

S. HRG. 119–277

HEARING ON THE NOMINATIONS OF DAVID
FOTOUHI TO BE DEPUTY ADMINISTRATOR OF
THE ENVIRONMENTAL PROTECTION AGENCY
AND AARON SZABO TO BE ASSISTANT ADMIN-
ISTRATOR FOR THE OFFICE OF AIR AND
RADIATION OF THE ENVIRONMENTAL PROTEC-
TION AGENCY

HEARING

BEFORE THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

MARCH 5, 2025

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

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ANT ADMINISTRATOR FOR THE OFFICE OF
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MENTAL PROTECTION AGENCY**

WEDNESDAY, MARCH 5, 2025

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m. in room 406, Dirksen Senate Office Building, Hon. Shelley Moore Capito (chairman of the committee) presiding.

Present: Senators Capito, Whitehouse, Cramer, Curtis, Ricketts, Husted, Kelly, Padilla, Schiff, Alsobrooks.

Also present: Senator Mullin.

**OPENING STATEMENT OF HON. SHELLEY MOORE CAPITO,
U.S. SENATOR FROM THE STATE OF WEST VIRGINIA**

Senator CAPITO. Good morning. I am going to call this hearing to order and thank everybody for coming this morning.

Today we will receive testimony from David Fotouhi, the nominee to serve as the Environmental Protection Agency's Deputy Administrator and from Aaron Szabo, to serve as the EPA Assistant Administrator for Air and Radiation. These are two very important positions in the agency. I'm looking forward to this productive conversation about how Mr. Fotouhi and Mr. Szabo will ensure President Trump's agenda to get the agency back to its core mission and reestablish American energy dominance.

Mr. Fotouhi currently is a partner at Gibson, Dunn and Crutcher, where he has represented clients on matters relating to environmental law. He previously served as the Acting General Counsel and Principal Deputy General Counsel at the EPA. He is no stranger to EPA. Mr. Fotouhi has been recognized by multiple national law publications for his work in environmental and energy law, and as a leader on those issues.

Mr. Fotouhi's previous experience at the EPA provides him a wealth of perspective on the Agency's critical role in protecting our Nation's air, land, and water while doing so within the boundaries of the legal authority that Congress has established.

The EPA Deputy Administrator is generally tasked with overseeing the day-to-day operations of the agency. In this role, Mr. Fotouhi will coordinate the work of the EPA's important air, water, and chemicals offices, in addition to the EPA's regional offices research, enforcement, and General Counsel teams. Effectively integrating the agency's work will be at the top of Mr. Fotouhi's list of responsibilities.

Facilitating economic growth while protecting public health and the environment requires the agency to establish consistent and legally defensible regulations, fairly and clearly enforce those rules, and communicate with the States, communities, and entities impacted by these regulations.

Mr. Szabo, President Trump's nominee to serve as the Assistant Administrator for the Office of Air and Radiation, is currently serving as a Senior Advisor to the EPA Administrator after representing a wide variety of clients in the private sector on energy and environmental matters. For more than 10 years, Mr. Szabo worked as a career civil servant, first for the Nuclear Regulatory Commission, and then the Office of Information and Regulatory Affairs, known as OIRA, and then the Council on Environmental Quality.

As an NRC career staff member, Mr. Szabo was repeatedly recognized with awards for his excellent performance in the Office of Nuclear Reactor Regulation.

In June 2016, during Mr. Szabo's tenure working for the Obama administration's OIRA, he received the Special Achievement Award. Mr. Szabo's nomination to lead the Office of Air and Radiation will place him in a central role to roll back the Biden administration's extreme attack on reliable, baseload energy sources.

Under the Biden EPA, American energy producers were subject to a barrage of legally suspect regulations that were intended to bankrupt oil, gas, and coal companies. These attacks led to increased energy costs on American families, reduced electric reliability, and undermined our energy security.

In contrast to the Biden administration's agenda, President Trump's agenda will right size our environmental regulations within the bounds of the laws passed by this Congress and past Congresses, while in turn increase energy production, enable innovation, and unleash economic growth while protecting the environment. As Administrator Zeldin stated during his confirmation hearing, the EPA has far too often exceeded the legal authority Congress has provided in law.

This pattern, repeated during the Obama and then the Biden administrations, forced American businesses to pay for costly compliance requirements, even though the underlying regulation was ultimately struck down by the courts. Today's nominees understand the impact of the Obama-Biden regulatory strategy.

Mr. Fotouhi and Mr. Szabo have represented a wide range of energy and environmental clients in legal and regulatory proceedings, as well as counseled clients on environmental compliance and due diligence. While some might suggest that representing regulated entities, particularly ones they do not like or agree with in private practice, should bar attorneys like Mr. Fotouhi and Mr. Szabo from

serving in these roles. I believe that view misses the extensive value of both of the nominees' public and private experiences.

It is important for all of the EPA's staff, especially senior leadership, to understand how the agency's use of statutory authority and enforcement tools affect States and regulated entities, as well as how that regulatory action can best achieve compliance and maximize positive environmental outcomes.

I am confident our witnesses' legal training, previous government experience, and professional experience will serve them well in the positions for which they have been nominated.

The EPA must get back to what it does best: facilitating cleanup of polluted sites in communities across America, establishing scientific sound and achievable regulations, and fulfilling the cooperative federalism model of working with States to meet national environmental standards.

I look forward to exploring these issues in more detail with our witnesses.

I now recognize Ranking Member Whitehouse for his opening statement.

**OPENING STATEMENT OF HON. SHELDON WHITEHOUSE,
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator WHITEHOUSE. Thank you very much, Chairman.

Today is Day 45 of the second Trump administration. In his first month and a half, we have seen attacks on the rule of law, willful disregard for the Constitution, a funding freeze that is threatening to kill jobs and drive up energy costs for families, and to use the Project 2025's own words, "trauma" inflicted on dedicated career staff at various agencies.

We on this dais have oversight responsibility for the Environmental Protection Agency. Despite my asking, many times, I am still trying to figure out what is happening within the walls at 1200 Pennsylvania Avenue. I have sent reasonable requests to EPA for information and have been met with near total radio silence.

On January 31, along with all the Democrats on this dais, I wrote to Administrator Zeldin to request that he explain his legal basis for EPA's funding freeze that continues to threaten American jobs and jeopardize infrastructure projects from Alaska to West Virginia to my home State of Rhode Island. Much of this funding was passed on a bipartisan basis to make long overdue investments in our roads, bridges, transit, ports, drinking water, wastewater, and other systems that are the backbone of our Nation's economy.

On February 6th, I again wrote to Administrator Zeldin and his counterpart at OPM calling out the administration's so-called "deferred resignation" scam against hard-working civil servants, again asking how the administration could legally promise such a thing without congressional appropriations. Promising money that's not yet there has a name. It is called Deficiency.

On February 24, I again led all of the EPW Democrats in demanding answers about EPW's efforts to claw back \$20 billion in congressionally approved clean energy funding for projects nationwide. Administrator Zeldin has been gaslighting the American people, manipulating facts as a pretext to terminate an already obligated, congressionally authorized program that would lower house-

hold energy costs, spur economic development, and reduce pollution.

On February 28th, all of us EPW Democrats again wrote to Administrator Zeldin, asking him about reports that he had made a backroom push to the White House to rescind the EPA's Endangerment Finding, a 2009 determination based on sound science that greenhouse gases are harmful to human health.

Now, last night you would never hear any recognition of what fossil fuel emissions are doing to our atmosphere or to our oceans. Those facts completely eluded the conversation. We never heard any recognition last night that 90 percent of new power coming onto the grid in America is solar and wind and battery.

The Energy Executive Order does not even define solar and wind as energy, which would be news to energy recipients in Texas and Wyoming and Iowa.

That greenhouse gases harm public health was scientific fact when the endangerment finding was issued in 2009. Sixteen years later, the evidence has only gotten stronger, and the looming economic harms more dangerous. One obvious way climate change is harming Americans across the Country is through spiraling insurance premiums and a looming collapse in property insurance markets. Another is through spiking grocery prices.

The only people who benefit from repealing the endangerment finding are the planet's biggest polluters.

In reply to these four letters, we received just one response, which didn't come close to answering the questions. My staff have now twice requested a briefing on the funding freeze. Those requests have been met with radio silence. I suspect that's because Administrator Zeldin knows that he has no legal basis for the funding freezes, the clawbacks, or the manipulation of science.

Yet, because I and my fellow Democrats do respect the Constitution and the rule of law, here we are today to consider two additional nominees to the EPA. I hope they will be more forthcoming, transparent, and honest in their answers than was Administrator Zeldin at his confirmation hearing.

David Fotouhi, nominated to serve as Deputy Administrator, has held two jobs since graduating law school. First, as lawyer for a prominent white-shoe law firm defending a raft of big polluting interests including Chevron and Sunoco. Second, in EPA's Office of General Counsel during the first Trump administration, working hard to repeal environmental regulations meant to protect human health and the environment.

It remains difficult for me to understand how someone who has made a career defending the very industries that destroy our environment has any business now being entrusted to protect it.

Then there is Aaron Szabo, who has been nominated to serve as the Assistant Administrator for the Office of Air and Radiation. He is credited by name as a contributor to the EPA chapter of Project 2025, the extremist billionaire-funded right-wing blueprint for dismantling the Federal Government that Trump is now dutifully implementing.

Some environmental highlights from Project 2025: weaken the Clean Air Act by reversing the Endangerment Finding; purge the agency and bring trauma to its employees. In case you are not

keeping score at home, Administrator Zeldin is already hard at work on these.

Mr. Szabo was an advisor to the America First Policy Institute, the Trump-aligned billionaire-funded think tank funded by Big Oil interests, and he worked as a lobbyist where he pushed the interests of major polluters like the American Petroleum Institute's members.

Is this really what we want for the EPA? Is this really how we protect clean air and clean water?

As I said at our hearing to consider Administration Zeldin, I will be watching closely today to see if Mr. Fotouhi and Mr. Szabo are able to differentiate themselves in any substantive ways from the polluter agenda.

Forgive me, in light of their client lists and the chaos and lawlessness that have already occurred 45 days into this second Trump administration, if I seem skeptical.

Thank you, Madam Chair.

Senator CAPITO. Thank you. I wanted to put your little sign up there.

Senator WHITEHOUSE. Thank you.

Senator CAPITO. We are very pleased here to have one of our fellow Senators to introduce one of the nominees. Thank you, Senator Mullin, for being here, and thank you for joining us. You are recognized. We miss you on this committee.

**STATEMENT OF HON. MARKWAYNE MULLIN,
U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator MULLIN. Thank you, Chairman. It is with a heavy heart that I no longer sit on the dais with you guys.

It is a privilege of mine today, Chairman Capito and Ranking Member Whitehouse, to introduce a fellow Oklahoman to the Environment and Public Works Committee. David Fotouhi is President Trump's nominee to be the Deputy Administrator for the U.S. Environmental Protection Agency. David was born in Venezuela, immigrated to Oklahoma when he was 4 years old with his parents, who are here today.

Funny story, side note on that one, they dearly love each other, but I guess she does not trust him driving, so she flew and he drove from Oklahoma today. I think my wife may be doing that 1 day.

After David graduated from high school in Oklahoma City, he attended Vanderbilt University, graduating with the highest honors and achieving a law degree from Harvard. An impressive guy, if you ask me. In Trump's first administration, David served at EPA in several senior roles, including Principal Deputy General Counsel, and later Acting General Counsel, where he lead the office of nearly 250 lawyers and staff.

David's primary focus during the time included EPA's program under the Clean Water Act, Safe Drinking Water Act, Clean Air Act, Superfund and Resource Conservation and Recovery Act. In addition to working closely with leaders in multiple agencies such as the Department of Justice, throughout his service at EPA David prioritized stability, regulation that duly benefited both our envi-

ronment and the economy, and did so with the highest personal standards of integrity.

Prior to EPA, David worked as a partner with Gibson, Dunn and Crutcher in the international law firm practicing environmental law. There, David developed a wide breadth of litigation regulating experiences helping clients understand their legal obligation to reach compliance standards with State and Federal environmental law, which led to many legal publications, publicly recognizing him for his talented work.

There is no doubt that David has the talent, experience, professionalism and temperament to be able to work with a broad group of career employees at the EPA and stakeholders of all kinds in this new position of responsibility as the EPA's Deputy Administrator.

I am proud to be able to introduce a fellow Oklahoman this morning nominated to such a position in our Federal Government. I am confident that David will serve the EPA Deputy Administrator with the high personal and professional standards he is known for throughout his entire career.

On a side note, I will say, ma'am, I am very deeply sad that I do not sit on this committee. I would take a great honor today to be able to sit up there with pride and see David down here answering questions and putting the EPA back on track and not just serving one side of our constituents base, but the entire Country, making sure that our economy and our environment can both thrive.

With that, I yield back.

Senator CAPITO. Thank you, and thank you for being here.

