid.*

⁴ *Ibid.*

you to move swiftly to finalize these standards so that we can finally begin to achieve the promise of clean air for everyone.

Sincerely,



Hon. EDWARD J. MARKEY,
United States Senator



Hon. LISA BLUNT ROCH-
ESTER,
Member of Congress



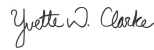
Hon. NANETTE DIAZ
BARRAGÁN,
Member of Congress



Hon. ADAM SMITH,
Member of Congress



Hon. RASHIDA TLAIB,
Member of Congress



Hon. YVETTE D. CLARKE,
Member of Congress



Hon. JULIA BROWNLEY,
Member of Congress



Hon. ROBERT GARCIA,
Member of Congress



Hon. BRITTANY PETTERSEN,
Member of Congress



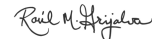
Hon. STEVE COHEN,
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Hon. MARK DESAULNIER,
Member of Congress



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Member of Congress



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Member of Congress



Hon. JERROLD NADLER,
Member of Congress



Hon. DINA TITUS,
Member of Congress



Hon. SHRI THANEDAR,
Member of Congress



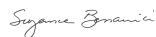
Hon. JANICE D. SCHAKOWSKY,
Member of Congress



Hon. MIKIE SHERRILL,
Member of Congress



Hon. FREDERICA S. WILSON,
Member of Congress



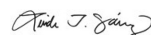
Hon. SUZANNE BONAMICI,
Member of Congress



Hon. SYDNEY KAMLAGER-DOVE,
Member of Congress



Hon. ALEX PADILLA,
United States Senator



Hon. LINDA T. SÁNCHEZ,
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United States Senator



Hon. PAUL TONKO,
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Member of Congress



Hon. JARED HUFFMAN,
Member of Congress



Hon. MAXINE WATERS,
Member of Congress



Hon. BETTY MCCOLLUM,
Member of Congress



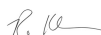
Hon. DWIGHT EVANS,
Member of Congress



Hon. NYDIA M. VELÁZQUEZ,
Member of Congress



Hon. JAMES P. MCGOVERN,
Member of Congress



Hon. RO KHANNA,
Member of Congress



Hon. GLENN IVEY,
Member of Congress




Hon. BERNARD SANDERS,
United States Senator

André Carson

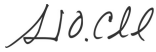
Hon. ANDRÉ CARSON,
Member of Congress



Hon. ADAM B. SCHIFF,
Member of Congress



Hon. JIMMY GOMEZ,
Member of Congress



Hon. SALUD O. CARBAJAL,
Member of Congress



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Member of Congress



Hon. ROSA L. DELAURO,
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Member of Congress



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Hon. GRACE MENG,
Member of Congress



Hon. NIKEMA WILLIAMS,
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Hon. DARREN SOTO,
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Hon. MIKE LEVIN,
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Hon. RITCHIE TORRES,
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Hon. SARA JACOBS,
Member of Congress



Hon. JAMIE RASKIN,
Member of Congress



Hon. TONY CÁRDENAS,
Member of Congress



Hon. ELIZABETH WARREN,
United States Senator



Hon. KATHY CASTOR,
Member of Congress



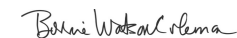
Hon. DANNY K. DAVIS,
Member of Congress



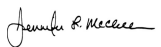
Hon. JAHANA HAYES,
Member of Congress



Hon. RICHARD BLUMENTHAL,
United States Senator



Hon. BONNIE WATSON COLEMAN,
Member of Congress



Hon. JENNIFER L. MCCLELLAN,
Member of Congress



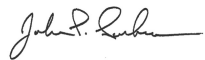
Hon. DAVID SCOTT,
Member of Congress



Hon. VERONICA ESCOBAR,
Member of Congress



Hon. MATT CARTWRIGHT,
Member of Congress



Hon. JOHN P. SARBANES,
Member of Congress



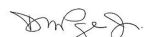
Hon. MELANIE A. STANSBURY,
Member of Congress



Hon. DAVID J. TRONE,
Member of Congress



Hon. JILL N. TOKUDA,
Member of Congress



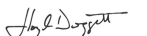
Hon. DONALD M. PAYNE, JR.,
Member of Congress



Hon. JAKE AUCHINCLOSS,
Member of Congress



Hon. STEPHEN F. LYNCH,
Member of Congress



Hon. LLOYD DOGGETT,
Member of Congress



Hon. BENJAMIN L. CARDIN,
United States Senator



Hon. ROBERT MENENDEZ,
United States Senator



Hon. KEVIN MULLIN,
Member of Congress



Hon. KATIE PORTER,
Member of Congress



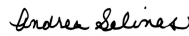
Hon. KIRSTEN E. GILLIBRAND,
United States Senator



Hon. SYLVIA R. GARCIA,
Member of Congress



Hon. SHEILA JACKSON LEE,
Member of Congress



Hon. ANDREA SALINAS,
Member of Congress



Hon. GERALD E. CONNOLLY,
Member of Congress



Hon. BRADLEY SCOTT SCHNEIDER,
Member of Congress



Hon. ROBERT C. "BOBBY" SCOTT,
Member of Congress

SUBMITTED LETTER BY HON. MARIE GLUESENKAMP PEREZ, A REPRESENTATIVE IN
CONGRESS FROM WASHINGTON

April 18, 2023

Hon. MICHAEL REGAN,
Administrator,
U.S. Environmental Protection Agency,
Washington, D.C.;

Hon. PETE BUTTIGIEG,
Secretary,
U.S. Department of Transportation,
Washington, D.C.;

Hon. JENNIFER GRANHOLM,
Secretary,
U.S. Department of Energy,
Washington, D.C.

Dear Administrator Regan, Secretary Buttigieg, and Secretary Granholm,

We are writing to express our concerns about the impacts the Environmental Protection Agency's (EPA) new proposed rules, *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles and Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles—Phase 3* may have on rural communities.

Like you, we believe climate change is a threat to communities across the country, and the Federal Government plays a critical role in developing a clean energy apparatus and helping our communities improve air quality. However, in making that transition, we cannot leave rural communities or working families behind. The Administration's Executive Order 14037 and subsequent National Blueprint for Transportation Decarbonization set an ambitious goal for 50 percent of new passenger cars to be electric vehicles (EVs) by 2030. Last year's Inflation Reduction Act included many concrete policies promoting EV production that will drive costs down and improve affordability. We are concerned the EPA, along with the Department of Transportation (DOT) and the Department of Energy (DOE), have not done enough work to ensure rural communities will have the necessary charging infra-

structure in place to make widespread EV adoption possible. The imposition of additional regulations in the auto market without key infrastructure investments will reduce consumer choice, which is a recipe for disaster in rural America.

Rural communities, like ours, have more unique transportation and service options compared to cities or suburbs. Like many people who live in rural America, we spend a fair amount of time traveling, whether on or off the road system to get where we need to go. When your job, your pharmacy, or your child's daycare is over an hour away, you need to know that your car, snow machine, or ATV, will get you there and back. The ability to refuel a gas-powered vehicle quickly is valuable given the daily realities of rural life. That option is available because our country has a robust network of gas stations, and the requisite gas infrastructure, to support communities of all kinds. An equally robust infrastructure for EV charging must exist before this transition takes place to ensure working people and rural communities have consumer choices similar to cities and suburbs. And that infrastructure, especially fast-charging options, is not being built fast enough in many rural areas. EV charging programs included in the Infrastructure Investment and Jobs Act will help, but Federal agencies remain focused on travel corridors along interstate highways, leaving many rural communities behind.

Washington's third Congressional district has fewer than 100 level 2 and DC fast chargers available to the public, and they are largely concentrated in just two cities. Alaska has only 60 publicly available EV charging stations. In Congresswoman Gluesenkamp Perez' home county of Skamania, there are only two EV charging stations right now, and both are located at resorts. In Congresswoman Peltola's borough of Bethel, along with all the other boroughs of Western Alaska, there are zero EV charging stations. As DOT has acknowledged, the costs of installing EV chargers in rural areas can be higher, especially for direct current fast charging stations, because they are more likely to require expensive electrical service upgrades. Furthermore, for many working families, installing an EV charger at home remains out of reach, especially for those who don't own their homes. Bottom line: for EVs to be a meaningful and workable emissions reduction solution in rural America, we must have a ubiquitous and affordable charging infrastructure with access to abundant, cheap electricity. That simply does not exist right now.

We are only 4 years away from model year 2027, and we are concerned the EPA's regulations are not paired with a plan to ensure adequate charging infrastructure on such a short timeline. Installing hundreds of thousands of new EV chargers and upgrading associated electrical infrastructure will also require tens of thousands of electricians. We are already experiencing a nationwide shortage of qualified electricians—anyone who's currently waiting 6 months for a residential electrician knows this all too well. Workforce shortages, particularly for those in the trades, are even more acute in rural communities. We want to ensure the EPA has considered the significant workforce development challenges that must be addressed to train electricians for a large-scale roll out of EV charging infrastructure.

We request that the EPA, DOT, and DOE respond to the following questions:

1. What have the EPA, DOT, and DOE done to ensure rural communities are not left behind in the transition to electric vehicles?
2. Is there a clear and detailed deployment plan for electric vehicle charging infrastructure in rural areas?
3. How do the EPA and DOE anticipate potential shortages of trained electricians will impact the deployment of charging infrastructure? Further, have agencies evaluated the disparate impacts these shortages may have in rural communities?
4. Beyond using limited Inflation Reduction Act funding, how do the EPA, DOT, and DOE plan to address existing and future shortages of trained electricians?
5. Going forward, how do the EPA, DOT, and DOE plan to work together to ensure public charging infrastructure is abundant and accessible in rural areas?