I am now going to turn to Senator Husted to give his introductory remarks. Thank you.

**STATEMENT OF HON. JON HUSTED,
U.S. SENATOR FROM THE STATE OF OHIO**

Senator HUSTED. Thank you, Chairman Capito. I appreciate the chance to introduce Aaron Szabo this morning. It is my honor to do so. He is President Trump's nominee to be the Assistant Administrator for Air and Radiation at the Environmental Protection Agency.

Joining him today is his wife, Pamela, and his parents, John Szabo and Teddi Fine. Welcome, I am sure you are very proud.

I have no doubt that Aaron's background will be impressive to the members of this committee, and he will do a great job in this important position. As someone who worked 25 years in State government, I know very well what Federal regulations can do to a State's economy. I have seen the EPA delay, provide conflicting advice, provide poor customer service at time, and negatively impact Ohio businesses and the Ohio economy. We know that time is money.

I also know that we must be important, that it is important that our State and Federal regulators are good stewards of our natural resources. We have seen in an industrial State like Ohio how to strike that balance and we know how to do it right. States are in the best position to be able to do that, because they know what is best for their communities, they know what is best for their envi-

ronment, they know what is best for business and the people, the people of the State that they represent.

We know that protecting the environment and growing our economy are not mutually exclusive, and I know that, I believe that the colleagues, my colleagues on this committee understand that the people of their State know what is best and can be great collaborators, and in fact, they must.

As we consider Aaron Szabo's nomination to serve at the EPA today, I want to note that EPA Administrator Lee Zeldin traveled to East Palestine, Ohio just days after he was confirmed to lead that agency along with Vice President Vance and Senator Moreno and I were both there as well. Administrator Zeldin decided to make it his first trip in his new role to meet Ohioans on the 2-year anniversary of the devastating train derailment at East Palestine.

I spent time on the ground with Ohioans there. I was there for many days after that happened, saw the effects firsthand. I can tell you that it matters that this administration remembers us, the people in East Palestine, and is working to keep our air clean and our economy thriving as we recover, as the people particularly of that community, as I have witnessed it, recover from those unthinkable hardships.

I am also pleased to see the Trump EPA focus on working with States and not against them in our joint efforts to protect the environment. That is why I look forward to working with Aaron and the EPA to advance our shared mission in Ohio and see that the EPA work similarly with every State. That partnership working with the States is so very, very important, because they get it, they know what needs to be done.

Let me share a bit more about why Aaron is here with us today and why he belongs at the EPA. Aaron understands how to promote a healthy environment and successful communities firsthand. He has followed in his parents' footsteps as a career civil servant. He began his own career as a public servant at the Nuclear Regulatory Commission while he was in law school.

Aaron continued to serve in other career positions at the Council on Environmental Quality and at the Office of Information and Regulatory Affairs. He worked on issues related to the important statutes, such as the Clean Air Act, the National Environmental Policy Act, and regulations surrounding power plants.

That experience will serve him well as an EPA Assistant Administrator. After more than a decade in public service, Aaron helped businesses navigate environmental and energy issues as a regulatory affairs attorney. He is highly qualified to fill this role, and he is motivated by service.

Aaron understands how to keep Americans safe and healthy while powering the great American comeback. I believe he will lead the EPA Office of Air and Radiation with expertise and integrity, and believe me, that is what we all want in a person in charge of air quality. He understands these issues well.

The Office of Air and Radiation developed policies and oversees the implementation of core environmental statutes like the Clean Air Act. Aaron will leverage his extensive experience to navigate complex issues for the America people. I have confidence in his

ability and I am glad he is here today and willing to take on this responsibility as a continued work in public service.

Congratulations to you, Aaron, to your wife, Pamela, on your nomination, and thank you for the opportunity to introduce you today.

Madam Chairwoman, thank you, Ranking Member, thank you for the opportunity to share the reasons why we should support the nomination of Aaron Szabo.

Senator CAPITO. Thank you. Thank you very much.

I will ask the witnesses to move up to the witness table, if you would. Do not sit down, because before we move to opening statement for our nominees, I will administer the oath to receive their sworn testimony.

If you would raise your right hand. Please stand, raise your right hand and answer the following question.

Do you swear the testimony you are about to give to this committee is the truth, the whole truth and nothing but the truth, so help you God?

[Witnesses respond in the affirmative.]

Senator CAPITO. Thank you. Let the record show that the witnesses have answered in the affirmative. We will now proceed to our opening statements. Thank you both, and thank the families for joining them as well.

Mr. Fotouhi, you are going to be recognized first for 5 minutes for your opening statement.

STATEMENT OF DAVID FOTOUHI, NOMINEE FOR DEPUTY ADMINISTRATOR OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. FOTOUHI. Good morning, Chairman Capito, Ranking Member Whitehouse, and distinguished members of the committee. It is my honor to appear before you today as President Trump's nominee for Deputy Administrator of the Environmental Protection Agency.

I want to thank President Trump for the confidence he has placed in me and Administrator Zeldin for support of my nomination.

If confirmed, I pledge to work every day for the American people to advance the mission of EPA to protect human health and the environment, and to support Administrator Zeldin as he does the same.

I want to thank my family, current and former colleagues, and close friends for being here to support me, many of whom have traveled great distances. In particular, I want to thank my parents, who are both here today, for their sacrifices and unabating support.

EPA's mission is deeply personal to me. I am an immigrant to this Country. I was born in Venezuela and came to the United States as a child with my parents, with the hope of a better future. As a naturalized citizen, I have a unique view of our Nation's heritage of conservation and strong environmental protections that are not shared by many other countries.

The American legacy of stewardship toward our air, water, and land was not my birthright, it was not something I was predestined to enjoy. Thankfully, I do get to enjoy it, along with every other

American. We need to look no further than to places like Venezuela to see how differently things can go.

From my perspective, I see environmental protection and conservation as woven into every fiber of this Country. They are at the core of what makes this Nation great and prosperous.

EPA's human health mission specifically resonates with me in a deeply personal way. Like millions of other Americans, I am a cancer survivor. EPA plays a critical role in protecting the health of all Americans, including by reducing cancer risk through programs addressing air and water quality along with hazardous waste and chemical substances, across the agency and directly in communities facing the greatest challenges.

Professionally, I have devoted my life to environmental law and environmental issues. I have practiced environmental law for nearly 14 years, including my prior service at EPA.

In private practice, I have represented a broad array of clients and spent much of my career helping them understand and achieve compliance with their environmental legal obligations and responsibilities.

As mentioned, I served for nearly 4 years at EPA, culminating in my time as the agency's acting General Counsel. It was a privilege to work alongside the career lawyers and other professionals at EPA, where I found some of the most knowledgeable and most dedicated public servants.

If confirmed, I will work every day to earn their trust and respect as I did during my prior tenure at the agency.

That tenure also reaffirmed my belief in the importance of the rule of law. Indeed, it is critical that EPA upholds the rule of law by carrying out its mission based on the enumerated authorities given to it by Congress. EPA must also provide necessary clarity and certainty so that every American obligated by an environmental requirement knows exactly what is expected of them.

If confirmed, I will work every day to earn and keep the public's trust in EPA and its actions.

America has made dramatic environmental progress in my lifetime. More Americans now have access to clean drinking water than ever before. Sulfur dioxide air emissions in 2023 were 94 percent lower than they were in 1980. NOx emissions were 75 percent lower.

America accomplished this while growing our population and GDP, setting an example for the world. We have much to be proud of, but there is more work to do.

In 2023, our major cities experienced more days of unhealthy air quality than in any year of President Trump's first term. More than 1,300 contaminated sites across the Country remain on the National Priorities List, not ready to be fully returned to their communities for reuse.

Drinking water supplies in some communities face challenges from lead and emerging contaminants like certain PFAS chemicals. Our changing climate demands work at home, like fully implementing the AIM Act and expediting carbon sequestration permitting, and work abroad to ensure a level global playing field that does not disadvantage hardworking Americans.

EPA must work with States, tribes, and local partners, as well as with the regulated community and NGO's, to confront these and other issues consistently with the law and while preserving our global economic dominance.

I am confident EPA, under Administrator Zeldin's leadership, can make progress through smart, transparent, and cost-effective regulatory solutions rooted in sound science; through compliance efforts that achieve real pollution reduction and enforcement efforts for violators who refuse to follow the law; and, importantly, through unleashing American innovation and our economic growth engine to find tomorrow's solutions for today's challenges.

Thank you again for the opportunity to appear before you today. I look forward to learning more about your priorities and answering your questions.

[The prepared statement of Mr. Fotouhi follows:]

Statement of David Fotouhi
Nominee for Deputy Administrator of the U.S. Environmental Protection Agency
Before the U.S. Senate Committee on Environment and Public Works

Good morning, Chairman Capito, Ranking Member Whitehouse, and Distinguished Members of the Committee.

It is my honor to appear before you today as President Trump's nominee for Deputy Administrator of the Environmental Protection Agency. I want to thank President Trump for the confidence he has placed in me and Administrator Zeldin for his support of my nomination. If confirmed, I pledge to work every day for the American people to advance the mission of EPA to protect human health and the environment, and to support Administrator Zeldin as he does the same.

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EPA's human health mission specifically resonates with me in a deeply personal way. Like millions of other Americans, I am a cancer survivor. EPA plays a critical role in protecting the health of all Americans, including by reducing cancer risk through programs addressing air and water quality along with hazardous waste and chemical substances, across the Agency and directly in communities facing the greatest challenges.

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EPA must work with States, Tribes, and local partners, as well as with the regulated community and NGOs, to confront these and other issues, consistently with the law and while preserving our global economic dominance. I am confident EPA, under Administrator Zeldin's leadership, can make progress through smart, transparent, and cost-effective regulatory solutions rooted in sound science; through compliance efforts that achieve real pollution reduction and enforcement efforts for violators who refuse to follow the law; and, importantly, through unleashing American innovation and our economic growth engine to find tomorrow's solutions for today's challenges.

Thank you again for the opportunity to appear before you today. I look forward to learning more about your priorities and answering your questions.

Senate Committee on Environment and Public Works
**Hearing Entitled, “Hearing on the Nominations of David Fotouhi to be Deputy Administrator
of the Environmental Protection Agency and Aaron Szabo to be Assistant Administrator for
the Office of Air and Radiation of the Environmental Protection Agency”.**
March 5, 2025
Questions for the Record for Mr. David Fotouhi

Ranking Member Whitehouse:

1. You testified, “In 2023, our major cities experienced more days of unhealthy air quality (ozone and PM 2.5) than in any year of President Trump’s first term.”
 - a. To which major cities is your testimony referring?

Response: Please see EPA’s “Our Nation’s Air, Trends Through 2023,” available here: https://gispub.epa.gov/air/trendsreport/2024/#pm2_5_composition (last accessed Mar. 7, 2025). Please also see “A Look Back: Ozone and PM in 2023,” available here: <https://epa.maps.arcgis.com/apps/Cascade/index.html?appid=c22b170a699840ab96d19cc293c04951> (last accessed Mar. 7, 2023).

- b. For each of the 25 largest U.S. metropolitan areas (defined using OMB’s definition of Metropolitan Statistical Area), please provide the total annual number of unhealthy air quality days for the period 2013 – 2024.

Response: Information responsive to this question is available at the sources cited in response to the question above, as well as in EPA’s Air Trends reports, previous versions of which are available on EPA’s website. I am not an EPA employee and thus do not have access to additional information that may be responsive to this request. If confirmed, I commit to working with EPA’s career professionals on issues related to air quality in our communities.

- c. Your inclusion of this statement in your testimony suggests that you believe air pollution increased in major American cities due to actions taken by the Biden administration. Is this the case? If so, please list all Biden administration actions that you believe were responsible for any observed increases in urban air pollution and explain how said actions resulted in any observed increases.

Response: Many factors impact air quality. If confirmed, I commit to working with EPA’s career professionals as well as States, Tribes, and local governments on issues related to air quality in our communities.

- d. 2023 saw a record acreage of Canadian forests burn. The smoke from these forest fires resulted in dangerous air quality in many U.S. cities.¹ You did not mention this in your testimony. Why not? Did you not believe it was relevant?

¹ Han Chen, Weihang Zhang, Lifang Sheng, “Canadian record-breaking wildfires in 2023 and their impact on US air quality,” *Atmospheric Environment*, vol. 342 (Feb. 1, 2025), [https://www.sciencedirect.com/science/article/abs/pii/S1352231024006162#:~:text=In%20June%2C%20smoke%20from%20eastern,%2Fm%C2%B3\)%20by%2017.3%20times](https://www.sciencedirect.com/science/article/abs/pii/S1352231024006162#:~:text=In%20June%2C%20smoke%20from%20eastern,%2Fm%C2%B3)%20by%2017.3%20times).

Response: Many factors impact air quality, including wildfire smoke and pollution from sources in other countries that is carried into the United States. If confirmed, I commit to working with EPA's career professionals as well as States, Tribes, and local governments on issues related to air quality in our communities. I also commit to working with States to ensure that, consistent with applicable law, they are not unfairly penalized for air quality issues from exceptional events or other sources of air pollutants outside of their control.