We also request that you share how you plan to deploy necessary EV charging infrastructure in a timeframe that matches the implementation of the proposed rules. Building out this infrastructure will ensure that rural communities are not disproportionately impacted and left behind in a changing market. While it is critically important that we move toward a clean energy future, it must be a future that works for all Americans, including those in rural areas.

Sincerely,




Hon. MARIE GLUESENKAMP PEREZ,
Member of Congress

Hon. MARY SATTLER PELTOLA,
Member of Congress

SUPPLEMENTARY MATERIAL SUBMITTED BY HON. MICHAEL S. REGAN,
ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Insert 1

Mr. DESJARLAIS. . . .

It is incredible that two government agencies are reading identical language and coming up with two different conclusions. So with that in mind, can you tell me how you think the PCC change in use policy is workable for the farmers?

Mr. REGAN. Well, I might be biased, but I would say I am right, and I think Secretary Vilsack agrees with me. So I will take this back to the Army Corps, to the highest levels, and we will see if we can reconcile why we are getting different definitions on the ground.

A farmer may maintain the prior converted cropland designation so long as the designated area is available for the production of agricultural commodities. An area is available for the production of agricultural commodities when, among other things, it is used for any crops, used for grazing, used for haying, or when it lies fallow. Furthermore, any area that has not reverted to a wetland that is a “water of the United States” will not be regulated as such. Further clarification about the scope of this exclusion is provided in the Memorandum to the Field Concerning Issues Related to Implementation of Section 404 of the Clean Water Act (CWA) and the Food Security Act of 1985, as Amended (FSA), available at https://www.epa.gov/system/files/documents/2022-12/Waters%20of%20the%20United%20States_Agricultural%20Memorandum.pdf.¹

Insert 2

Mr. BACON. . . .

There is another superfund site in my district in Valley, Nebraska, that has been added to the national priority list due to concentrations of TCE (trichloroethylene) found in the groundwater. It is my understanding that EPA has been conducting investigations on this site since 2019, so for 4 years, but I have not been aware of any actions actually being taken by EPA to date other than these investigations. Can you provide any update on the current status on these investigations? And, additionally, is anything being done agency-wide at EPA to streamline this investigation process so we can get to remediation and get the work done? Thank you.

Mr. REGAN. I appreciate that question, and I’ll have to get back to you on the specifics of the investigation.

Funding provided by the bipartisan infrastructure law has enabled EPA to accelerate essential work at hundreds of projects. In 2022, EPA more than doubled its spending for Superfund pre-construction activities like remedial investigations, feasibility studies, remedial designs, and community involvement.

The Old Hwy 275 and N. 288th Street Superfund site in Valley, Nebraska is an approximately 3 mile long trichloroethene (TCE) groundwater plume. The site was listed on the National Priorities List in 2017. The Remedial Investigation fieldwork to characterize the site has been completed, and the report is planned to be completed in November of 2023. Sampling of indoor air, private wells, ponds, utility lines, and monitoring wells do not indicate any completed pathways at this site. A majority of residences previously using well water in the area have been connected to the public water supply, and whole house filtration systems have been installed in properties remaining on well water where contamination was present above acceptable levels. No vapor mitigation has been needed at this site.

While quick action was taken to ensure that there were no unacceptable exposures, several iterative rounds of characterization have been needed to ensure full lateral and vertical characterization of the plume, and in attempts to locate the source of contamination. Enforcement efforts have occurred in parallel to identify a liable potentially responsible party (PRP). The source has not been identified at this time, but progress toward a remedy decision is continuing.

The Feasibility Study Report is planned to be completed in July of 2024, and the Proposed Plan is planned to be issued for comment in November of 2024. The

¹ **Editor’s note:** the referenced memorandum has been retained in Committee file.

Record of Decision for this site is planned to be completed in April of 2025, which will document the cleanup plan for the site.

Insert 3

Mr. BOST. What will it do to the markets? Because we deal off of markets, so we do our production based on—I am cutting it short, but I will get that to you and see if we can get an answer for it.²

Mr. REGAN. I would love to follow up with you on that.

EPA recognizes the importance of the RFS standards to the biofuels markets, and in particular the importance of the Set Rule, which EPA issued on June 21, 2023, and establishes applicable volumes for 3 years (2023–2025). That rule establishes volume requirements for all categories of renewable fuel in the RFS program, including advanced biofuel and biomass-based diesel. The documents issued with the rule, including the accompanying Regulatory Impact Analysis, provide detail concerning how we developed the volume requirements, including information regarding EPA’s assessment of both biofuel production and feedstock growth trajectories over the next 3 years.

Insert 4

Mr. JOHNSON. And I have heard during interpretations of this, but for those eight states, making E15 available doesn’t do anything to keep E10 from being available. Is that right? I mean, people would have the option to have either fuel sold?

Mr. REGAN. I would have to circle back with that. I think our focus for that rulemaking is for E15.

Mr. JOHNSON. Yes, it is my understanding and my hope that giving them the same Reid Vapor Pressure waiver that E10 has would mean that both products would be available. If that is not the case, please follow up because—

Mr. REGAN. And we are talking about the 1 psi, correct?

Mr. JOHNSON. Yes, right.

Mr. REGAN. Yes.

Mr. JOHNSON. There have been some people who have been concerned that at some point giving E15 this additional flexibility at some point takes it away from E10. That is not my understanding, but I just want to make sure I am reading these documents right.

Mr. REGAN. We will get back with you on that.

On March 6, 2023, EPA proposed the “Request From States for Removal of Gasoline Volatility Waiver,”³ 88 *Fed. Reg.* 13758 (Proposed Rule) in response to requests from eight state governors to remove the 1-psi RVP waiver for gasoline-ethanol blends containing ten percent ethanol (E10). EPA proposed to remove the 1-psi RVP waiver for E10 in the following states: Illinois, Iowa, Minnesota, Missouri, Nebraska, Ohio, South Dakota and Wisconsin, resulting in a lower volatility standard in the summer months. The governors, in their requests, noted the action’s ability to facilitate year-round E15 sales.

The rule, if finalized, should not impact the availability of E10 of these states, but will instead make it possible for both E10 and E15 to have the same RVP (9 psi) during the summer months, potentially facilitating the sale of both fuels year round.

Insert 5

Mr. MANN. . . .

In regards to that, does EPA’s announcement allowing for permanent E15 sales in the eight Midwestern states or will EPA’s final rule around summer sales include a provision allowing EPA to approve a Governor’s request for summer sales in the future? In other words, if you are from a state that is not a part of those original eight, will there be a process and a mechanism for other Governors and other states to join in? Because, best-case scenario, eight would turn into 50, and we would all just move on.

Mr. REGAN. I do know that there is a process that is available to all, and eight have chosen to do so.

Yes. The Clean Air Act provision used by the eight petitioning governors remains available to other governors, should they wish to submit a similar petition to remove the 1-psi waiver for the sale of E10 during the summer months in their states.

² **Editor’s note:** the letter inferred in the verbal request for information is located on p. 91.

³ **Editor’s note:** the *Federal Register* proposed rule is retained in Committee file; and the docket is available at <https://www.regulations.gov/docket/EPA-HQ-OAR-2022-0513>.

Insert 6

Mr. ROSE. So personally, I have to tell you I am not sure whether EPA or at this point the Securities and Exchange Commission is the main climate regulator for the Federal Government due to the recently proposed rule entitled, *Enhanced Standardization of Climate-Related Disclosures for Investors* that the SEC is putting forward. Administrator Regan, was EPA consulted on the question of how expensive it will be for farms to comply with the proposed rule-making from the SEC?

Mr. REGAN. We do our own cost-benefit analysis when we pursue these regulations. Obviously, we have our formula, but we consult with multiple agencies across the Federal Government. So I am not quite certain what that level of consultation was, but I can tell you we did not do the rule in a vacuum.

Mr. ROSE. I hope you will get back with me off the record about whether you were consulted and the degree to which you were.

As Administrator Regan stated, when EPA is developing a rulemaking, the Agency utilizes our *Guidelines for Preparing Economic Analyses*,⁴ which provide a sound scientific framework for performing economic analyses of environmental regulations and policies.

At times, the Agency reviews rulemakings in development by other agencies or departments. With respect to the U.S. Securities and Exchange Commission's proposed rule "Enhanced Standardization of Climate-Related Disclosures for Investors," the Agency reviewed the Commission's proposed rule.

Insert 7

Mr. ALFORD. . . .

. . . . The proposed revision to the September 2020 interim decision, ID, for atrazine seeks to lower the concentrated equivalent level of concern. Can you commit to having the SAP consider other studies made available to you and the EPA that were not reviewed in the previous SAPs to make sure that the best available scientific data is used, sir?

Mr. REGAN. Let me circle back with my staff to see what has and has not been considered, and we will follow up with you on specifically those studies.

The concentration equivalent level of concern (CELOC) is based on larger scale studies (*i.e.*, cosm studies). EPA has considered all microcosm and mesocosm (cosm) studies made available to EPA, including those submitted after the 2012 FIFRA Scientific Advisory Panel (SAP) meeting. Atrazine has been the subject of numerous SAPs, and EPA has considered a robust body of literature that has been the subject of multiple SAPs, ensuring a scientifically rigorous process. The August 2023 SAP considers EPA's reevaluation of the eleven cosm studies identified by the 2012 SAP as warranting further review.

Insert 8

Mr. BAIRD. . . . While this proposal is currently open for public comment, many stakeholders need more time to fully analyze the impacts of this proposal and have requested an extension.

So, Administrator Regan, I would appreciate your comments about justification for this jurisdictional change. And then following that, if you would consider extending the comment period?

Mr. REGAN. Well, thank you for that question, and that exact action has not reached my desk, so let me go back and do some due diligence on that. And for those who are governing that process, I will inquire with them about the extension.

Currently, EPA and FDA determine regulatory oversight of pesticides and new animal drugs based on the rationale described in a Memorandum of Understanding (MOU) between the agencies signed in 1971 and revised in 1973. A few years later, in response to industry's continued concern about potential dual regulation of these products, Congress changed FIFRA's definition of pesticide to exclude articles that are new animal drugs. Since that time, pesticide and animal drug technologies—and both agencies' understanding of these technologies—have evolved.

For example, parasite treatment products applied topically to animals (including pets) are generally regulated by EPA if they remain on the skin to control only external parasites (*e.g.*, collars or sprays to control fleas, ticks) but by FDA if they are ingested and absorbed systemically into the bloodstream. The agencies now under-

⁴ **Editor's note:** the referenced document is retained in Committee file, and is available at: <https://www.epa.gov/environmental-economics/guidelines-preparing-economic-analyses-2016>.

stand that many of the topically administered products currently regulated by EPA do not remain on the skin and are absorbed into the bloodstream, highlighting challenges with the current approach and raising different safety concerns than originally anticipated.

Today, in keeping with the statutory change made by Congress in the 1970s, we ensure only one agency regulates a particular product. However, we are still using the outdated 50 year old approach in the MOU to determine whether a product is regulated as a pesticide or a new animal drug and now find ourselves in need of an update to that approach to account for new types of products and our improved understanding of the science, including how some of the older products work.

The current approach has limited our ability to align product regulation with the agency better equipped to regulate the product and to anticipate new technologies, and therefore is outdated and is hampering the agencies' attempts to provide transparency and clarity to industry.

EPA's Office of Pesticide Programs manages approximately 18,000 pesticide registrations, with only several hundred of these products to control external parasites on pets and other animals, like spot-on treatments and collars. EPA only has two veterinarians in our pesticides office to help with oversight on these products, compared to FDA's Center for Veterinary Medicine (CVM) which has many veterinary medical officers and other staff with the expertise to more comprehensively assess these products. FDA's animal safety evaluation process is better equipped to evaluate and monitor products topically administered to animals, as FDA has more extensive expertise in animal safety, more robust animal safety data and adverse incident reporting requirements, and more established pre-market evaluation and post-market monitoring infrastructure than EPA.

EPA and FDA are striving for good government that is efficient and transparent. It would be a poor use of government resources for EPA to build its own "CVM." We've also found that the current approach confuses industry and consumers, as some companies are unsure during product development which agency they should be working with, and consumers are unsure of where to report and receive help with incidents.

The agencies are working collaboratively to underscore the problems with the *status quo* and highlight the importance of solutions that provide clarity and certainty for the future. A modernized approach will help to provide industry, animal owners, and other stakeholders with clarity on each agency's regulatory roles, better protect animal health, and more efficiently use government resources, resulting in long-term efficiency for industry, consumers, and the Federal budget. Additional details can be found in the *whitepaper*.^{5 †}

The 60 day comment period closed on April 24, 2023. It was important to have a scheduled close of the comment period for the agencies to have timely review, consideration, and understanding of stakeholder feedback so that it can inform our next steps. There may be future opportunities for stakeholder engagement. In addition to the 60 day comment period, the agencies held a public listening session on March 22, 2023, to provide an additional opportunity for public comment. Therefore, an extension of the comment period was not necessary, and the agencies did not grant requests for extension.

Insert 9

Mrs. CHAVEZ-DEREMER. . . . Renewable energy: Marion County in my home State of Oregon, employs a waste-to-energy facility that provides 13 megawatts of renewable energy to local homes and businesses while sustainably processing the waste remaining after recycling generated in our community. In addition, Marion County recovers 7,500 tons of ferrous and nonferrous metal in their waste-to-energy facility annually. That is the equivalent to 6,000 cars' worth of steel and nine million aluminum cans. Each year, this facility diverts more than 179,000 tons from landfills, helping Oregon reach its climate-related goals. The EPA's proposed rulemaking on the Renewable Fuel Standard Program fails to allow waste-to-energy to participate, missing a real opportunity to further reduce emissions and create new and diverse pathways to repower our transportation. Will you revisit the inclusion of waste-to-energy methods in the Renewable Fuel Standard Program?

Mr. REGAN. I will take that request back to my team and have a discussion on that.

⁵ <https://www.regulations.gov/document/EPA-HQ-OPP-2023-0103-0002>.

[†] **Editor's note:** the document, *Whitepaper: A Modern Approach to EPA and FDA Product Oversight*, is retained in Committee file.

On June 21, 2023, EPA issued the final rule establishing required volumes under the Renewable Fuel Standard program for years 2023–2025 (the “Set Rule”).⁶ The final Set Rule does not include previously-proposed provisions related to the generation of “eRINs”—Renewable Identification Numbers associated with electricity from renewable biogas and used as a transportation fuel. Following our proposal of a potential eRIN structure, EPA received a substantial amount of comment on the proposed program. Given the volume and complexity of comments, as well as the need to issue the final Set Rule on a date determined by a consent decree, EPA chose not to finalize eRIN provisions as part of the final rule. EPA will continue to evaluate potential paths forward for the eRIN program, while assessing the comments received on the proposal and seeking additional input from stakeholders to inform potential next steps on the eRIN program. As part of that process, we anticipate continuing to engage with stakeholders seeking to qualify waste-to-energy under any future potential eRIN program.

SUBMITTED QUESTIONS

Response from Hon. Michael S. Regan, Administrator, U.S. Environmental Protection Agency

Questions Submitted by Hon. Glenn Thompson, a Representative in Congress from Pennsylvania

Pesticides

Question 1. The Endangered Species Act requires agencies to use “the best scientific and commercial data available” in their analysis on listed species; however, EPA frequently does not consider all the data they have available. While USDA and commercial sources provide pesticide usage data, EPA assumes growers apply the maximum rate on the label, which can be eight or ten times what growers actually use. Failing to use this data can lead to new restrictions and mitigation measures that may be unnecessary if EPA used the best available data. Administrator Regan, how do you justify not using the best data available, as required by law?

Answer. When conducting its endangered species assessments, EPA uses the best scientific and commercially available data that describes a pesticide’s toxicity, environmental fate, and application instructions for EPA-approved use sites. Under the Endangered Species Act (ESA) section 7(a)(2), Federal agencies must ensure that their actions are not likely to jeopardize the continued existence of federally threatened or endangered (listed) species or destroy or adversely modify designated critical habitat. EPA’s action with respect to pesticides is generally the approval of a pesticide registration, which includes approval of accompanying labels. EPA-approved pesticide labels include directions for use, which specify the parameters under which users may apply the pesticide, including maximums for how much and how often a pesticide may be applied. In other words, the label is the law, and EPA conducts its ESA determinations based on the approved pesticide labeling and the best scientific and commercially available data (including usage data, where appropriate). Practically, EPA is aware that once a pesticide is registered users may or may not apply a pesticide using the maximum application scenarios. EPA is always willing to engage in label amendment discussions with registrants to change the labels to lower use rates or frequencies if the maximum rates and frequencies do not reflect grower practices.

Data that describes how pesticide users are actually applying a pesticide is called usage data. Usage data may describe the extent to which a pesticide is applied to a particular crop/commodity over a defined area, such as a U.S. state, or it may describe typical practices used by pesticide applicators such as application rates, number of applications made per year, and application method or equipment. EPA routinely incorporates this type of usage data from USDA and commercially available sources (through a contract) into its evaluations. When that information is available, robust, and reliable, EPA and the Services may also incorporate it into the consultation as appropriate. Although usage data is most useful for pesticides that have an established market and an established history of application practices, EPA continues to explore and to work towards incorporating such information into its new active ingredient evaluations as well.

Question 2. Administrator Regan, why is EPA implementing up-front mitigations before a pesticide has even gone through the ESA consultation process? I am con-

⁶ **Editor’s note:** the final rule *Renewable Fuel Standard (RFS) Program: Standards for 2023–2025 and Other Changes*, was published in the FEDERAL REGISTER on July 12, 2023, and is available at <https://www.govinfo.gov/content/pkg/FR-2023-07-12/pdf/2023-13462.pdf>.

cerned that many of these measures might be found unnecessary to prevent species jeopardy or adverse modification of habitat once the Services have completed their Biological Opinions (BiOps). Will restrictions and mitigations be removed if the Services find them unnecessary to prevent jeopardy or adverse modification?

Answer. As noted above, under ESA section 7(a)(2), Federal agencies must ensure that their actions are not likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat. For pesticide actions, if EPA determines that a pesticide may affect a single individual of a listed species, then EPA would determine that the action “may affect” that listed species. If EPA makes a “may affect” determination, then the ESA requires EPA to enter into consultation with Fish and Wildlife Service, National Marine Fisheries Service, or both Services. Many of EPA’s ESA evaluations for pesticides trigger consultation because:

1. pesticide registration actions are often geographically broad in scale, resulting in possible co-location with at least some listed species;
2. pesticides are designed to have some type of environmental effect (*i.e.*, control pest species) and, therefore, there is often a potential for some type of effect to one or more listed species or designated critical habitat when pesticide use may occur on or near a species’ habitat; and
3. the threshold to enter consultation with the Service(s) is low (effects to a single individual).