- e. Do you believe that a hotter, dryer climate due to anthropogenic climate change is one of the main drivers of boreal forest fires such as those observed in Canada in 2023?

Response: Many factors influence forest fires, including weather patterns, winds, forest and brush management, and emergency response preparedness. I am not aware of the precise mix of factors that contributed to the 2023 fires in Canada referenced in this question.

- f. Wildfire smoke is reversing air quality gains across the country, but particularly in the West.² Will you commit to addressing the risk of wildfires to human health by using the full extent of statutory authority delegated to EPA by Congress to **mitigate** (not adapt to) climate change?

Response: If confirmed, I look forward to working alongside EPA's talented career professionals to fulfill the mission of EPA to protect human health and the environment. I am not yet an EPA employee and have not been briefed on this issue by EPA's career professionals. It would thus be premature to speak to how EPA should continue to address wildfire smoke, particularly in the western United States, under its authorities.

- 2. Administrator Zeldin stated recently that there is a "strong desire by the American public to unleash American prosperity"—and that "in order to do so, we need to become energy dominant."³ As the nominee to be second-in-command to Administrator Zeldin, I assume that you have discussed how you plan to lead the agency. Is expansion of natural gas extraction and infrastructure part of the plan to become energy dominant?

Response: I support an all-of-the-above energy strategy. However, it must be noted that the Supreme Court in *West Virginia* held that EPA lacked statutory authority to use its regulations to attempt to shift the nation's electric generating fuel mix from one type of generation to another.

- a. Your home state of Oklahoma is a major fossil fuel producer, but also has some of the nation's highest wind and solar energy potential. The Oklahoma state government advertises the "diverse energy portfolio" and associated job

² Mira Rojanasakul, "Wildfire Smoke is Erasing Progress on Clean Air," *New York Times* (Sep. 22, 2022), <https://www.nytimes.com/interactive/2022/09/22/climate/wildfire-smoke-pollution.html>.

³ U.S. Environmental Protection Agency, "ICYMI: Administrator Zeldin's "Powering the Great American Comeback" Unveiled at the EPA" (Feb. 4, 2025), <https://www.epa.gov/newsreleases/icy-mi-administrator-zeldins-powering-great-american-comeback-unveiled-epa>.

opportunities as points of state pride.⁴ Do you believe that wind and solar are forms of energy, yes or no?

Response: I am aware that wind turbines and solar panels can be employed to produce electricity.

- b. Do you personally support the expansion of natural gas at the expense of other energy sources like wind and solar, yes or no?

Response: I support an all-of-the-above energy strategy. However, it must be noted that the Supreme Court in *West Virginia* held that EPA lacked statutory authority to use its regulations to attempt to shift the nation's electric generating fuel mix from one type of generation to another.

- c. What chemical compound is the primary component of natural gas?

Response: Methane.

- d. What percentage of methane pollution that comes from oil and gas operations could be captured and sold, at a net profit?

Response: I am not yet an EPA employee and have not been briefed on this issue by EPA's career professionals in order to identify the exact percentage based on the latest information available.

- e. What safety risks are associated with poor management and leaks of natural gas infrastructure?

Response: Generally speaking, I am aware that inadequate management of natural gas infrastructure could lead to adverse impacts to workers and the environment, depending on the circumstances. It is important for operators of natural gas infrastructure to comply with all applicable legal requirements, including those promulgated by EPA.

- f. Should we incentivize companies to capture methane to produce more natural gas, thereby reducing safety risks?

Response: If confirmed, I look forward to working with the EPA's career professionals to address this important issue in a manner consistent with EPA's statutory authority as delegated to the Agency from Congress.

- 3. In your testimony, you write, "our changing climate demands . . . work abroad to ensure a level global playing field that does not disadvantage hardworking Americans."
 - a. What kind of "work abroad" can EPA and the broader federal government do to ensure this level global playing field, in the context of our changing climate?

⁴ Oklahoma Department of Commerce, "Renewable + New Energies: Clean power for a brighter future," <https://www.okcommerce.gov/doing-business/business-relocation-expansion/industry-sectors/renewable-energy/>.

Response: If confirmed, I look forward to working with the EPA's career professionals to address this important issue in a manner consistent with EPA's statutory authority from Congress. Furthermore, EPA's Office of International and Tribal Affairs (OITA) can play a role in communicating with other countries and ensuring that other countries are informed of America's tradition of environmental stewardship and our track record of declining overall GHG emissions over the past 20 years. I also commit to working with the State Department on matters pertaining to international relations and diplomacy relevant to EPA.

- b. Would you agree that our monitoring of foreign pollution, such as the monitoring of air pollutants at U.S. embassies, plays an important role in making the case for U.S. actions to level this playing field?

Response: I am not an EPA employee and thus have not yet been briefed on the current status of monitoring pollutants at U.S. embassies abroad. If confirmed, I look forward to working with the EPA's career professionals to address this important issue in a manner consistent with EPA's statutory authority from Congress. I also commit to working with the State Department on matters pertaining to international relations and diplomacy.

4. Section 71101 of the bipartisan Infrastructure Investment and Jobs Act (IIJA) authorized the EPA to administer the Clean School Bus Program. The first five years were advance-funded in the Division J, Title VI appropriations language of that legislation. We are now in year three of implementation, with two more years of the program to go. The necessary ecosystem of supply chains (including critical manufacturers in states like West Virginia, North Carolina, South Carolina, Georgia, and Oklahoma), contractors, and engaged public school districts in need of transportation solutions has now fully developed. Demand for the program exceeds its funding capacity, demonstrating its value to our constituents. Will you commit to implementing the Clean School Bus Program in accordance with the law over the remaining two years of authorization and appropriations?

Response: While I cannot prejudge the outcome of any policy review, if confirmed, I commit to following the law.

5. The American school bus industry has been asking the EPA to stop using the lottery selection system for the EPA Clean School Bus Program. Competitive scoring of applications ensures that quality projects are awarded and increases certainty for both school districts and industry, which leads to more efficient project development. As the EPA administers the remaining two rounds of the EPA CSBP, will you commit to eliminating the lottery, and ensuring these remaining funds are administered with a competitive selection process?

Response: I am not an EPA employee and have not had the opportunity to be briefed on this issue by EPA's career professionals. Further, I cannot prejudge the outcome of any particular policy review.

6. During your confirmation hearing, you stated that we need to be adapting to all changes, including those to the climate. Should we also be *mitigating* the effects of climate change, or should we focus only on adaption?

Response: Based on my review of the transcript of the confirmation hearing, I did not provide the testimony attributed to me by this question. Notwithstanding this, if confirmed, I commit to approach all issues in a manner consistent with applicable law and sound science and in keeping with EPA's statutory authority.

7. Do you believe it is possible for many coastal communities to adapt to the feet of sea level rise that are predicted over coming decades? If so, please quantify the cost of such adaptation.

Response: I am not able to provide a generalized response to this question, as many factors influence the ability of any particular coastal community to adapt to possible sea level rise. If confirmed, I look forward to being briefed on such issues by EPA's career professionals.

8. Do the impacts of climate change include economic impacts, yes or no?

Response: Generally speaking, yes. However, I am not able to provide a more specific response to this question with regard to particular economic impacts in particular areas. If confirmed, I look forward to being briefed on such issues by EPA's career professionals.

9. Did the average cost of homeowners' insurance increase faster than the rate of inflation between 2018 and 2023, yes or no?

Response: I am aware of a U.S. Department of the Treasury's Federal Insurance Office report that supports this conclusion as a general matter. However, my understanding is that the cost of homeowners' insurance is influenced by a number of factors and is geographically dependent. Likewise, the rate of inflation is not uniform across the country. Thus, this statement may be accurate in certain locations but not others in the United States.

10. Did the average rate of homeowners' insurance non-renewals increase between 2018 and 2023, yes or no?

Response: I am aware of a U.S. Department of the Treasury's Federal Insurance Office report that supports this conclusion as a general matter. However, my understanding is that homeowners' insurance renewal rates are influenced by a number of factors and may not be uniform across the country.

11. Does climate change have an effect on the cost and availability of homeowners' insurance, yes or no?

Response: I am aware of a U.S. Department of the Treasury's Federal Insurance Office report that supports this conclusion as a general matter. However, I am not an EPA employee and have not had the opportunity to be briefed on this issue by EPA's career professionals.

12. Does mitigating climate change reduce the cost of adapting to climate change, yes or no?

Response: In order to provide a response to this question, I would need to understand more details about the costs of the specific mitigation efforts and adaptation efforts

contemplated. Further, I am not an EPA employee and have not had the opportunity to be briefed on this issue by EPA's career professionals.

13. If carbon pollution is not eliminated, are coastal property owners at risk of continued insurance premiums hikes and policy non-renewals, yes or no? How about wildland-adjacent property owners?

Response: I am not aware of any concrete proposals at the state, national, or international level that involve the complete elimination of carbon emissions from all sources. Further, my understanding is that the cost of homeowners' insurance is influenced by a number of factors and is geographically dependent. Likewise, my understanding is that homeowners' insurance renewal rates are influenced by a number of factors and may not be uniform across the country. I am not an EPA employee and have not had the opportunity to be briefed on this issue by EPA's career professionals.

14. Unlike a solar farm or an offshore wind farm, most adaptation projects, like sea levees, do not offer revenues that can secure private investors. How do you propose we fund this adaptation?

Response: Generally speaking, decisions regarding funding are for Congress to determine. If confirmed, I will carry out EPA's authorized programs that may pertain to adaptation in a manner consistent with the law.

Senator Merkley:

1. In March 2024, the Environmental Protection Agency (EPA) finalized a rule banning chrysotile asbestos, which is known to cause fatal diseases like mesothelioma. However, you recently filed an Amicus Curiae Brief on behalf of the Alliance for Automotive Innovation in *Texas Chemistry Council, et al. v. EPA*, no. 24-60193 (5th Cir.). In that brief, you claimed that the evidence demonstrating the hazards of asbestos was biased and unsound. Yes or no, do you believe that asbestos causes harm to human health?

Response: I take chemical safety and protecting human health very seriously. EPA has an important role to play when addressing chemical safety under TSCA. Other agencies also play a role, such as OSHA, when considering risks from chemicals used in the workplace. Uses of asbestos pose risks to human health and as such, asbestos has been subject to significant restrictions and regulation for some time. My understanding is that only a small handful of uses of chrysotile asbestos remain. EPA's chrysotile asbestos rule at issue in the litigation cited here addressed only that small handful of specialized conditions of use of chrysotile asbestos that were already subject to certain restrictions, including OSHA restrictions. The amicus brief filed in this case on behalf of a client explained why the client believed that EPA's rule did not fully comply with the law and that EPA did not adequately explain or ground its conclusions in the evidence in the rulemaking record. The brief further explained that EPA's modeling found no appreciable cancer risk reduction from the rule and calculated only approximately \$3,000 per year in total benefits nationwide from reduced cancer based on EPA's worst-case assumptions in the rule. EPA also exempted the federal government—in particular, NASA—from use restrictions in the rule.

- a. Yes or no, is it your position that chrysotile asbestos should not be phased out under the Toxic Substances Control Act?

Response: I take chemical safety and protecting human health very seriously. EPA has an important role to play when addressing chemical safety under TSCA. However, I cannot prejudge the outcome of any regulatory action that the Agency may undertake. I have also not yet been briefed on this issue by EPA's career professionals. If confirmed, I commit to following the law and advising the Administrator accordingly on all regulatory actions, including those taken under TSCA.

2. You have previously fought against the regulation of toxic chemicals on behalf of industry. Yes or no, will you advise or recommend stepping back from or loosening public health protections for asbestos and other toxic chemicals?

Response: I take chemical safety and protecting human health very seriously. EPA has an important role to play when addressing chemical safety under TSCA. However, I cannot prejudge the outcome of any regulatory action that the Agency may undertake. I have also not yet been briefed on these issues by EPA's career professionals. If confirmed, I commit to following the law and advising the Administrator accordingly on all regulatory actions, including those taken under TSCA.

3. Yes or no, will you minimize your financial conflicts of interest by recusing yourself from all issues involving asbestos because of the positions you took in the amicus brief?
 - a. If not, why not?

Response: I am not aware of any financial conflicts of interest, as explained in my responses to the Committee questionnaire provided to the Committee. As part of my nomination process, I have consulted with EPA's career ethics officials and the Office of Government Ethics. I have also signed an Ethics Agreement with OGE that has been provided to this Committee. If confirmed, I will comply with all applicable ethics requirements and continue to seek the advice of EPA's career ethics officials.

4. Public records show that you have an annual partnership salary of approximately \$3.2 million at Gibson Dunn. How much did the Alliance for Automotive Innovations pay Gibson Dunn to retain your services to draft the Amicus Curiae Brief in support of industry petitioners to the Environmental Protection Agency's Part 1 asbestos rule?

Response: The Committee has received my completed form OGE 278e, disclosing all required information on this topic. I have also signed an Ethics Agreement with OGE that has been provided to this Committee. As noted in my completed form OGE 278e, my partnership income is based on the firm's actual earnings and my predetermined share of those earnings, not on the fee arrangement of any particular engagement. Retention agreements and fee arrangements between Gibson, Dunn & Crutcher LLP and clients of the firm are confidential and may also be subject to the attorney-client privilege and attorney work product protection.

5. If confirmed, do you commit to maintaining the structure of the Science Advisory Board?

Response: I will comply with all legal requirements regarding the Science Advisory Board's structure. I am not currently an EPA employee and have not been briefed on the current organization of this Board. It would thus be premature to speak to this question.

6. How will you value expertise possessed by career civil servants at the Environmental Protection Agency and ensure decisions are made based on the science, not politics?

Response: If confirmed, I will ensure the views and expertise of EPA's career professionals and others are taken into consideration when making decisions.

7. Head of the Office of Management and Budget, Russell Vought has been quoted as saying, "We want the bureaucrats to be traumatically affected. When they wake up in the morning, we want them to not want to go to work because they are increasingly viewed as the villains. We want their funding to be shut down so that the EPA can't do all of the rules against our energy industry because they have no bandwidth financially to do so. We want to put them in trauma." Do you agree with the objectives stated by Mr. Vought?

Response: If confirmed, I look forward to working alongside EPA's talented career professionals to fulfill the mission of the EPA to protect human health and the environment. I will work to earn their trust and support, as I did during my prior service at the Agency.

- a. How do you expect the Environmental Protection Agency to fulfill its mission if its employees are subjected to "trauma" in the workplace?

Response: If confirmed, I look forward to working alongside EPA's talented career professionals to fulfill the mission of the EPA to protect human health and the environment. I will work to earn their trust and support, as I did during my prior service at the Agency.

- b. What will you do to protect the dedicated staff at the Environmental Protection Agency, including toxicologists, epidemiologists, and other support staff, who work every day to protect our human and environmental health?

Response: If confirmed, I look forward to working alongside EPA's talented career professionals to fulfill the mission of the EPA to protect human health and the environment. I will work to earn their trust and support, as I did during my prior service at the Agency.

8. Yes or no, if confirmed, do you commit to maintaining and implementing the Environmental Protection Agency's drinking water standards for six PFAS chemicals?

Response: I take protecting human health and our nation's drinking water very seriously. EPA has an important role to play when addressing the safety of our drinking water supplies under the Safe Drinking Water Act. However, I cannot prejudge the outcomes of any regulatory proceeding that the Agency may undertake. I have also not been briefed on this issue by EPA's career staff. I commit to following all legal requirements, including under SDWA, when it comes to this issue.

9. Research has shown that pollution and its negative health impacts tend to be clustered, often in low-income communities, tribal communities, and communities of color. How will the Environmental Protection Agency address the disproportionate environmental impacts experienced by these communities and ensure meaningful community engagement in the agency's decision-making processes?

Response: If confirmed, I commit to fulfilling the mission of the EPA to protect human health and the environment and look forward to working with the talented career professionals at the Agency to ensure EPA addresses the risks facing all communities.

10. The Environmental Protection Agency defines cumulative impacts as “the totality of exposures to combinations of chemical and nonchemical stressors and their effects on health and quality-of-life outcomes.” If confirmed, would you support incorporating the consideration of cumulative impacts on affected communities into Agency decision-making, including permitting decisions?

Response: If confirmed, I commit to fulfilling the mission of the EPA to protect human health and the environment and look forward to working with the talented career professionals at the Agency to ensure EPA addresses the risks facing all communities.

11. Yes or no, do you agree with the following statement? “The Environmental Protection Agency must undergo a major reorganization, including developing a tiered-down approach to cut costs, reduce the number of full-time equivalent (FTE) positions, and eliminate programs.”

Response: If confirmed, I commit to fulfilling the mission of the EPA to protect human health and the environment and look forward to working with the talented career professionals at the Agency to ensure EPA has the right expertise in the right positions to do so. It would be premature for me to speak to any particular adjustments or modifications to staffing in particular programs. It is also not clear to me what is meant by a “tiered-down approach” in this context.

12. Yes or no, do you agree with the following statement? “The Environmental Protection Agency’s mission would be better served by moving civil servants from headquarters to regional offices.”

Response: If confirmed, I commit to fulfilling the mission of the EPA to protect human health and the environment and look forward to working with the talented career professionals at the Agency to ensure EPA has the right expertise in the right positions to do so. It would be premature for me to speak to any particular adjustments to regional office staffing.

13. The Integrated Risk Information System program is used to identify and characterize the health hazards of chemicals found in our environment. Yes or no, do you agree with the following statement? “Decision-making for human health assessments must be risk-based rather than by using hazard-based approaches like the Integrated Risk Information System program.”

Response: Decision-making at EPA should be guided by the appropriate statutes to ensure that EPA is protecting human health and the environment in a manner consistent with the law. If confirmed, I will emphasize that EPA's decisions should be consistent with the relevant statutory requirements and the factual record before the Agency.

14. When evaluating chemical exposures for workers in a risk evaluation under the Toxic Substances Control Act (TSCA), the Environmental Protection Agency (EPA) has revisited its posture on assuming that workers use personal protective equipment (PPE) properly or consistently. The EPA cites on its website that, 'data violations of PPE use suggest that assumptions that PPE is always provided to workers, and worn properly, are not justified. Continued use of this assumption could result in risk evaluations that underestimate risk, and in turn, risk management rules may not provide the needed protections.' Yes or no, do you agree with the following statement? "Risk evaluations and risk management rules promulgated under the Toxic Substances Control Act should presume that workplaces are following all OSHA requirements, including requirements for personal protective equipment (PPE)."

Response: I take chemical safety and protecting human health very seriously. EPA has an important role to play when addressing chemical safety under TSCA. Other agencies also play a role, such as OSHA, when considering risks from chemicals used in the workplace. I have not yet been briefed on this issue by EPA's career professionals. If confirmed, I will emphasize that decisions regarding implementation of TSCA are consistent with the law and the factual record before the Agency.

15. As you may know, the voluntary Safer Choice program at the Environmental Protection Agency provides an opportunity for consumers to easily identify and choose products that contain ingredients considered safer for their health and the environment. Yes or no, do you agree with the following statement? "The Safer Choice program should be transitioned to the private sector."

Response: If confirmed, I commit to ensuring that the Agency carries out the Safer Choice program consistently with all legal requirements. I cannot prejudge the outcome of any potential policy review or potential modifications to the program.

Senator Markey:

1. During your nomination hearing, you committed to following the law, advising Administrator Zeldin in the same manner, and extending it to appropriations and the budget. Yet statutorily obligated funds, like the Greenhouse Gas Reduction Fund, have been frozen for weeks. Do you believe that EPA is required to spend these funds that Congress appropriated to the agency if there is no evidence of waste, fraud, and abuse?

Response: I cannot speak to any particular decision that has been made to date, as I am not an EPA employee. If confirmed, I commit to following the law. I also commit to ensuring that taxpayer dollars appropriated to EPA are spent wisely and are not subject to waste, fraud, or abuse.

2. In March 2024, the EPA finalized a rule banning chrysotile asbestos, which is known to cause fatal diseases like mesothelioma. You recently filed an amicus brief for the

Alliance for Automotive Innovation calling into question the evidence demonstrating the hazards of asbestos and asserting that asbestos does not present an unreasonable risk to human health under *Toxics Substances Control Act* (TSCA). Do you believe asbestos is harmful to public health and should be regulated under TSCA?

Response: I take chemical safety and protecting human health very seriously. EPA has an important role to play when addressing chemical safety under TSCA. Other agencies also play a role, such as OSHA, when considering risks from chemicals used in the workplace. Uses of asbestos pose risks to human health and as such, asbestos has been subject to significant restrictions and regulation for some time. My understanding is that only a small handful of uses of chrysotile asbestos remain. EPA's chrysotile asbestos rule at issue in the litigation cited here addressed only that small handful of specialized conditions of use of chrysotile asbestos that were already subject to certain restrictions, including OSHA restrictions. The amicus brief filed in this case on behalf of a client explained why the client believed that EPA's rule did not fully comply with the law and that EPA did not adequately explain or ground its conclusions in the evidence in the rulemaking record. The brief further explained that EPA's modeling found no appreciable cancer risk reduction from the rule and calculated only approximately \$3,000 per year in total benefits nationwide from reduced cancer based on EPA's worst-case assumptions in the rule. EPA also exempted the federal government—in particular, NASA—from use restrictions in the rule. I cannot prejudge the outcome of any regulatory action that the Agency may undertake on this issue. I have also not yet been briefed on this issue by EPA's career professionals. If confirmed, I commit to following the law and advising the Administrator accordingly on all regulatory actions, including those taken under TSCA.

- a. Will you commit to enforcing the necessary public health protections against asbestos?

Response: I take chemical safety and protecting human health very seriously. EPA has an important role to play when addressing chemical safety under TSCA. However, I cannot prejudge the outcome of any regulatory action that the Agency may undertake. I have also not yet been briefed on this issue by EPA's career professionals. If confirmed, I commit to following the law and advising the Administrator accordingly on all regulatory actions, including those taken under TSCA.

- b. EPA is reportedly reconsidering the Part 1 rule. If confirmed, will you commit to ensuring any future review of rules is guided by the best available science?

Response: Although I cannot prejudge the outcome of any future regulatory action, generally speaking it is important for EPA to ground its decisions in sound science.

3. Public records show that you earned over \$3.2 million in legal fees representing clients, including Chevron, Ford, and the U.S. Chamber of Commerce.
 - a. Will you commit to recusing your involvement from cases involving your former clients?

Response: As part of my nomination process, I have coordinated with EPA's career ethics officials and the Office of Government Ethics. I have also signed an Ethics Agreement with OGE that has been provided to this Committee. If confirmed, I will comply with all applicable ethics requirements and continue to seek the advice of EPA's career ethics officials.

- b. Please disclose any payments you received by past clients related to industries regulated by the EPA.

Response: I have not received any such payments. Payments for legal services that I have provided to clients of my employer, Gibson, Dunn & Crutcher LLP, are remitted to my employer. The Committee has received my completed form OGE 278e, disclosing all required information on this topic. I have also signed an Ethics Agreement with OGE that has been provided to this Committee.

- 4. Will you commit to ensuring full transparency in EPA decision-making, including publicly disclosing all meetings with industry representatives and lobbyists?

Response: If confirmed, I will comply with all applicable public disclosure requirements.

Senator Schiff:

- 1. Do you support the U.S. DOGE Service's efforts to fire federal employees without cause?

Response: I cannot speak to any particular decision that has been made to date, as I am not an EPA employee. If confirmed, I commit to following the law with regard to issues related to EPA's workforce.

- a. Do you support efforts to terminate signed award agreement contracts that EPA has made with recipients of federal financial assistance?

Response: I cannot speak to any particular decision that has been made to date, as I am not an EPA employee. If confirmed, I commit to following the law with regard to EPA's contracts. I also commit to ensuring that taxpayer dollars appropriated to EPA are spent wisely and are not subject to waste, fraud, or abuse.

- 2. Regarding the Greenhouse Gas Reduction Fund, do you support Administrator Lee Zeldin's efforts to terminate the financial agent agreement with Citibank?

Response: I cannot speak to any particular decision that has been made to date, as I am not an EPA employee. If confirmed, I commit to following the law with regard to EPA's grant programs. I also commit to ensuring that taxpayer dollars appropriated to EPA are spent wisely and are not subject to waste, fraud, or abuse.

- a. Do you support Administrator Lee Zeldin's efforts to terminate signed award agreement contracts with Greenhouse Gas Reduction Fund grant recipients?

Response: I cannot speak to any particular decision that has been made to date, as I am not an EPA employee. If confirmed, I commit to following the law with regard to EPA's grant programs. I also commit to ensuring that taxpayer dollars appropriated to EPA are spent wisely and are not subject to waste, fraud, or abuse.

- b. Are you aware of any waste, fraud, or abuse that would warrant the termination of these legal agreements?

Response: I cannot speak to any particular decision that has been made to date, as I am not an EPA employee. If confirmed, I commit to following the law with regard to EPA's grant programs. I also commit to ensuring that taxpayer dollars appropriated to EPA are spent wisely and are not subject to waste, fraud, or abuse.

- c. Can you commit to present any such evidence to Congress in a timely and expedient manner if confirmed?

Response: I commit to comply with all required congressional notification and disclosure obligations.

- d. Do you support FBI's investigation and harassment of EPA career staff for simply working on a program that Congress statutorily directed EPA to implement, i.e., the Greenhouse Gas Reduction Fund?

Response: I am not currently an EPA employee, and I have no specific knowledge regarding a potential FBI investigation on this topic.