EPA is working to identify where up-front mitigations may be appropriate prior to completing the consultation process in a variety of contexts, including during review of products containing new active ingredients and registration review of existing chemicals. Because the consultation process for large pesticide actions currently can take years (often much longer than FIFRA/PRIA timelines), up-front mitigations are a tool that EPA can use to streamline consultation, limit delays in pesticide actions, where appropriate, and limit potential effects to listed species from already registered pesticides while consultation is ongoing.

Over the last several years, EPA’s pesticide actions have faced over 20 lawsuits covering over 1,000 pesticide products for alleged failure to meet ESA obligations. Ongoing litigation and settlement discussions will likely drive much of the Agency’s FIFRA–ESA workload for years to come. In addition to being costly for the Agency, this litigation creates significant uncertainty for farmers, other pesticide users, and pesticide registrants. For example, if a court vacates a pesticide registration, users will lose access to that pesticide until EPA can meet its ESA obligations and issue a new registration—likely several years. And without certain pesticide products, farmers could have trouble growing crops that feed Americans and public health agencies could lack the tools needed to combat insect-borne diseases.

When EPA identifies mitigations intended to avoid jeopardy or adverse modification or minimize incidental take earlier in the registration and registration review processes, it may also allow EPA to move forward with certain registration and registration review decisions more expeditiously. If EPA predicts that there is a potential likelihood of a jeopardy or adverse modification when developing its effects determinations, identifying mitigations is important for meeting ESA obligations. And when the applicant agrees to incorporate such mitigations into their action, EPA may be able to predict that there is no longer a potential likelihood for jeopardy or adverse modification and create efficiencies in any consultation process with the Services. The Services include in their final biological opinion an evaluation of jeopardy and adverse modification.

Where the Services ultimately determine that a registration or registration review action included up-front mitigations that were more restrictive than was needed to avoid jeopardy or adverse modification and minimize the impact of incidental take on the species, EPA can work with the registrant to relax these restrictions by amending their registration and accompanying pesticide product labeling. Conversely, if the consultation process identifies different or additional measures that are needed to protect listed species, then EPA will work with the registrant to ensure the registration and pesticide product labeling are amended to include any necessary additional measures.

In short, including up-front mitigations is essential for EPA to meet its ESA obligations. For more about the rationale behind up-front mitigations, please see EPA’s *ESA Workplan*^{1*} from April 2022, particularly the Background Section and Strategy 2.

¹ https://www.epa.gov/system/files/documents/2022-04/balancing-wildlife-protection-and-responsible-pesticide-use_final.pdf.†

* **Editor’s note:** references annotated with † are retained in Committee file.

Question 3. On January 11, 2022, the EPA announced a new policy for evaluating and registering new active ingredients (AIs) in conventional pesticides. Registrants are already facing significant delays in EPA's ability to meet registration deadlines set in PRIA, and, in a recent letter, your Agency estimated this new policy will add an additional 6–12 months to the registration process. I can appreciate your goal of reducing litigation of crop protection tools; however, I am concerned about additional delays in registering new tools, especially since your Agency continues to restrict existing tools. Administrator Regan, since announcing this new policy 15 months ago, has the EPA registered any new active ingredients for conventional pesticides? How many new registrations are expected this year?

Answer. Since January 2022, EPA has registered products containing two conventional new active ingredients (AIs) and 22 biopesticide new AIs. EPA expects to finish considering applications to register products containing three additional conventional new AIs by the end of FY 2023. EPA has also received applications to register products containing an additional 18 new conventional active ingredients with PRIA completion dates ranging out into FY 2025.

As EPA works to meet its obligations under both FIFRA and ESA, the Agency recognizes its ESA obligations regarding threatened and endangered species and critical habitat while also sharing the goal of having adequate pesticide tools remain available for growers. The Agency understands the concerns with delays in review of new active ingredients. EPA appreciates Congress' recognition of these challenges and the importance of ESA compliance, as evidenced by provisions in the Pesticide Registration Improvement Act of 2022 (PRIA 5), which increase statutory decision timeframes for conventional new active ingredient categories with outdoor uses as well as the ability to extend by up to 50% decision timeframes for certain PRIA categories when EPA determines that ESA-related analysis will be required.

Question 4. Enlist One and Enlist Duo are important herbicides that many farmers in my district rely on to protect their crops from damaging weeds. In January 2022, the EPA announced the reregistration of these tools; however, the announcement also included restrictions impacting over 200 counties. This action came right before the start of the 2022 growing season and caused significant uncertainty for producers. While I appreciate the EPA's quick action to lift some of these restrictions, there are still over 70 counties where the use of Enlist products is prohibited. Administrator Regan, is your Agency taking additional steps to lift the remaining restrictions on Enlist products?

Answer. EPA is currently in ESA consultation with the Fish and Wildlife Service (FWS) for Enlist One and Enlist Duo. FWS's draft Biological Opinion was posted May 24, 2023, and remained open for public comment until July 24, 2023. EPA provided a summary of the public comments received and is continuing to engage with the registrant and FWS on this ongoing consultation. As the consultation progresses, EPA will be considering whether there are any necessary changes to use in the 34 states for which the registration was issued. Based on the draft biological opinion, which at this time is not a final decision, FWS proposed to conclude that county restrictions could be lifted because general mitigations added to the product label to reduce spray drift and runoff exposure adequately protected listed species within most counties. Any remaining risk to especially vulnerable or high risk species could be addressed with a limited number of sub-county restrictions.

Question 5. During your tenure at the EPA, you have stated the Agency needs to work hand-in-hand with farmers and ranchers; however, rules like the recently proposed updates to the Worker Protection Standard Application Exclusion Zone add unnecessary restrictions to operations that result in duplicative regulation. As written, this rule allows for the AEZ to extend beyond the boundaries of an operation, meaning an individual could stand on property outside the farming operation to halt the application of pesticides? How, if at all, were the needs of farmers and ranchers considered when making this decision?

Answer. The AEZ requirements have had a long history of public comment and stakeholder feedback, and the concerns of farmers and ranchers have been considered in several ways leading up to the 2023 AEZ proposed rule.

The 2015 Worker Protection Standard rule first introduced the AEZ and the provisions that make it applicable beyond the boundaries of an agricultural establishment. Issues related to the revised Worker Protection Standard rule were presented through several public forums and public comment for the proposal. EPA considered the needs of farmers and ranchers throughout the regulatory process for the 2015 Worker Protection Standard rule as conveyed by commenters, including Farm Bureau, grower associations, and the Small Business Association Office of Advocacy.

After promulgating the 2015 Worker Protection Standard rule, and in response to comments from stakeholders, including agricultural stakeholders, EPA issued

guidance in 2018 further explaining how to implement and comply with the AEZ requirements.

The Agency then completed another public process that led to the 2020 AEZ Rule. The 2020 AEZ Rule, however, is under litigation challenging certain provisions in the rule (consolidated under case number 1:20-cv-10642). Specifically, the litigation called into question the changes intended to limit the AEZ to within the establishment's boundaries and to simplify the criteria for ground-based sprays that in part reduced AEZ distances for fine-spray applications. The Court has stayed the 2020 AEZ Rule's effective date, so these changes never went into effect. The original 2015 requirements remain the regulatory language farmers must operate under when using pesticides labeled for Worker Protection Standard-related uses. Farmers and applicators have been and continue to be required to implement the AEZ in areas both on and off the establishment using the applicable AEZ distances as written in 2015 while the Agency addresses the challenged provisions through rulemaking. It is important to note that regardless of any outcomes associated with the litigation and rulemaking, the Worker Protection Standard prohibits applying pesticides in any way that results in sprays contacting people, whether directly or through drift, regardless of location or distance from the application equipment.

After reevaluating the 2020 AEZ Rule in response to the litigation and as directed by Executive Order 13990, the Agency determined that some of the 2020 changes do not effectively balance the potential social and economic costs associated with limiting the AEZ requirements to areas under the owner's control and simplifying the distance criteria for ground-based spray applications, and therefore proposed to reinstate the 2015 regulatory language around these specific provisions of the AEZ.

EPA's proposal does, however, consider the impacts on farmers and ranchers in a few ways. For example, EPA's analyses have determined that there will be no new impacts from the portions of the 2023 AEZ Proposed Rule seeking to reinstate the 2015 Worker Protection Standard provisions that make the AEZ applicable beyond the boundaries of an agricultural establishment. This is because the AEZ requirements in the 2015 Worker Protection Standard have been the operative regulatory language for the AEZ requirements during the current rule stay and any future extensions of the stay pending the outcome of the litigation and rulemaking efforts.

Additionally, in assessing the changes put forth in the stayed 2020 AEZ Rule, the Agency has proposed to retain two provisions in response to agricultural stakeholder input. For example, the 2023 proposal retains a clarification that handlers may resume a suspended application provided that no workers or other persons remain in the AEZ. The Agency also proposed to retain an immediate family exemption that will provide flexibilities for family farms, permitting owners and their immediate family members to remain in their homes that are within an AEZ if the doors and windows remain closed. This is expected to address family farms while ensuring protections for farmworkers remain in place. This flexibility is a direct result of feedback received from agricultural stakeholders and is consistent with exemptions that are applicable to other portions of the Worker Protection Standard.

The comment period for this proposal closed on May 12, 2023. EPA received comments from 25 different commenters, including Farm Bureaus and others in agricultural industry. EPA is currently assessing these comments to determine the path forward and will take any concerns raised by farmers and ranchers into consideration before finalizing these changes.

Fertilizer

Question 6. As made evident these last few years, the U.S. needs to bolster domestic fertilizer production, specifically the supply of phosphate, to minimize reliance on Russia and China, the two leading fertilizer producers. As you know, the process of making phosphate for fertilizer creates a byproduct called phosphogypsum, or PG, which is commonly reused in Canada, Europe, India, and South America. In the U.S., the Trump Administration approved the beneficial reuse of PG for road-base construction, but one of your initial policy decisions was to withdraw that approval. As I understand it, the withdrawal was not based on concerns related to scientific risk, safety, or environmental concerns; rather, it was an issue over the timing of providing non-critical information. What has the EPA done to remove these barriers and approve the petition for the beneficial reuse of PG?

Answer. Clean Air Act regulations at 40 CFR Part 61 allow EPA to approve a request for a specific use of phosphogypsum if it is determined that the proposed use is at least as protective of human health as placement in a stack. EPA will review and, when applications meet all regulatory requirements, approve proposed projects on an individual, case-by-case basis. Any proposed approval will be made available to the public for comment. Since October 2022, EPA has received only one applica-

tion for specific use of phosphogypsum. The Agency is currently in the process of evaluating it.

The information required in the application, including the quantity of phosphogypsum to be used, its radioactivity and characteristics, and where it will be physically handled, are relevant to assessing the risk of any requested use.

Renewable Fuels

Question 7. I often hear from farmers wishing to find markets for biomass unfit for human or animal consumption on their operations. Is the EPA working with USDA to identify and address gaps in the supply chain connecting feedstocks to biofuels producers?

Answer. EPA, in coordination with other Federal agencies as appropriate, has adopted regulatory requirements for the use of biointermediates (partially processed biomass feedstocks) to produce renewable fuels. These biointermediate provisions will provide new opportunities for parties to address gaps in the supply chain for certain feedstocks that require significant pre-processing prior to use to produce renewable fuels under the RFS program. In the final Set Rule signed on June 21, 2023, EPA also finalized additional flexibilities for the recordkeeping requirements for the use of separated food waste to produce renewable fuels, which may also help address gaps in the supply chain of supplying separated food waste to produce renewable fuels under the RFS program.

Question 8. As you know, your agency published a set rule in December 2022, which included several policy changes that will alter how the Renewable Fuel Standard (RFS) program operates now and in the future. Among the changes, the set rule added renewable electricity derived from biogas and used to charge electric vehicles to the RFS Program. Starting in 2024 and 2025 auto manufacturers, not those who produce the electricity, will be able to generate and sell compliance credits known as electric-renewable identification numbers or eRINs.

Administrator Regan, did your agency coordinate with USDA when developing the eRIN program? Has your agency thought about how this addition to the RFS program may affect the existing volume and volume projections for conventional and advanced biofuels? Given this rule is still being implemented, can you provide us a short summary of how the eRIN program will work?

Answer. On June 21, 2023, EPA issued the final rule establishing required volumes under the Renewable Fuel Standard program for years 2023–2025 (the “Set Rule”). The final Set Rule does not include previously-proposed provisions related to the generation of “eRINs”—Renewable Identification Numbers associated with electricity from renewable biogas and used as a transportation fuel. Following our proposal of a potential eRIN structure, EPA received a substantial amount of comment on the proposed program. Given the volume and complexity of comments, as well as the need to issue the final Set Rule on a date determined by a consent decree, EPA chose not to finalize eRIN provisions as part of the final rule. The EPA will continue to evaluate potential paths forward for the eRIN program, while assessing the comments received on the proposal and seeking additional input from stakeholders to inform potential next steps on the eRIN program.

WOTUS

Question 9. Farmers and ranchers in my state continue to be extremely concerned that the new “waters of the U.S.” rule (WOTUS) greatly expands the Federal Government’s jurisdictional reach far beyond the limit that Congress intended under the Clean Water Act. I’ve also heard that the exemptions, particularly the Prior Converted Cropland (PCC) exclusion, are incredibly confusing and difficult to apply. The agencies have said that the changes they made are to keep the understanding of PCC consistent with how it is used under the Swampbuster program.

EPA has adopted USDA’s “change in use” policy and unfortunately, it has come to my attention that when stakeholders ask EPA and the Corps to clarify its meaning, they were provided conflicting answers. EPA stated that a farmer could change the use of their land and keep their PCC status, as long as wetland characteristics had not returned. However, the Army Corps asserted that a farmer will lose their PCC status if they change the use of the land out of agricultural production, regardless of returning wetland characteristics.

It is incredible that two government agencies are reading identical language and coming to two different conclusions. With that in mind, can you tell me how you think the PCC “change in use” policy is workable for farmers?

Additionally, how is a farmer supposed to use this exemption when the government agencies have conflicting interpretations of how it works?

Answer. A farmer may maintain the prior converted cropland designation so long as the designated area is available for the production of agricultural commodities.

An area is available for the production of agricultural commodities when, among other things, it is used for any crops, used for grazing, used for haying, or when it lies fallow. Furthermore, any area that has not reverted to a wetland that is a “water of the United States” will not be regulated as such. Further clarification about the scope of this exclusion is provided in the Memorandum to the Field Concerning Issues Related to Implementation of Section 404 of the Clean Water Act (CWA) and the Food Security Act of 1985, as Amended (FSA), available at https://www.epa.gov/system/files/documents/2022-12/Waters%20of%20the%20United%20States_Agricultural%20Memorandum.pdf.†

Question 10. The new EPA and Corps of Engineers’ “Waters of the U.S.” rule (WOTUS) scales back the 2020 Navigable Waters Rule’s exclusion for “prior converted croplands” (PCC). Was USDA consulted on this change? How might this change impact landowners when PCC determinations are being made?

Answer. A farmer may maintain the prior converted cropland designation so long as the designated area is available for the production of agricultural commodities. An area is available for the production of agricultural commodities when, among other things, it is used for any crops, used for grazing, used for haying, or when it lies fallow. Furthermore, any area that has not reverted to a wetland that is a “water of the United States” will not be regulated as such. Pursuant to Executive Order 12866, USDA and other Federal agencies had the opportunity to engage with the Agencies’ definition of “waters of the United States.” The Agencies worked closely with USDA on the scope of the prior converted cropland exclusion, which was followed by publication of a joint Memorandum to the Field Concerning Issues Related to Implementation of Section 404 of the Clean Water Act and the Food Security Act of 1985, as Amended, available at https://www.epa.gov/system/files/documents/2022-12/Waters%20of%20the%20United%20States_Agricultural%20Memorandum.pdf.†

EVs

Question 11. Administrator Regan, last week your Agency published the: “strongest-ever pollution standards for cars and trucks.” These new standards are overwhelmingly technology prescriptive and further fuel the fire of excessive Federal mandates and spending on EV infrastructure. I remain skeptical that such top-down planning from Washington D.C. will meet the needs of Americans, including those in rural communities, majority of which do not drive electric vehicles or have access to EVs.

Administrator Regan, does your Agency have estimates on the compliance cost individuals and businesses, including the trucking industry, will have to meet to follow these new proposed standards? Has your Agency assessed the impact this will have on other consumer goods, such as fuel, food, and fiber prices?

Answer. The proposed car and truck standards are performance-based emissions standards and are technology neutral, meaning that manufacturers can choose the mix of technologies that they believe would be best suited for their fleet to meet the standards and to meet the needs of American drivers.

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 the Agency’s guidelines for economic analyses.

As one example of the effects we describe in our analyses, for the proposed heavy-duty truck standards we estimated both compliance costs for truck manufacturers and purchase costs for truck purchasers. We found that the per-vehicle compliance costs are similar to compliance costs from our previous greenhouse gas standards for trucks and that initial increased costs to purchasers would be recovered through operational savings from reduced fuel and maintenance costs, with truck owners eventually seeing lower costs to own and operate their vehicles. Because these technologies pay back over time, we expect no adverse impacts on the costs of other consumer goods.

Question 12. Phase 3 of the recently proposed vehicles emissions regulations included Green House Gas Emissions Standards for Heavy-Duty Vehicles including tractors, and it specifically states day cabs and sleeper cabs on tractor-trailer trucks. Does this rulemaking apply to on-farm equipment like tractors that pull harvesters, wagons, or combines?

Answer. This rulemaking applies to on-road heavy-duty vehicles.

Question 13. According to a AAA ('triple A') study,² 78% of EV owners also own a gas-powered car. Administrator Regan, your agency has provided regulatory support for the Biden Administration's top-down approach to EV adoption in the U.S. To what extent will Americans who do not drive or have access to EVs become responsible for the cost associated with this rapid transition to EVs? What do you suggest I tell my constituents when they ask me why their taxpayer dollars are funding an urban resident's secondary vehicle?

Answer. EPA's proposed standards for cars and light-trucks align with commitments already made by automakers as they plan to accelerate clean vehicle technologies in the on-road vehicle fleet over the next 5 to 10 years. The proposed standards are consistent with EPA's traditional approach to establishing vehicle emission standards under the Clean Air Act, and if finalized they would deliver dramatic improvements in public health. The proposed standards would also deliver significant economic benefits, including lower fuel and maintenance costs for families, and would save the average consumer \$12,000 over the lifetime of a light-duty vehicle, as compared to a vehicle that was not subject to the new standards.

Question 14. The Chair of the National Transportation Safety Board recently raised concern over the weight of EVs—for which the batteries alone are thousands of pounds—in comparison to traditional gas-powered vehicles. Administrator Regan, how would a large increase in EV adoption compound the current strains on our roads, bridges, and highways? Additionally, does the U.S.'s aging electric grid have the capacity, reliability, and resilience to take on such near-term and widespread EV adoption?