- e. Do you believe any evidence exists that would warrant such an investigation by the FBI?

Response: I am not currently an EPA employee, and I have no specific knowledge regarding a potential FBI investigation on this topic.

- 3. Do you support efforts to terminate EPA's Integrated Risk Information System program?

Response: I am not currently an EPA employee and have not been briefed on the current status of this program. I am not aware of any such efforts.

- a. Can you commit to leaving intact EPA's Scientific Integrity Policy, issued on January 16, 2025?

Response: I am not currently an EPA employee and have not yet been briefed on this topic by EPA staff. I cannot prejudge the outcome of any particular policy review. Moreover, my understanding is that the decision whether to revisit this Policy lies with the Administrator.

- 4. Which of EPA's final rules do you intend to have the agency revisit, repeal, or amend?

Response: I am not currently an EPA employee and have not yet been briefed on the current status of EPA's regulations or programs. I cannot prejudge the outcome of any

particular policy review. Moreover, in most cases, the decision whether to revisit a final rule lies with the Administrator.

5. Can you promise to work with the Office of General Counsel to put recusals in place that would preclude you from working on any matter related to litigation you participated in while working in the private sector?

Response: As part of my nomination process, I have coordinated with EPA's career ethics officials and the Office of Government Ethics. I have also signed an Ethics Agreement with OGE that has been provided to this Committee. If confirmed, I will comply with all applicable ethics requirements and continue to seek the advice of EPA's career ethics officials in EPA's Ethics Office, which is part of the Office of General Counsel.

6. Can you commit that you will work to stop efforts at EPA to undermine or weaponize the Clean Air Act Section 209 process to approve waivers from federal preemption?

Response: I am not currently an EPA employee and have not yet been briefed on the current status of EPA's programs under Title II of the Clean Air Act. I also cannot prejudge the outcome of any particular policy review. If confirmed, I commit to following the law with regard to EPA's decision making on any preemption waivers sought from the Agency.

7. Do you support dismantling EPA's Office of Enforcement and Compliance Assurance?

Response: As I testified to at my hearing before the Committee, EPA must prioritize compliance efforts that achieve real pollution reduction and enforcement efforts for violators who refuse to follow the law. If confirmed, I look forward to working with EPA's career civil servants in the Office of Enforcement and Compliance Assurance to promote and achieve compliance across EPA's programs.

- a. Do you support reorganizing EPA's Office of Enforcement and Compliance Assurance? If yes, in what way?

Response: If confirmed, I look forward to working with EPA's career civil servants in the Office of Enforcement and Compliance Assurance to promote and achieve compliance across EPA's programs. I am not currently an EPA employee and have not been briefed on the current organization of this office. It would thus be premature to speak to this question.

8. Do you support relocating EPA headquarters to an area outside of Washington, DC?

Response: Administrator Zeldin testified during his confirmation hearing that "no one has expressed to me in any setting since I was announced as nominee or before that, of any plans with regard to moving the EPA headquarters out of D.C." The same is true for me.

- a. Do you support closing EPA's regional offices?

Response: I believe EPA's regional offices play an important role in carrying out EPA's mission and with advancing cooperative federalism principles. I am not aware of any plans to close EPA's regional offices.

9. Do you believe greenhouse gas emissions endanger public health and the environment?

Response: I am aware that, in 2009, the EPA Administrator determined that aggregate elevated concentrations of six greenhouse gases in the atmosphere constitute air pollution that may reasonably be anticipated to endanger public health and to endanger public welfare, and that certain emissions from all motor vehicles and motor vehicle engines potentially subject to regulation under CAA section 202 cause or contribute to that pollution.

a. Do you believe greenhouse gas emissions from coal-fired power plants endanger public health and the environment?

Response: My general understanding is that the particular source of greenhouse gas emissions is not determinative of their potential effects to public health or the environment.

b. Do you believe greenhouse gas emissions from gas-fired power plants endanger public health and the environment?

Response: My general understanding is that the particular source of greenhouse gas emissions is not determinative of their potential effects to public health or the environment.

c. Do you believe EPA should use its regulatory authority to require power plants to lower their greenhouse gas emissions?

Response: In all regulatory actions, including under the Clean Air Act, EPA must follow the law and ground its decisions on the factual record before the agency. In this context, it must be noted that the Supreme Court's in *West Virginia* held that EPA lacked statutory authority under section 111 of the Clean Air Act to use its regulations to attempt to shift the nation's electric generating fuel mix from one type of generation to another.

10. Do you believe EPA should revisit, repeal, or amend the final rule entitled "Asbestos Part 1; Chrysotile Asbestos; Regulation of Certain Conditions of Use Under the Toxic Substances Control Act (TSCA)"?

Response: I take chemical safety and protecting human health very seriously. EPA has an important role to play when addressing chemical safety under TSCA. However, I cannot prejudge the outcome of any regulatory action that the Agency may undertake. I have also not yet been briefed on this issue by EPA's career professionals. If confirmed, I commit to following the law and advising the Administrator accordingly on all regulatory actions, including those taken under TSCA.

a. Can you commit that you will not attempt to advise or influence the agency to alter or repeal this final rule?

Response: I take chemical safety and protecting human health very seriously. EPA has an important role to play when addressing chemical safety under TSCA. However, I cannot prejudge the outcome of any regulatory action that the Agency may undertake. I have also not yet been briefed on this issue by EPA's career professionals. If confirmed, I commit to following the law and advising the Administrator accordingly on all regulatory actions, including those taken under TSCA. In addition, if confirmed, I will comply with all applicable ethics requirements and continue to seek the advice of EPA's career ethics officials.

Senator Blunt Rochester:

1. Mr. Fotouhi, can you answer yes or no if it is important to protect communities exposed to high levels of pollution?

Response: The mission of EPA is to protect human health and the environment in a manner consistent with the law. If confirmed, I commit to fulfilling that mission for all communities, including those exposed to higher levels of pollution.

- a. Do you believe it is important to protect communities exposed to high levels of pollution in communities with a large percentage of people living in or below the national poverty line and at higher risk of adverse health outcomes?

Response: The mission of EPA is to protect human health and the environment in a manner consistent with the law. If confirmed, I commit to fulfilling that mission for all communities, including those with higher risks.

- b. How will you commit to supporting communities exposed to high levels of pollution in a time where the EPA is freezing or eliminating programs like the Thriving Communities Technical Assistance Centers Program that support the ability of these areas to address pollution?

Response: I cannot speak to the specific actions described above; however, if confirmed, I commit to working with States, Tribes, and local governments to enforce the law consistent with statutory authorities from Congress.

- c. How will you rebuild trust with communities losing critical funding and support, like from the Office of Environmental Justice and External Civil Rights?

Response: If confirmed, I commit to working with States, Tribes, and local governments to enforce the law consistent with statutory authorities from Congress.

2. What is your stance on protecting the Clean Water Act and Clean Air Act, especially in terms of regulatory enforcement and updates?

Response: Congress enacted the Clean Water Act and Clean Air Act to establish the framework under which EPA would promulgate regulations to protect air quality and water quality and enforce those regulations. If confirmed, I commit to ensuring that EPA's actions are grounded in common sense, sound science, and the laws that Congress has passed to delegate authority to the Agency.

3. Water affordability keeps American families up at night. The EPA recently found that over 19 million households struggle to pay their monthly water bill. This is unacceptable.

The Bipartisan Infrastructure Law laid the groundwork for solving this problem by providing much-needed assistance to these families through a pilot program I helped author.

How will your EPA address water affordability and ensure all Americans have access to this basic resource?

Response: If confirmed, I look forward to working to lower the cost of living for Americans by working with all levels of government and utilizing all authorities provided to the Agency by Congress, including programs addressing water infrastructure.

- a. Will you commit to working with my office and this committee to help address the up to 19 million households in need of help lowering their water bills?

Response: If confirmed, I look forward to working to lower the cost of living for Americans by working with all levels of government and utilizing all authorities provided to the Agency by Congress, including programs addressing water infrastructure.

Senator CAPITO. Thank you, Mr. Fotouhi.

Now we will turn to Mr. Szabo. I will now recognize you for 5 minutes for your opening statement. Thank you.

STATEMENT OF AARON L. SZABO, NOMINEE TO BE ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. SZABO. Thank you, Chairman Capito, Ranking Member Whitehouse, and distinguished members of this committee. I am honored to be here today and deeply grateful to President Trump for nominating me to serve as Assistant Administrator for the Office of Air and Radiation at the Environmental Protection Agency and help protect America's air.

I also want to thank Administrator Zeldin for his trust, both in my current role and this nomination.

I would also like to thank my wife Pamela, my parents, in-laws, and other friends and colleagues that are here supporting me today in person and virtually. I would not be here today without them.

I sit before you today as the nominee for Assistant Administrator of the Office of Air and Radiation who suffers from a chronic lung disease. I was diagnosed with cystic fibrosis at 6 months old. Throughout my life, I have taken hundreds of thousands of pills, spent countless hours using nebulizers, and been hospitalized multiple times. While it has not always been easy, unlike many others with cystic fibrosis, I am blessed to be alive today.

Of my lung disease, I have always been acutely aware of air quality. Growing up, I could feel the impact of poor air quality in my lungs. After college, I followed in my parents' footsteps as Federal employees and began my professional career in government service as a career employee at the U.S. Nuclear Regulatory Commission).

At the NRC, I had the privilege to work with and learn from exceptional hard-working career staff for six and a half years. In 2014, I joined the White House and served in the Office of Information and Regulatory Affairs. At OIRA, I had the opportunity to work with EPA career staff and both Democratic and Republican political officials. I saw firsthand the process of translating policy direction into regulatory outcomes consistent with laws and facts.

For example, during the Obama administration I worked as hard as I could to complete the Clean Power Plan, the 2015 Ozone National Ambient Air Quality Standards, and oil and natural gas methane regulations. Then, during the Trump Administration, I continued with that same dedication while working on rescinding the Clean Power Plan, revising the oil and natural gas methane regulations, and implementing President Trump's Two-for-One Executive Order.

After over 10 years of Federal service, I transitioned to the private sector where I learned how regulated entities comply with the Federal Government's thousands of regulations and policies. I also saw firsthand that the people working in these companies want to ensure the environment is properly protected.

I rejoined the Federal Government on inauguration day for the first time as a political appointee. Currently, I serve as Senior Advisor to the Administrator of the EPA.

If I have the honor to be confirmed to be head of the Office of Air and Radiation, I commit to you and to the American people that all this experience will guide me in this role. I will give my utmost every day working with the talented career staff and responsible stakeholders to provide the best and most durable air quality solutions for the Nation.

Since the enactment of the Clean Air Act, the United States has made remarkable progress in reducing air pollution. We have seen significant decreases in carbon monoxide, sulfur dioxide, lead, ground-level ozone, particulate matter and other hazardous air pollutants, all while our economy has continued to grow.

I believe all those who worked to improve air quality for the past 50 years, whether it be within or outside the government, deserve our appreciation for their successes.

Congress structured the Clean Air Act around the principle of cooperative federalism and controlling air pollution at its source is the primary responsibility of States and local government. EPA must always work hand-in-glove with its State partners to ensure that air quality standards are attained and maintained.

The best environmental results are reached in a collaborative way. This was the wise decision by Congress in establishing the Clean Air Act and it remains the best approach today.

One subject area that was not on Congress' radar when it enacted the Clean Air Act in 1970 was climate change. I believe the climate is changing. EPA must always carefully analyze all matters before it to make sure they are squarely grounded in statutory authority, are sound policy, and are based on a robust evidentiary record.

Finally, if confirmed, I will work to ensure that we are mitigating traditional air pollution. As someone with a lung disease, I find it deeply concerning that there are around 140 million people that currently live in nonattainment areas, many of which have been living in those nonattainment areas for decades. We should prioritize helping these areas achieve compliance and improve air quality.

Chairman Capito, Ranking Member Whitehouse, and all the members of this committee, thank you again for your time and consideration. I look forward to answering your questions and discussing the issues that matter to your constituents.

[The prepared statement of Mr. Szabo follows:]

Aaron L. Szabo
Nominee to be Assistant Administrator for Air and Radiation
of the Environmental Protection Agency
U.S. Senate Committee on Environment and Public Works Testimony

Thank you, Chairman Capito, Ranking Member Whitehouse, and distinguished members of this committee. I am honored to be here today and deeply grateful to President Trump for nominating me to serve as Assistant Administrator for the Office of Air and Radiation at the Environmental Protection Agency (EPA) and help protect America's air. I also want to thank Administrator Zeldin for his trust, both in my current role and this nomination. I would also like to thank my wife Pamela, my parents, in-laws, and other friends and colleagues that are here supporting me today in person and virtually. I would not be here today without them.

I sit before you today as the nominee for Assistant Administrator of the Office of Air and Radiation who suffers from a chronic lung disease. I was diagnosed with Cystic Fibrosis at six months old. Throughout my life, I have taken hundreds of thousands of pills, spent countless hours using nebulizers, and been hospitalized multiple times. While it has not always been easy, unlike many others with Cystic Fibrosis, I am blessed to be alive today.

Because of my lung disease, I have always been acutely aware of air quality. Growing up, I could feel the impact of poor air quality in my lungs.

After college, I followed in my parents' footsteps as federal employees and began my professional career in government service as a career employee at the U.S. Nuclear Regulatory Commission (NRC). At the NRC, I had the privilege to work with and learn from exceptional hard-working career staff for six and a half years.

In 2014, I joined the White House and served in the Office of Information and Regulatory Affairs (OIRA). At OIRA, I had the opportunity to work with EPA career staff and both Democratic and Republican political officials. I saw firsthand the process of translating policy direction into regulatory outcomes consistent with laws and facts. For example, during the Obama Administration I worked as hard as I could to complete the Clean Power Plan, 2015 Ozone National Ambient Air Quality Standards (NAAQS), and oil and natural gas methane regulations. Then, during the Trump Administration, I continued with that same dedication while working on rescinding the Clean Power Plan, revising the oil and natural gas methane regulations, and implementing President Trump's Two-for-One Executive Order.

After over 10 years of federal service, I transitioned to the private sector where I learned how regulated entities comply with the federal government's thousands of regulations and policies. I also saw firsthand that the people working in these companies want to ensure the environment is properly protected.

I rejoined the federal government on inauguration day for the first time as a political appointee. Currently, I serve as Senior Advisor to the Administrator of EPA.

If I have the honor to be confirmed to be head of the Office of Air and Radiation, I commit to you and to the American people that all this experience will guide me in this role. I will give my utmost every day working with the talented career staff and responsible stakeholders to provide the best and most durable air quality solutions for the nation.

Since the enactment of the Clean Air Act, the United States has made remarkable progress in reducing air pollution. We have seen significant decreases in carbon monoxide, sulfur dioxide, lead, ground-level ozone, particulate matter and other hazardous air pollutants – all while our economy has continued to grow. I believe all those who worked to improving air quality for the past fifty plus years, whether it be within or outside the government, deserve our appreciation for their successes.

Congress structured the Clean Air Act around the principle of cooperative federalism and controlling air pollution at its source is the primary responsibility of States and local governments. EPA must always work hand-in-glove with its state partners to ensure that air quality standards are attained and maintained. The best environmental results are reached in a collaborative way. This was the wise decision by Congress in establishing the Clean Air Act and it remains the best approach today.

One subject area that was not on Congress' radar when it enacted the Clean Air Act in 1970 was climate change. I believe the climate is changing. EPA must always carefully analyze all matters before it to make sure they are squarely grounded in statutory authority, are sound policy, and are based on a robust evidentiary record.

Finally, if confirmed, I will work to ensure that we are mitigating traditional air pollution. As someone with a lung disease, I find it deeply concerning that there are around 140 million people that currently live in nonattainment areas, many of which have been living in those nonattainment areas for decades. We should prioritize helping these areas achieve compliance and improve air quality.

Chairman Capito, Ranking Member Whitehouse, and all the members of this committee, thank you again for your time and consideration. I look forward to answering your questions and discussing the issues that matter to your constituents.

Senate Committee on Environment and Public Works
Hearing Entitled, “Hearing on the Nominations of David Fotouhi to be Deputy Administrator of the Environmental Protection Agency and Aaron Szabo to be Assistant Administrator for the Office of Air and Radiation of the Environmental Protection Agency”.
March 5, 2025

Questions for the Record for Mr. Aaron Szabo

Chairman Capito:

1. During your nomination hearing, you were asked if we should reduce the consumption of coal, oil, and natural gas as part of our strategy to address climate change. In *West Virginia v. EPA*, the Supreme Court expressly prohibited the use of generation-shifting as the Best System of Emission Reduction under Section 111 of the Clean Air Act.
 - a. Will you commit to me that you will adhere to the Supreme Court’s decision in *West Virginia v. EPA*?

Response: Yes.

2. Did the Bush Administration deny a California waiver request under Section 209(b) of the Clean Air Act on the grounds that it did not need the standards to meet compelling and extraordinary conditions, as detailed in Section 209(b)(1)(B)?

Response: Yes.

- a. Did the Obama Administration reconsider this decision to deny the waiver?

Response: Yes.

Ranking Member Whitehouse:

1. Last week it was reported that Administrator Zeldin recommended a reconsideration of EPA’s Endangerment Finding for greenhouse gasses. It has also been reported that oil, gas, and fossil energy interests are urging the Trump Administration not to reverse the finding in part because it would open them up to massive climate litigation liability. Even the American Petroleum Institute said, “API believes the federal government has a role in regulating greenhouse gas emissions.”¹ Do you believe that EPA should reconsider its 2009 Endangerment Finding? Do you believe that the federal government should regulate greenhouse gas emissions?

Response: The 2009 Endangerment Finding found that elevated concentrations in the atmosphere of six greenhouse gases taken in combination from all sources constitute pollution that may reasonably be anticipated to endanger public health and welfare. The EPA also found that the combined emissions of these greenhouse gases from all types of

¹ Jean Chemnick, “Energy industry to EPA: Keep endangerment finding,” *E&E News by Politico* (Feb. 27, 2025), <https://subscriber.politicopro.com/article/eenews/2025/02/27/energy-industry-to-epa-keep-endangerment-finding-00206337>.

new and existing motor vehicles and motor vehicle engines potentially subject to regulation under CAA section 202 cause or contribute to that pollution.

Since then, there have been additional developments in science, adaptation, and mitigation, as well as multiple significant Supreme Court decisions such as *West Virginia v. Environmental Protection Agency*, *Loper Bright Enterprises v. Raimondo*, *Utility Air Regulatory Group v. Environmental Protection Agency*, and *Michigan v. Environmental Protection Agency* that provided additional guidance on how federal agencies and federal courts should interpret the statutes in which Congress delegates authority to federal agencies and how economic and other policy issues should be approached under the administrative-law framework established by such statutes.

EPA must always carefully analyze all matters before it to make sure they are squarely grounded in statutory authority, are sound policy in light of all relevant statutory considerations, and reasonably reflect the record before the agency.

2. We discussed during your confirmation hearing the role you played in authoring the Project 2025 chapter on EPA.
 - a. During your hearing, I asked you multiple times—and you replied multiple times—that you “have no records” reflecting your work on Project 2025. You said, “I am not aware of any records [The Heritage Foundation] may have [...] I do not have any records myself [...] I have no records, Senator [...] I provided advice to Project 2025 [...] I provided them advice in a number of ways.” When I asked directly if some of your advice was provided in writing, you said “That’s likely [...] I would have to go back, and I said I have no records. I would have to go think more about whether there were.” I am now following up on your promise to “think more” about this issue.
 - i. During what time period did you provide advice to Project 2025 author(s)? Please be specific at the month and year level.

Response: I provided advice periodically in 2022 and 2023.

- ii. In what form did you provide advice? Please list all methods of providing advice, including but not limited to email, memorandum, white papers, text messages, phone calls, etc.

Response: I provided advice in various ways including phone calls and messages.

- iii. A simple reading of your testimony—that you have no records but that you likely provided written advice—suggests that you deleted or destroyed the written records that you created. Did you delete or destroy written materials that you drafted for Project 2025? If so, when did you delete or otherwise destroy any written forms of advice, including your own notes on advice that you provided orally, that you provided to Project 2025 author(s)? Please be specific at the month and year level. Please do not respond that neither you nor Project 2025 or the Heritage Foundation

had an obligation to preserve records as private entities—that is irrelevant to the purpose of my question, and no one is suggesting as much.

Response: Like millions of other Americans, I have been the subject of attempts to steal personal information through electronic means. I, like many federal government employees, had their completed Standard Form 86 titled “Questionnaire for National Security Positions” stolen in 2015 that included sensitive information. I periodically delete old messages and documents that are no longer necessary to help ensure privacy and security to my family, those I interact with, and myself.

- iv. If you did destroy written materials you drafted for Project 2025, why did you do so?

Response: Like millions of other Americans, I have been the subject of attempts to steal personal information through electronic means. I, like many federal government employees, had their completed Standard Form 86 titled “Questionnaire for National Security Positions” stolen in 2015 that included sensitive information. I periodically delete old messages and documents that are no longer necessary to help ensure privacy and security to my family, those I interact with, and myself.

- v. Did anyone direct or ask you to delete or otherwise destroy the written forms of advice that you provided to Project 2025 author(s)? If so, who directed or requested that you do so? Please be specific.

Response: No.

- vi. If, based on your review, you determine that you never had any written records—which would be “[un]likely” (to use your own language)—why did you avoid putting your contributions in writing?

Response: As my response indicates, that was not my determination.

- vii. If you do have written materials drafted for Project 2025, please attach them to your responses to these questions.

Response: Like millions of other Americans, I have been the subject of attempts to steal personal information through electronic means. I, like many federal government employees, had their completed Standard Form 86 titled “Questionnaire for National Security Positions” stolen in 2015 that included sensitive information. I periodically delete old messages and documents that are no longer necessary to help ensure privacy and security to my family, those I interact with, and myself.

- b. Project 2025 recommends “updating” the 2009 endangerment finding. At the time you contributed to Project 2025, what did you understand “updating” to mean in this context?

Response:

The 2009 Endangerment Finding found that elevated concentrations in the atmosphere of six greenhouse gases taken in combination from all sources constitute pollution that may reasonably be anticipated to endanger public health and welfare. The EPA also found that the combined emissions of these greenhouse gases from all types of new and existing motor vehicles and motor vehicle engines potentially subject to regulation under CAA section 202 cause or contribute to that pollution.

Since then, there have been additional developments in science, adaptation, and mitigation, as well as multiple significant Supreme Court decisions such as *West Virginia v. Environmental Protection Agency*, *Loper Bright Enterprises v. Raimondo*, *Utility Air Regulatory Group v. Environmental Protection Agency*, and *Michigan v. Environmental Protection Agency* that provided additional guidance on how federal agencies and federal courts should interpret the statutes in which Congress delegates authority to federal agencies and how economic and other policy issues should be approached under the administrative-law framework established by such statutes.

EPA must always carefully analyze all matters before it to make sure they are squarely grounded in statutory authority, are sound policy in light of all relevant statutory considerations, and reasonably reflect the record before the agency.

- c. Project 2025 recommends eliminating the stand-alone Office of Environmental Justice and External Civil Rights. Do you support this, yes or no?

Response: I believe that there are efficiencies that can be gained within EPA to reduce waste and be better stewards to the taxpayers. Therefore, all potential options consistent with the law, including reorganization, should be considered.

- d. Project 2025 recommends eliminating the stand-alone Office of Enforcement and Compliance Assurance. Do you support this, yes or no? If yes, which EPA office do you believe should carry out enforcement actions?

Response: I believe that there are efficiencies that can be gained within EPA to reduce waste and be better stewards to the taxpayers. Therefore, all potential options consistent with the law, including reorganization, should be considered. That said, prioritizing compliance to achieve real pollution reduction is important.

- e. Project 2025 recommends relocating EPA regional offices. Do you support this, yes or no? If so, to where would you relocate them?

Response: I believe that there are efficiencies that can be gained within EPA to reduce waste and be better stewards to the taxpayers. Therefore, all potential options consistent with the law, including reorganization, should be considered. That said, I have not heard of any plans to relocate the regional offices.

- f. Project 2025 recommends steps to make it harder for downwind states to get relief from the pollution wafting in from uncontrolled and under controlled industries in other states. Asthma rates are higher in New England than anywhere else, because of the impact of upwind pollution. Maryland is also a heavily-impacted downwind state. You grew up in Maryland; do you think it's fair for children in

Maryland to suffer more asthma attacks because of pollution coming in from other states?

Response: It is deeply concerning to me that around 140 million people in America currently live in nonattainment areas, some of which have been in nonattainment for decades. I look forward to conferring with EPA's talented scientific and technical experts on these and other important issues.

- g. Project 2025 includes a "once in, always in" policy. Please explain that policy, and describe the role you played in developing it.

Response: The "once in, always in" policy was an EPA policy discussed in a 1995 guidance document that, after a source of hazardous air pollutants is deemed "major" because it meets a statutory threshold for emissions or potential to emit, it will generally be deemed "major" and subject to more burdensome major-source requirements even if it undergoes modification so that it is physically unable to emit at or above the major-source threshold. This guidance was changed in 2018 during the Trump Administration; notably, challenges to the updated guidance were dismissed by the D.C. Circuit. As a career official in the White House in 2018, I reviewed the updated guidance memorandum consistent with my role at the time.

- h. Project 2025 recommends removing the Greenhouse Gas Reporting Program (GHGRP) for any source category that is not currently being regulated.
- i. When was the Greenhouse Gas Reporting Program stood up?
 - ii. What is the threshold for reporting?
 - iii. What pollutant or pollutants are covered?
 - iv. What source categories are currently being regulated?