Answer. Today's electric vehicle powertrains, when including the weight of the batteries, are often heavier than the engine and powertrain components they replace. However, electric vehicle weight depends on the size of the vehicle, the driving range, and the degree to which manufacturers take opportunities to save on battery cost and weight by improving efficiency and reducing weight in other parts of the vehicle. These opportunities are often cost effective and when the vehicle design is optimized in this way, electric vehicles need not be significantly heavier than gasoline or diesel-powered vehicles. Also, axle weight limits that are designed to reduce wear on our infrastructure will still apply to electric vehicles. For most vehicles, any additional weight attributed to electrification will be very small compared to these existing weight limits.

EPA develops our rules to make sure there is no conflict between grid reliability and environmental compliance, including by working with outside expert agencies at the state, regional, and Federal levels. EPA considered how electric vehicles will impact the grid in both the Heavy-Duty Vehicle and Light- and Medium-Duty proposed rules, and expected that neither proposal would have an adverse effect on grid reliability. The Department of Energy is investing over \$10 billion in grid resiliency programs, funded through the bipartisan infrastructure law, that will prevent outages and strengthen the resiliency of the electric grid. EPA and DOE are working together under a Joint Memorandum of Understanding (MOU) on Interagency Communication and Consultation on Electric Reliability to guide new clean energy opportunities that will support access to reliable, affordable electricity.

EPCRA

Question 15. I am concerned about the Agency's recently released proposed rule on EPCRA reporting requirements would effectively rescind the 2019 final rule that exempts reporting of animal waste air emissions at farms. As you know, the 2019 rule was finalized after Congress enacted a similar CERLCA exemption in 2018, and the rule garnered widespread support from the agricultural industry, as well as first responders. Why is EPA proposing to reverse course here, especially since community specific protocols are in place across the country and are determined between local responders and animal producers well in advance of emergencies?

Answer. The 2019 final rule that exempted farms from reporting animal waste air emissions under EPCRA was challenged in court, and in 2022 the rule was remanded by the court to EPA for reconsideration. EPA sent a draft proposed rule for interagency review pursuant to Executive Order 12866 earlier this year.

²**Editor's note:** the Fact Sheet entitled, *Electric Vehicle Ownership: Cost, Attitudes and Behaviors*, dated January 2020 is retained in Committee file; and is available at: <https://newsroom.aaa.com/wp-content/uploads/2020/11/True-Cost-of-EV-Ownership-and-EV-Owner-Sentiment-Fact-Sheet-Jan-2020.pdf>.

Question Submitted by Hon. Eric A. “Rick” Crawford, a Representative in Congress from Arkansas

Question. Regarding the Ozone Transport Rule, does the EPA believe the industry can comply with such a massive overhaul of coal plants during a supply chain crisis? Will the EPA mandate enforcement during any judicial appeal of the rule?

Answer. EPA received comments on this issue and observed in the final Good Neighbor Plan that supply-chain disruption in 2021–2022 already appeared to be easing. Nevertheless, EPA made several changes to the final rule to address commenters’ concerns, including accounting for economic factors that could affect power plants’ ability to comply with the rule.

For other industrial sources, the final rule includes several flexibilities for affected units that meet certain criteria, including compliance extensions, case-by-case emissions limits, and facility-wide averaging plans.

Since the Administrator signed the Good Neighbor Plan, certain United States Courts of Appeals issued orders partially staying EPA’s SIP disapproval action as to certain states. In response to the Court orders, the Agency issued two interim final rules to ensure that sources in the states for which there are judicial stay orders will not be subject to the Good Neighbor Plan’s requirements while the judicial stays for these states are in effect. More information can be found here: <https://www.epa.gov/csapr/epa-response-judicial-stay-orders>.³ †

Question Submitted by Hon. Trent Kelly, a Representative in Congress from Mississippi

Question. With less than 2% of the U.S. population directly involved in agriculture, there are likely many EPA staff tasked with regulating important crop protection products who aren’t familiar with the agriculture industry. Recently, a group of stakeholders in Mississippi hosted staff from the EPA to help them understand why growers need access to crop protection products. Additionally, Mississippi State University was able to provide a great deal of data needed by the EPA. Administrator Regan, how can stakeholders, like state farm bureaus and land-grant universities, better work with your Agency to ensure your staff actually understand the industry they are regulating?

Answer. EPA appreciates the recent hosting of staff in Mississippi to learn more about grower practices. EPA annually participates in educational field tours, also known as crop tours, generously organized and hosted by numerous organizations. Agency staff use these opportunities to learn more about actual field production operations, approaches, and problems of growers, directly from growers who are affected by the decisions made and regulations administered by EPA.

EPA uses pesticide use-related information submitted by stakeholders in support of both registration of new pesticides and registration review of existing chemistries. Information about how much and the way pesticides are actually used helps EPA evaluate potential exposures, the need for various pesticides, and the potential economic impacts of regulatory options. During public comment periods and other meetings with stakeholders, including the crop tours, EPA often solicits and receives specific information that could inform regulatory actions.

Agency staff, in turn, have opportunities to educate growers and other stakeholders about Agency policies and interpretations, increasing understanding of the Agency’s regulatory actions. Field tours also provide opportunities for Agency staff to interact with growers and other stakeholders on the ground and help those involved to build appreciation for each other’s roles and efforts, leading to mutual understanding and trust. EPA values these interactions with stakeholders and fosters continued partnerships to encourage the exchange of information.

Hosts of past and recent tours include:

- IR–4 Project Specialty Crops Tour
- California Citrus Regulatory Tour
- California Specialty Crops Council
- Florida Fruit and Vegetable Association Crop Tour
- Weed Science Society of America (WSSA) Maryland Farm Tour
- Mississippi Farm Bureau Crop Tour
- National Cotton Council
- National Potato Council
- Association of Pest Control Officials

³**Editor’s note:** a website snapshot of the referenced page, along with the listed additional material, is retained in Committee file.

- North Dakota Grain Growers Tour
- Agricultural Retailers Association Delaware Tour
- Association of Equipment Manufactures—Agriculture
- Michigan Integrated Pest Management Tour
- MS Farm Bureau Federation Tour
- Lee County Mosquito Control District Tour
- National Association of Landscape Professionals
- USA Rice Federation

EPA also works collaboratively with land-grant universities. For example, EPA works with North Carolina State University and Louisiana State University, which operate the Center of Excellence for Regulatory Science in Agriculture (CERSA). EPA collaborates with CERSA in developing workshops aimed at topics both of interest to the Agency as well as agricultural stakeholders.

EPA also regularly works with the U.S. Department of Agriculture's (USDA) Office of Pest Management Policy, and various other sub-agencies, to seek input from a grower's perspective on numerous topics, including individual pesticide registration or registration review decisions, commodity-specific input, feasibility and practicality of pesticide exposure mitigation practices, and other topics of importance to agriculture.

EPA recognizes the importance of effective collaboration with our Federal and state, co-regulators, partners and stakeholders in achieving our mission of protecting public health and the environment. We value our strong partnerships, not only for implementing and enforcing regulatory decisions, but also for the collaboration and input as we work through challenging issues. EPA actively collaborates with a variety of stakeholders for advice, opinions and ideas to help us with science issues and policy development. These groups include:

- FIFRA Scientific Advisory Panel
- Pesticide Program Dialogue Committee
- EPA's Farm, Ranch & Rural Communities Federal Advisory Committee
- Pesticide industry
- Environmental advocacy organizations
- Government agencies—at all levels
- International organizations and foreign partners
- Issue-specific technical experts

EPA also hosts quarterly information exchange meetings with the various stakeholder groups above. Some of the groups from the agriculture community include:

- American Farm Bureau
- American Soybean Association
- National Association of Wheat Growers
- American Sugarbeet Growers Association
- Minor Crop Farmer Alliance
- National Association of Wheat Growers
- National Cotton Council
- National Corn Growers Association
- National Potato Council
- Florida Fruit and Vegetable Association

Questions Submitted by Hon. Randy Feenstra, a Representative in Congress from Iowa

Question 1. Administrator Regan, I'm aware that EPA has three ongoing risk assessments for formaldehyde, and it seems the EPA is on a path to set unscientifically supported and extremely low exposure limits that will in effect ban it's use in the U.S. Many of my constituents are concerned about losing this important product for agricultural applications. Formaldehyde and formaldehyde-based products provide critical applications for crop production, veterinary medicine, animal agriculture and aquaculture, from protecting against Salmonella in hatching eggs or feed, to a disinfectant on-farm, fungal control in aquaculture or to help increase crop yields. Research has also shown it could be our most effective risk mitigation tool against African swine fever if it ever came to the United States. What are you doing to ensure agriculture's voice is heard and considered in this debate

so my constituents don't lose this important tool that can be and has been used safely in agricultural applications for decades?

Answer. Formaldehyde is a known carcinogen, and exposure to formaldehyde may cause adverse health effects. EPA is currently evaluating formaldehyde under three different programs to meet different needs. EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) is currently evaluating formaldehyde under the Toxic Substances Control Act (TSCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA's Office of Research and Development (ORD) is evaluating formaldehyde through the Integrated Risk Information System (IRIS) program. OCSPP and ORD work together and coordinate on chemical assessment activities of mutual interest, such as formaldehyde, leveraging resources and expertise to ensure the best available science is used to inform decision-making.