Response to i – iv: The GHGRP rule was signed by the EPA Administrator on September 22, 2009. A total of 41 categories of reporters are covered by the GHGRP. Facilities and suppliers determine whether they are required to report based on the types of industrial operations, their emission levels, or other factors. Facilities and suppliers are generally required to submit annual reports under Part 98 if:

- GHG emissions from covered sources exceed 25,000 metric tons CO₂e per year.
- Supply of certain products would result in over 25,000 metric tons CO₂e of GHG emissions if those products were released, combusted, or oxidized.
- The facility receives 25,000 metric tons or more of CO₂ for underground injection.

The GHGRP covers GHGs including carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinated gases like HFCs, PFCs, SF₆, and NF₃.

- v. Do you support this recommendation? Why or why not?

Response: It is important to continually review information collections to ensure that they are grounded in law, minimize burden on the public, and offer practical utility.

- i. Project 2025 also recommends that AIM Act regulations should be repealed if they are unnecessarily stringent and costly.
- i. Describe the AIM Act regulations and where you think they are unnecessarily stringent and costly.

Response: The AIM Act, or American Innovation and Manufacturing Act, authorizes the EPA to phase down hydrofluorocarbons (HFCs) through allowance allocation, sector-based restrictions, and regulations for maximizing reclamation and minimizing releases of HFCs.

I cannot prejudge the outcome of any issue that may come before EPA. EPA has received and granted petitions for administrative reconsideration related to the EPA final rule titled “Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under the American Innovation and Manufacturing Act of 2020.”

- ii. What is an HFC? What harm can it do? What is its global warming potential?

Response: According to EPA, hydrofluorocarbons (HFCs) are chemicals that contain hydrogen, fluorine, and carbon. Their use has been rapidly increasing worldwide due to the global phaseout of ozone-depleting substances (ODS) and increased demand for refrigeration and air conditioning.

- 3. This week, the Electronic Greenhouse Gas Reporting Tool, or e-GGRT, which is the platform that allows industry to meet the legal requirements to report emissions for the Greenhouse Gas Reporting Program, stopped working. It is unclear if this is a technical issue or a policy decision, though one of the recommendations in Project 2025 was to remove portions of the GHGRP. The Greenhouse Gas Reporting Program was authorized by Congress on a bipartisan basis and has been successfully implemented by EPA since 2009. The program only targets the largest emitters and exempts the agriculture sector. The emissions data from the reporting program helps our nation track the gains our country is making in reducing emissions, helps show American companies are – for the most part - cleaner than the rest of the world, and helps guide future policy decisions.
 - a. As a senior advisor to the Administrator, please explain why e-GGRT is no longer working? Is this a temporary technical issue or was a decision made to take e-GGRT offline for policy reasons?

Response: I was not involved in any final decisions related to the availability of the e-GGRT system.

- b. If e-GGRT was taken offline for policy reasons, please provide the statutory or Constitutional basis for doing so. I note that an executive order does not have the force of law.

Response: I was not involved in any final decisions related to the availability of the e-GGRT system.

- c. If confirmed, do you commit to rejecting any proposals that would delay any Greenhouse Gas Reporting Program (GGRP) reporting requirement deadlines? If not, please explain why not.

Response: It is important to continually review information collections to ensure that they are grounded in law, minimize burden on the public, and offer practical utility.

- d. The next deadline for reporting emissions to EPA under GGRP is March 31. If e-GGRT is still offline at that time, what alternate reporting mechanisms will EPA institute?

Response: If confirmed, I will work with technical career staff so regulated entities can provide information to EPA.

- e. If confirmed, do you commit to supporting EPA's efforts to publicly report the data gathered under the Greenhouse Gas Reporting Program? If not, please explain why not.

Response: It is important to continually review information collections to ensure that they are grounded in law, minimize burden on the public, and offer practical utility.

4. You are currently working at EPA as a Senior Advisor to Administrator Zeldin. As all EPA employees have been directed by the so-called "Department of Government Efficiency" and EPA leadership to justify their continued employment on a weekly basis, I would ask you to do the same. Please provide 5 bullets describing what you accomplished last week. Please include specific activities.

Response:

- Discussed EPA issues with the Governor of Nebraska.
- Met with several Senators with respect to my confirmation hearing.
- Received briefing from career staff on the EnergyStar program.
- Participated in a pre-brief from career staff on RFS issues.
- Discussed the status of ongoing litigation regarding the Good Neighbor Plan.

You discussed during your confirmation hearing that you are particularly sensitive to poor air quality, as someone living with cystic fibrosis. How important is EPA's work supporting air quality monitoring programs and predicting air quality to you personally?

Response: It is deeply concerning to me that around 140 million people in America currently live in nonattainment areas, some of which have been in nonattainment for decades. EPA has many tools such as AirNow that provide information related to air quality.

- a. What precautions, if any, should people living with CF or other respiratory diseases take when the Air Quality Index is forecast to be Unhealthy, or Code Red?

Response: According to EPA, sensitive groups should avoid prolonged or heavy exertion and should move activities indoors or reschedule to a time when the air quality is better.

- b. Do you agree that air quality monitoring and air quality data is essential to public health?

Response: Yes.

- c. The American Lung Association states that more than two-thirds of the 3,143 counties in the U.S. lack air quality monitoring. What steps will you take to fill these gaps in monitoring?

Response: I believe Congress has authorized EPA to pursue environmental outcomes that benefit all Americans, including the most vulnerable among us, through a variety of means.

Low-income communities and people of color are disproportionately affected by air pollutants, and have fewer monitoring stations to measure these pollutants. Do you agree that all Americans deserve access to clean air? What steps will you specifically take to ensure that communities that are disproportionately affected by pollution have the air quality data they need?

Response: I believe Congress has authorized EPA to pursue environmental outcomes that benefit all Americans, including the most vulnerable among us, through a variety of means.

How can satellite monitoring supplement stationary air quality monitors?

Response: As an example, in the summer of 2023, EPA scientists measured a combination of pollutants and meteorological variables across the Long Island Sound region as part of a multi-agency research campaign involving the National Aeronautics and Space Administration (NASA), the National Oceanic and Atmospheric Administration (NOAA), and state partners in Connecticut, New York, and New Jersey. EPA researchers used air quality measurements from ground-based spectrometers to validate the first observations from NASA's Tropospheric Emissions: Monitoring of Pollution (TEMPO) satellite mission. TEMPO measures air pollutants in the atmosphere, including ozone, nitrogen dioxide, and formaldehyde, every hour across greater North America down to a neighborhood scale.

During this study, EPA scientists collected measurements with advanced technologies from ground and ship platforms to develop greater understanding of the underlying causes of high ozone in this region, particularly at shoreline monitoring locations. EPA scientists measured ozone, fine particulate matter (PM_{2.5}) and ozone precursors (nitrogen dioxide and formaldehyde) from an EPA research vessel in the Long Island Sound. The measurements were taken approximately four meters above the surface of the water at the marine surface layer. Researchers also collected meteorological measurements, including wind, temperature, and pressure at the marine surface layer, along with vertical profiles of

aerosols through the troposphere and the marine boundary layer (the part of the atmosphere that has direct contact with the ocean).

5. In your opening testimony, and repeatedly in response to Senators' questions, you discussed the principle of cooperative federalism. You said that controlling air pollution is the primary responsibility of the states. As you know, however, many major American cities such as Kansas City and New York are located in close proximity to other states. Do you believe that it is acceptable for Americans' level of protection from air pollution to be based on arbitrary geographic borders? Or do you think that all Americans deserve the same protection, no matter where they live?

Response: I believe that everyone should have access to clean air regardless of who they are or where they live in the United States, including the most vulnerable among us.

6. Administrator Zeldin stated recently that there is a "strong desire by the American public to unleash American prosperity" and that "in order to do so, we need to become energy dominant."² Based on your work as a close advisor to Administrator Zeldin for the past six weeks, is natural gas part of the plan to become energy dominant?

Response: Yes.

- a. Do you support the expansion of natural gas as an energy source, yes or no?

Response: Yes.

- b. What chemical compound is the primary component of natural gas?

Response: Methane.

- c. What percentage of methane pollution that comes off oil and gas operations could be captured and sold, at a net profit?

Response: EPA's Global Non-CO2 Greenhouse Gas Emission Projections & Mitigation Potential: 2020-2080 Report estimates that in 2025, 182 mtCO2e of reductions or 10.4% of emissions from oil and natural gas systems are achievable at a cost of less than \$0/tCO2e.

- d. What safety risks are associated with poor management and leaks of natural gas infrastructure?

Response: Poor management of natural gas systems can pose severe safety risks, including explosions, fires, and gas leaks.

- e. Should we incentivize companies to capture methane to produce more natural gas, thereby reducing safety risks?

² U.S. Environmental Protection Agency, "ICYMI: Administrator Zeldin's "Powering the Great American Comeback" Unveiled at the EPA" (Feb. 4, 2025), <https://www.epa.gov/newsreleases/icymi-administrator-zeldins-powering-great-american-comeback-unveiled-epa>

Response: It is important that operations of all facilities, regardless of the sector, are done in a safe manner. Companies are already incentivized to capture natural gas as it is a product that can be sold.

7. As the nominee to lead EPA's Office of Air and Radiation, you should have an excellent understanding of OAR's responsibilities. Please answer the following:

- a. What is a criteria pollutant, as defined by the Clean Air Act?
- b. How many criteria pollutants does EPA regulate?

Response to a-b: The Clean Air Act requires EPA to set National Ambient Air Quality Standards (NAAQS) for six common air pollutants. These pollutants (known as "criteria pollutants") are found all over the United States. They are particulate matter (often referred to as particle pollution), ground-level ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, and lead.

These pollutants can harm human health, harm the environment, and cause property damage. Of the six pollutants, particle pollution and ground-level ozone are the most widespread health threats. EPA calls these six pollutants "criteria" air pollutants because it regulates them by developing limits that are based on human health and/or environmental criteria.

- c. Which criteria pollutant or pollutants caused acid rain to destroy aquatic ecosystems during the 20th century, including many in New England?

Response: Sulfur dioxide and nitrous oxides.

- d. What are the health effects of soot?

Response: According to EPA, fine particulate matter can pose significant health risks, including in increased risk of heart attacks, respiratory illnesses, and premature death.

- e. What are the health effects of air-borne lead?

Response: According to EPA, once taken into the body, lead distributes throughout the body in the blood and can accumulate in the bones. Depending on the level of exposure, lead can adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems, and the cardiovascular system. Lead exposure also affects the oxygen carrying capacity of the blood. The lead effects most likely to be encountered in current populations are neurological effects in children. Infants and young children are especially sensitive to lead exposures, which may contribute to behavioral problems, learning deficits, and lowered IQ.

- f. What is a national ambient air quality standard (NAAQS)? Who establishes these?

Response: The Clean Air Act (CAA) requires EPA to set National Ambient Air Quality Standards (NAAQS) for six common air pollutants. These pollutants (known as "criteria pollutants") are found all over the United States. They are particulate matter (often

referred to as particle pollution), ground-level ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, and lead.

These pollutants can harm human health, harm the environment, and cause property damage. Of the six pollutants, particle pollution and ground-level ozone are the most widespread health threats. EPA calls these six pollutants "criteria" air pollutants because it regulates them by developing limits that are based on human health and/or environmental criteria.

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS for each criteria air pollutant to provide protection for the nation's public health and the environment. The CAA requires periodic review of the science upon which the standards are based and of the standards themselves.

- g. What's the difference between a primary air quality standard and a secondary air quality standard?

Response: The primary standard is designed to protect public health with an adequate margin of safety. The secondary standard is designed to protect the public welfare from adverse effects, including those related to soil, water, crops, vegetation, man-made (anthropogenic) materials, animals, wildlife, weather, visibility, and climate; damage to property; transportation hazards; economic values; and personal comfort and well-being.

- h. What happens if an area is not meeting an air quality standard?

Response: If the air quality in a geographic area meets or is cleaner than the national standard, it is called an attainment area (designated "attainment/unclassifiable"); areas that don't meet the national standard are called nonattainment areas. In some cases, EPA is not able to determine an area's status after evaluating the available information and those areas are designated "unclassifiable."

Once designations take effect, state and local governments with nonattainment areas must develop implementation plans outlining how areas will attain and maintain the standards by reducing air pollutant emissions. Tribes may elect to develop tribal implementation plans but are not required to do so.

- i. What is the difference between a criteria pollutant and a hazardous air pollutant?

Response: Criteria air pollutants are six common air pollutants with established National Ambient Air Quality Standards (NAAQS) to protect human health and welfare, while hazardous air pollutants (HAPs), also known as air toxics, are substances known or suspected to cause cancer or other serious health effects, and are regulated separately.

- j. How are hazardous air pollutants regulated? How are the standards set?