The current draft of the IRIS formaldehyde assessment is a scientific document that incorporates hundreds of studies and presents the current state-of-the-science on formaldehyde toxicity. The draft IRIS formaldehyde assessment is presented in a structured, transparent manner based on systematic review methods, and it adheres to the Agency's scientific integrity policy. The assessment also includes feedback from other agencies (see the *IRIS Process*⁵ for the steps at which interagency stakeholders provide feedback on IRIS assessments). In April 2022, EPA released the draft assessment for public comment and subsequent peer review. Peer review is a critical aspect of the IRIS process, and the peer reviews for IRIS assessments are conducted according to *EPA's Peer Review Handbook*.⁶ During the public comment period and the peer review the public and industry, including those in the agriculture industry, are able to provide comments and feedback. Comments received during the public comment period are available publicly at <https://www.regulations.gov/docket/EPA-HQ-ORD-2010-0396/comments>.

NASEM published the final peer review report on August 9, 2023. EPA is reviewing the recommendations contained within the external peer review report and will update the assessment as appropriate prior to finalization.

Please note that IRIS assessments are not risk assessments or regulations. They are scientific assessments that provide information that is used to inform risk assessments and risk management decisions by EPA's program and regional offices. During EPA's rulemaking and risk assessment processes, EPA offices and regions combine the scientific conclusions regarding hazard identification and dose-response analysis from IRIS assessments with other scientific information, including information on human exposure, to characterize risk and inform decisions. Such decisions incorporate risk management policy considerations and undergo separate development and rule-making review processes outside the IRIS program. There are further opportunities for comment by the public, including by those involved with agriculture, as part of rulemaking processes.

Question 2. Administrator Regan, Over the last year, \$5B in investments in rural America to increase crush capacity for soybeans have been announced, driven by the EPA's implementation of the Renewable Fuel Standard as Congress intended since President Biden took office. Additionally, ethanol producers continue to invest in new technologies to increase their yields of distillers corn oil, another important low-carbon feedstock for biomass-based diesel fuels. Unfortunately, the EPA has diverted from its strong record in the last several years with its "Set" proposal for advanced biofuels and biomass-based diesel—by proposing volumes lower than current blending levels and lower than increased capacity coming online in 2023 alone. If these numbers stand, the \$5B in crush capacity investments will be at significant risk. How would an increase of this magnitude in crush capacity increase feedstock availability? Do you believe the EPA took these announced investments in crush capacity and enhanced corn oil recovery into account when putting together its Set proposal? Can you speak to what it would mean for rural communities across the country to see an influx of this type of investment and conversely, what the consequences would be of losing this investment?

Answer. The RFS program has played a central role over the past decade in driving the development and use of cleaner biofuels, and that will continue during the Biden Administration. EPA takes our responsibility to implement the RFS seriously and we are committed to moving the program forward in a transparent way that follows the science and the law. EPA announced the final Set Rule on June 21, 2023, which includes a comprehensive regulatory impact analysis that examines many of the factors considered by EPA in determining the final volumes. In the regulatory impact analysis, EPA considered a broad range of environmental and eco-

⁵ <https://www.epa.gov/iris/basic-information-about-integrated-risk-information-system#process>.

⁶ <https://www.epa.gov/osa/peer-review-handbook-4th-edition-2015>.

conomic factors as directed by the statute. As discussed in further detail in the rule, the advanced and biomass-based diesel volumes were based on our assessment of these statutory factors, including the impact of the proposed volumes on the price and supply of agricultural commodities such as vegetable oils and animal fats and food prices, and the rate of production and consumption of renewable fuels such as biodiesel and renewable diesel. The planned increase in soybean crush capacity was among the factors which contributed to the establishment of the final Set Rule volume requirements which is expected to further increase the volume of biomass-based diesel blended into petroleum diesel over the years 2023–2025.

Based on stakeholder feedback and additional data from USDA and other sources, the Agency increased the non-cellulosic advanced volumes from the proposal to the final rule by 250 million gallons in 2024, and 650 million gallons in 2025. The Set Rule represents the largest volumes ever finalized in the history of the RFS program.

Question 3. Administrator Regan, your agency has proposed restricting the use of rodenticides and will therefore make it significantly harder and much more costly for many poultry and livestock producers to control rats and mice on their operations. I am concerned because rodents and mice on farms are bad for animal health, create serious food safety risks, and they cause substantial economic losses. I am told that your staff are making these decisions in order to protect non-target species from ingesting rodenticide products, but that they have no data or studies to determine how and how much rodenticides actually might get ingested, and how much actual damage rodenticide uses commonly cause these populations of non-target species. Do you not agree that your agency should have high quality data on these questions about how and how much rodenticides get ingested and how much damage they are actually causing to the populations of non-target species before they finalize this particular rulemaking? What can you do to ensure that such studies are done and fully taken into account?

Answer. On November 29, 2022, EPA published four rodenticide Proposed Interim Registration Review Decisions (PIDs) for a 75 day comment period, which closed on February 13, 2023. In each PID, there is a benefits section that outlines the numerous benefits rodenticides provide to producers and the public. The Agency also evaluated the benefits of rodenticides in a document entitled *Use and Benefits of 11 Rodenticides and Impacts of Potential Mitigation*† (October 27, 2022), which is available in the public docket for each of the rodenticides. Consistent with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA considered this benefit information alongside the information on risk and made a risk/benefit determination that proposes additional measures to reduce exposure while still retaining rodenticides as tool for use by homeowners and professional applicators.

EPA relies on high-quality data for its risk assessments and utilizes its authority to call in studies needed to conduct its risk assessments. The toxicity of rodenticides is well understood, and EPA continues to rely on its peer-reviewed models to assess scenarios that reasonably represent the highest exposures among a suite of use scenarios. Therefore, no additional data are needed to make a regulatory finding for these pesticides in registration review. The Agency proposed restrictions to protect human health by reducing the availability of rodenticide bait to which humans could be exposed, as human health exposure incidents continue to occur. EPA also identified the potential for risk for primary consumers of rodenticide bait (mammals and birds) and secondary consumers (birds of prey and predatory mammals). This was supported by risk estimation analyses and incident reports for 11 rodenticides, detailed in five ecological risk assessments that were published by EPA in 2020. The ecological risk assessments concluded that primary and secondary exposures to non-target organisms, including threatened and endangered (listed) species, have continued to occur. Based on the 2020 ecological risk assessments, the Agency proposed mitigation measures to further reduce non-target ecological exposures.

Rodenticides will continue to be available to certified applicators and the proposed modifications aligning with endangered species protection does not remove rodent control for agricultural uses. EPA acknowledges this will increase costs for producers, but given the toxicity, exposure risks, and documented incidents identified in the risk assessments, EPA determined that the additional training and qualifications associated with certified applicators would help mitigate the human health and ecological risks.

No additional data are needed to complete registration review. Currently, the Agency is reviewing the public comments and engaging with Federal and state partners, industry, and other stakeholders to discuss the comments received on the PIDs. EPA will determine if any changes to the proposed mitigation measures are appropriate in light of public comments and ongoing stakeholder discussions. The Agency anticipates issuing the rodenticide Interim Registration Review Decisions

(IDs) sometime after the publication of the draft Biological Evaluations, which themselves are planned for November 2023.

Question 4. Administrator Regan, the Biden Administration has admitted that four out of five vehicles will still run on liquid fuels by 2050, but the EPA just released their new tailpipe rules essentially mandating that 54% of new vehicles sold in the United States to be electric by 2030 and 67% by 2032. These new rules have completely ignored the great benefits that biofuels has provided. Lastly, the EPA used the Clean Air Act to justify these rules by regulating emissions so tightly that only electric vehicles could possibly meet the standards.

Has the EPA done any analysis on the full lifecycle emissions of electric vehicles specifically comparing them to ethanol-fueled vehicles?

How can the Department of Energy say liquid fuels will be relevant for years to come and the EPA not only says, but mandates the complete opposite?

What is the limiting principle of the Clean Air Act? What can the EPA not restrict with such a broad interpretation of the Clean Air Act?

Answer. The light- and medium-duty vehicle and heavy-duty proposals are focused on improving the GHG emission performance of the vehicles and engines themselves, not the fuels they run on.

In addition, the proposed car and truck standards are performance-based emissions standards and are technology neutral, meaning that manufacturers can choose the mix of technologies that they believe would be best suited for their fleet to meet the standards and to meet the needs of American drivers. EPA anticipates that gasoline powered-vehicles will be a substantial portion of the on-road fleet for many years to come, and the RFS program promotes the use of biofuels, including ethanol.

Question 5. Administrator Regan, Waters of the United States (WOTUS) continues to be a top concern for farmers, producers, businesses, and communities in my district. According to an analysis, 97% of Iowa's land would be subject to regulation under EPA's recently enacted rule.

Can you describe what qualifies as a navigable water according to the new rule?

Does an ephemeral stream in a field fall under the rule?

Answer. The U.S. Supreme Court issued a May 25, 2023, decision in the case of *Sackett v. Environmental Protection Agency*.⁷ In light of this decision, the Environmental Protection Agency and the U.S. Department of the Army (agencies) have been interpreting "waters of the United States" consistent with the Supreme Court's decision in *Sackett*. On August 29, 2023, the agencies finalized a rule amending the 2023 definition of "waters of the United States" to conform with the decision in *Sackett*.

Questions Submitted by Hon. Mary E. Miller, a Representative in Congress from Illinois

Question 1. Do solar panels contain materials that are considered hazardous by the EPA?

Answer. All energy production technologies create wastes that need to be properly managed at end of life. Just like many of our consumer electronics and other everyday items, solar panels can contain lead solder and other metals in varying amounts. Some solar panels do not incorporate enough of these materials to be considered hazardous under Resource Conservation and Recovery Act (RCRA) regulations, while others may contain enough of them to be considered hazardous.

Question 2. Has the EPA conducted long-term research into the impact solar panels have on agricultural land or farm soil?

Answer. EPA has not conducted long-term research into the impact solar panels have on agricultural land or farm soil. To date, EPA has not received any reports of suspected contamination resulting from the placement of solar panels on agricultural or other lands. It is also important to note that solar panels are designed to operate outside for 25–30 years and are accordingly weatherproofed and sealed with adhesives to protect the internal semiconductors from the elements. Because of this, it is very unlikely that solar panels would contaminate the land or soil.

Question 3. Are you aware of extensive public reporting that landfills will not accept solar panels because they are classified as hazardous materials?

Answer. EPA's understanding is that most solar panels, when discarded, are going to landfills. Many solar panels are not hazardous, and, as such, may be disposed at municipal solid waste landfills or construction and demolition landfills. Those solar panels that are hazardous waste must be directed to hazardous waste landfills

⁷ **Editor's note:** the Supreme Court decision in the case *Sackett v. Environmental Protection Agency*, is retained in Committee file; and is available at: https://www.supremecourt.gov/opinions/22pdf/21-454_4g15.pdf.

when sent for disposal. Further, EPA strongly encourages solar panels to be recycled rather than disposed wherever possible to establish a circular economy and not lose the critical minerals in solar panels. Solar panel recyclers are operating in the United States, with more coming into operation as the volume of end-of-life solar panels increases.

Question 4. As a general principle, do you think EPA officials should have the right to walk onto a farmer's private property without a farmer's knowledge or permission?

Answer. EPA personnel take care to follow legal requirements around access to private property. EPA employs individuals to inspect regulated facilities for compliance with environmental laws. Congress has provided EPA with statutory authority for civil inspectors to enter facilities under certain circumstances, for example to ensure compliance with Federal pesticide laws. Those statutory provisions often establish pre-requisites for entry—such as, among other things, potential requirements to present credentials so that a facility can confirm the inspector's authority, and to present information about the reason for the visits.

Question 5. The Biden Administration and the EPA are pushing no-till farming as a pro-climate initiative, but the EPA is threatening the tools farmers need to make no-till successful. If you restrict crop protection tools, then we must go back to tilling. What do you say to farmers who say the EPA is the biggest threat to no-till farming right now?

Answer. When I joined the Agency 2 years ago, I made it clear from the beginning that I have a strong desire to work closely with the farming and ranching community to identify practical, science-based policies that protect the environment and ensure a vibrant and productive agricultural system. Agricultural and rural communities across the nation are very important to me, and I know that farmers and ranchers are tremendous conservationists and stewards of the land, in part because their livelihood depends upon sustaining natural resources from generation to generation. I am proud of the extensive outreach EPA has had with a wide range of stakeholders, including farmers, to identify opportunities for collaboration with agricultural communities across the country, because it is a high priority for me personally and for us an agency.

I am committed to following the science and the law to make the best decisions concerning pesticide regulations. I want to assure you that we are thinking about the agriculture community and that the concerns of farmers and ranchers are being taken into consideration in our decision-making. I understand that farmers need numerous tools to control pests, delay resistance, and facilitate crop production practices like reduced tillage—and our aim is to limit impacts to farmers' current production practices. As part of EPA's mandate, we consider the benefits of the use of the pesticide in determining appropriate regulations and those benefits would include facilitating no-till and reduced-till farming practices. Further, EPA has recently developed a menu of mitigation measures, including reduced tillage, that provides farmers with several mitigation options to choose from when making pesticide applications.

Question 6. You have also promoted windmills—what is the reclamation process for a windmill at the end of its life? How do we dispose of windmills?

Answer. Wind turbines are not hazardous waste at end-of-life and are mainly composed of steel, which is a highly recyclable material. Wind turbine blades have been traditionally more difficult to recycle as they are mainly composed of fiberglass and resins. The recycling industry for this waste stream is growing, and new wind turbine blade recyclers are coming into operation using processes including pyrolysis and shredding. These processes can recover glass fibers that will reenter the wind turbine blade manufacturing process, and can also facilitate recycling wind turbine blades into cement. States are in the lead role regulating the disposal and beneficial use of solid wastes such as wind turbines.

Questions Submitted by Hon. Ronny Jackson, a Representative in Congress from Texas

EVs

Question 1. Administrator Regan, since electric vehicles do not pay Federal fuel taxes, yet weigh more than even the largest gas-powered trucks and SUVs, what do you suggest I tell my constituents when they ask me why more of their tax dollars are being spent to maintain the roads, bridges, and highways strained by the increase of urban, EV drivers?

Answer. Today's electric vehicle powertrains, when including the weight of the batteries, are often heavier than the engine and powertrain components they replace. However, electric vehicle weight depends on the size of the vehicle, the driv-

ing range, and the degree to which manufacturers take opportunities to save on battery cost and weight by improving efficiency and reducing weight in other parts of the vehicle. These opportunities are often cost effective and when the vehicle design is optimized in this way, electric vehicles need not be significantly heavier than gasoline or diesel-powered vehicles. Also, axle weight limits that are designed to reduce wear on our infrastructure will still apply to electric vehicles. For most vehicles, any additional weight attributed to electrification will be very small compared to these existing weight limits.

Question 2. Can you explain to me why your proposed rule focuses solely on accelerating the transition to Electric Vehicles and why you are not pushing car manufacturers to adapt more E85 and High Octane Fuel models that will ultimately help bolster rural America from the bottom up and middle out like this Administration claims it is doing?

Answer. The light- and medium-duty vehicle and heavy-duty proposals are focused on improving the GHG emission performance of the vehicles and engines themselves, not the fuels they run on.

WOTUS

Question 3. Administrator Regan, how will the EPA determine whether water bodies within the same catchment are or are not “similarly situated”?

Answer. The U.S. Supreme Court issued a May 25, 2023, decision in the case of *Sackett v. Environmental Protection Agency*. In light of this decision, the Environmental Protection and the U.S. Department of the Army (agencies) have been interpreting “waters of the United States” consistent with the Supreme Court’s decision in *Sackett*. On August 29, 2023, the agencies finalized a rule amending the 2023 definition of “waters of the United States” to conform with the decision in *Sackett*.

Question 4. Regarding regulatory certainty for landowners, is this a test that is easily understandable to the public or does it require sophisticated scientific expertise and case-by-case analysis?

Answer. The U.S. Supreme Court issued a May 25, 2023, decision in the case of *Sackett v. Environmental Protection Agency*. In light of this decision, the Environmental Protection and the U.S. Department of the Army (agencies) have been interpreting “waters of the United States” consistent with the Supreme Court’s decision in *Sackett*. On August 29, 2023, the agencies finalized a rule amending the 2023 definition of “waters of the United States” to conform with the decision in *Sackett*.

Questions Submitted by Hon. Yadira Caraveo, a Representative in Congress from Colorado

Question 1. Mr. Administrator, you spoke about Section 18, which currently authorizes the EPA to allow emergency exceptions for unregistered uses of pesticides to address emergency conditions. Keeping in mind safety is important—and that our farmers are still waiting—are there any new authorities that the EPA needs to address emergencies in a more timely manner?

Answer. The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) provides adequate authorities to address emergencies in a timely manner. For full exemption requests, EPA’s target is to respond in 45 days. Some requests take a longer time because they require the involvement of other agencies, additional data, or a more extensive review due to novel approaches, such as the recent *Wolbachia* emergency exemption.

In Fiscal Year 2022, the average turnaround for full exemption requests was 56 days, with 19 of 37 total actions (51%) completed in less than 45 days. So far in Fiscal Year 2023 (through June 21, 2023), the average turnaround for full exemption requests is 48 days, with 12 of 19 total actions (63%) completed in less than 45 days.

Under FIFRA, states can use a crisis exemption for unexpected situations where there is insufficient time for submission and review of a full exemption request (specific, quarantine, or public health). For proposed crisis exemptions uses, EPA conducts a safety review (and cursory review of whether the emergency criteria are met) within 2–3 days. Use may then take place under a crisis exemption for 15 days, unless a full exemption request is submitted in that time. In that case, use can continue until EPA makes a decision on that full request. Food uses under crisis exemptions also depend upon EPA’s ability to establish necessary tolerances within the timeframe expected for commodities to reach the market.

Question 2. Another issue that I wanted to touch on was the Pesticide Registration Improvement Act of 2022, which requires EPA to develop and implement a vector expedited review voucher program to incentivize the development of novel tools and crop-protecting pesticides to manage mosquitoes that transmit diseases such as malaria, dengue, Zika, and yellow fever. I can tell you when I was studying in med-

ical school, we learned about these diseases as something that happened in other countries, not things that were going to affect the United States. But with mosquitoes becoming resistant to current pesticides and the fact that we are seeing these diseases now in areas where they have not been seen before, I am very concerned about insect-borne diseases from a public health perspective. So what steps is EPA taking to ensure that the statutory deadline of December 29th, 2023, for developing and implementing this program is being met?

Answer. EPA is planning to establish the Vector Expedited Review Vouchers Program by December 29, 2023, as required by PRIA 5. EPA is progressing towards implementation of the program and working to create administrative oversight, clarify qualification criteria for new mosquito-control products, and design a process to expedite other PRIA actions submitted along with vouchers. We've also held meetings with FDA to discuss their lessons learned implementing a similar program and with the Innovative Vector Control Consortium to discuss implementation ideas. EPA agrees with the purpose of PRIA's Vector Expedited Review Vouchers Program, and EPA seeks to expedite vouchered PRIA applications with minimal impact on scheduling for standard PRIA outputs.