Response: Hazardous air pollutants are regulated under Section 112 of the Clean Air Act. The standards are initially set based on maximum available control technologies or generally available control technologies depending on the type of source, unless predicate

findings are made to instead set work-practice standards. Subsequent reviews require residual risk and/or technology reviews.

k. Describe the regional haze program.

Response: EPA's Regional Haze Program was created to improve visibility in national parks and wilderness areas. EPA and other Agencies have been monitoring visibility in national parks and wilderness areas since 1988. In 1999, the EPA announced a major effort to improve air quality in national parks and wilderness areas. The Regional Haze Rule calls for state and federal agencies to work together to improve visibility in 156 national parks and wilderness areas such as the Grand Canyon, Yosemite, the Great Smokies, and Shenandoah.

The rule requires the states, in coordination with the EPA, National Park Service, U.S. Fish and Wildlife Service, U.S. Forest Service, and other interested parties, to develop and implement air quality protection plans to reduce the pollution that causes visibility impairment. The first state plans for regional haze were due in December 2007. States, tribes, and five multi-jurisdictional regional planning organizations worked together to develop the technical basis for these plans.

l. What does Title VI of the Clean Air Act cover?

Response: In 1990, Congress amended the Clean Air Act with Title VI, which includes provisions for protecting the ozone layer. These amendments require EPA to develop and implement regulations for managing ozone-depleting substances (ODS) in the United States. They also ensure the United States' commitment to implementing the Montreal Protocol.

m. What do CFCs do in the atmosphere?

Response: CFCs, when released into the atmosphere, rise to the stratosphere where they are broken down by ultraviolet radiation, releasing chlorine atoms that react with and destroy ozone molecules, leading to ozone depletion and increased UV radiation reaching Earth's surface.

n. What do HFCs do in the atmosphere?

Response: According to EPA, hydrofluorocarbons (HFCs) are chemicals that contain hydrogen, fluorine, and carbon. HFCs are greenhouse gases with global warming potentials (GWPs) that can be hundreds to thousands of times more potent than carbon dioxide (CO₂). Their use has been rapidly increasing worldwide due to the global phaseout of ozone-depleting substances (ODS) and increased demand for refrigeration and air conditioning.

o. What do HFOs do in the atmosphere?

Response: HFOs have a lower global warming potential than HFCs and break down in the atmosphere faster than HFCs.

- p. OAR is also an important source of air quality research and information. What is e-GRID?

Response: The Emissions & Generation Resource Integrated Database (eGRID) is a comprehensive source of data from EPA's Clean Air Power Sector Programs on the environmental characteristics of almost all electric power generated in the United States.

- q. What types of sources or facilities has EPA set radiation regulations for?

Response: In 1970, Congress gave EPA the responsibility for establishing generally applicable standards for the protection of human health and the environment from radioactive materials. EPA standards set protective limits on the radioactivity in soil, water, and air that comes from human use of radioactive elements such as uranium. These radioactive elements emit ionizing radiation, which can damage living tissue and cause cancer. EPA does not regulate the non-ionizing radiation that is emitted by electrical devices such as cell phones.

- r. What is the WIPP? What is EPA's role at this facility?

Response: The U.S. Department of Energy's (DOE) Waste Isolation Pilot Plant (WIPP) is a deep geologic repository, first of its kind in the world for specific defense-related "legacy" wastes – located in Permian bedded salt (~250 million years old). EPA's primary oversight role is reviewing DOE compliance with EPA's 10,000-year radioactive waste disposal standards (40 CFR Parts 191 & 194).

- s. What are uranium mill tailings and what is EPA's role in managing them?

Response: Uranium mill tailings are primarily the sandy process waste material from a conventional uranium mill. EPA sets standards for the protection of public health, safety, and the environment from radiological and non-radiological hazards associated with uranium and thorium ore processing, and disposal of associated wastes. The cross-media standards apply to pollution emissions and site restoration. The U.S. Nuclear Regulatory Commission (NRC) and its Agreement States use these standards in their oversight of uranium and thorium facility operations and in issuing licenses for source material. The U.S. Department of Energy (DOE) uses the standards in its management of closed uranium mills and in the cleanup of contaminated soil and buildings.

8. You represented the American Petroleum Institute (API) and the American Fuel and Petrochemical Manufacturers (AFPM) during your time as a CGCN lobbyist. During this same time period, EPA issued a record number of Renewable Fuel Program Small Refinery Exemptions (SREs) under its Clean Air Act authority.
- a. Did members of API receive SREs during the time you represented them, yes or no?

Response: The information about who obtained SREs prior to July 1, 2022, is confidential business information and not publicly available. Since that date, the Agency has not granted any SREs.

- b. Did members of APFM receive SREs during the time you represented them, yes or no?

Response: The information about who obtained SREs prior to July 1, 2022, is confidential business information and not publicly available. Since that date, the Agency has not granted any SREs.

- c. What role did you play in the preparation or submission of their SRE petitions to EPA?

Response: None.

- d. Did you have any communications with EPA about SRE petitions, or the Renewable Fuels Programs, while at CGCN, yes or no?

Response: I communicated with EPA with respect to the Renewable Fuels Program.

- e. Will you recuse yourself from all matters having to do with SREs in the Renewable Fuels Program, yes or no?

Response: I commit to consulting counsel in all matters of ethics to promote and protect the public trust.

- f. What will you do to avoid a conflict of interest with your former representation of petroleum interests in matters relating to the Renewable Fuels Program?

Response: I commit to consulting counsel in all matters of ethics to promote and protect the public trust.

- 9. During your confirmation hearing, you had great difficulty responding directly to my questions about carbon dioxide and methane and Senator Schiff's questions about oil, gas, and coal combustion.

- a. Please rank the following, from largest to smallest, *according to your own understanding*, based on their contributions to the observed increase in global temperatures during the past 150 years:
 - i. Human-caused combustion of fossil fuels;
 - ii. Human-caused land use and forestry changes;
 - iii. Emissions from volcanic eruptions;
 - iv. Changes in solar radiation; and
 - v. Other (please specify).

Response: Potential contributions to climate change are complicated, diverse, and are currently being studied. If confirmed, I commit to conferring with EPA's talented scientific and technical experts as EPA implements the lawful authorities delegated to EPA by Congress and the evidence in the record.

- b. Both Administrator Zeldin and you expressed in your confirmation hearings that science should be left to scientists, not policymakers. Scientists have determined that post-Industrial Revolution atmospheric CO₂ increases are overwhelmingly attributable to fossil fuel combustion. This consensus is based on analysis of the isotope chemistry of carbon dioxide in the modern-day air and in ancient air bubbles trapped in glacial ice.³ Do you dispute any part of this settled scientific consensus, yes or no?

Response: If confirmed, I look forward to conferring with EPA's talented scientific and technical experts on these and other important issues.

- c. During your confirmation hearing, in response to my questions about atmospheric CO₂ and methane, you acknowledged that both gases are currently contributing to climate change, but you refused to acknowledge that the increases in atmospheric CO₂ and methane were linked to fossil fuel combustion. You said, "I cannot speak to generally what the specific impacts would be from fossil fuels, but carbon dioxide in combination with other greenhouse gases can result in heat being trapped in the atmosphere [...] my understanding is that there is some heat trapping that occurs from greenhouse gases." Is it your understanding that a molecule of carbon dioxide produced by fossil fuel combustion would have a different effect in the atmosphere than a molecule of carbon dioxide produced by different means, say human respiration? If so, please explain the scientific basis for identical molecules having different properties based on their source.

Response: I do not believe that carbon dioxide reacts differently in the atmosphere based on the cause.

- d. During your confirmation hearing, in response to my question about whether or not methane traps heat in the atmosphere, you said "It does, I'm not ... uh ... specific to every single molecule of methane. I know in general methane does trap heat, but I just am not a scientist and don't know what the impact of every single molecule of methane may be in the atmosphere." Do you believe that two chemically identical molecules of methane (CH₄) could have different properties? If so, please explain scientifically how this could be possible.

Response: I do not believe that methane reacts differently in the atmosphere based on the cause.

- e. If you agree that greenhouse gases in the atmosphere trap heat, that all chemically identical greenhouse gas molecules have the same properties regardless of their

³ See, e.g., Climate.gov, "How do we know the build-up of carbon dioxide in the atmosphere is caused by humans?," National Oceanic and Atmospheric Administration (Oct. 12, 2022), <https://www.climate.gov/news-features/climate-qa/how-do-we-know-build-carbon-dioxide-atmosphere-caused-humans>.

source, and that increased greenhouse gas levels in the atmosphere are attributable to fossil fuel combustion, then don't you agree that fossil fuel combustion contributes to climate change – yes or no?

Response: I understand that many scientists have found that emissions released from the combustion of fossil fuels contribute to a changing climate.

10. During your confirmation hearing, you repeatedly said that we need to be adapting to all changes, including those to the climate. Should we also be *mitigating* the effects of climate change, or should we focus only on adaption?

Response: If confirmed, I commit to implement the lawful authorities delegated to EPA by Congress based on the evidence in the record.

11. Do you believe it is possible for many coastal communities to adapt to the feet of sea level rise that are predicted over coming decades? If so, please quantify the cost of such adaptation.

Response: I am unable to provide a response to this question, since many factors influence the ability of a coastal community to adapt to potential sea level rise.

12. Do the impacts of climate change include economic impacts, yes or no?

Response: I commit to taking into consideration all benefits and costs as allowed by law and appropriate in the particular regulatory context.

13. Did the average cost of homeowners' insurance increase faster than the rate of inflation between 2018 and 2023, yes or no?

Response: According to a report by the U.S. Department of Treasury, that is true as a general matter. Nevertheless, the cost of homeowners' insurance is influenced by a number of factors and is geographically dependent.

14. Did the average rate of homeowners' insurance non-renewals increase between 2018 and 2023, yes or no?

Response: According to a report by the U.S. Department of Treasury, that is true as a general matter. But homeowners' insurance renewal rates are influenced by a number of factors and may not be uniform across the country.

15. Does climate change have an effect on the cost and availability of homeowners' insurance, yes or no?

Response: I commit to taking into consideration all benefits and costs as allowed by law and appropriate in the particular regulatory context.

16. Does mitigating climate change reduce the cost of adapting to climate change—yes or no?

Response: I commit to taking into consideration all benefits and costs as allowed by law and appropriate in the particular regulatory context.

17. If carbon pollution is not eliminated, are coastal property owners at risk of continued insurance premiums hikes and policy non-renewals, yes or no? How about wildland-adjacent property owners?

Response: I commit to taking into consideration all benefits and costs as allowed by law and appropriate in the particular regulatory context.

18. Unlike a solar farm or an offshore wind farm, most adaptation projects, like sea levees, do not offer revenues that can secure private investors. How do you propose we fund this adaptation?

Response: I would rely on the expertise of other Federal agencies, Congress, and the private sector to determine how funding could be provided.

19. Do you believe that electricity produced from wind, solar, or battery storage is energy?

Response: Yes.

20. Under the Clean Air Act, EPA has a responsibility to protect communities from cancer-causing pollution, pollution that makes asthma worse, and toxic chemicals. Children are particularly vulnerable to these pollutants. Will you ensure that any new CAA standards will account for the particular vulnerability of children to air pollution and toxic chemical exposure?

Response: I commit to taking into consideration all benefits and costs as allowed by law and appropriate in the particular regulatory context.

Senator Markey:

1. Will you commit to upholding the 2024 Multi-Pollutant Emissions Standards for Light-Duty and Medium-Duty Vehicles Rule, without weakening or delaying implementation?

Response: I cannot prejudge the outcome of any issue that may come before EPA. Maintaining consumer choice and affordability in the automobile market are important priorities for the Trump Administration. EPA's Multi-Pollutant Emissions Standards appear to be designed to increase electric vehicle penetration beyond what consumer demand would otherwise provide and therefore may adversely impact consumer choice. For example, EPA's estimates are that the rule is anticipated to increase plug-in EV penetration to 68 percent by 2032.

2. Will you commit to mitigating harmful air pollutants and protecting public health by upholding the 2024 Phase 3 Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles?

Response: I cannot prejudge the outcome of any issues that may come before EPA. Heavy-duty vehicles include a wide range of vehicles used in commercial applications, including for example delivery trucks, refuse haulers, public utility trucks, buses, and semi-tractor trucks. EPA's 2024 Phase 3 Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles forced zero-emission vehicle penetration reduces fleet choices based on technology that is not currently proven at commercial scale. The result increases in costs to these vehicles that deliver America's foods and products that translates to increased costs to everyday consumers who are already struggling due to inflation.

3. Do you agree that the EPA has a legal responsibility under the Clean Air Act to protect public health from PM2.5 pollution, including ensuring that all communities—particularly historically overburdened and low-income communities—are protected from unhealthy air?

Response: If confirmed, I look forward to conferring with EPA's talented scientific and technical experts on these and other important issues.

- a. Will you commit to upholding the 2024 PM2.5 standard without weakening it or delaying implementation?

Response: If confirmed, I look forward to conferring with EPA's talented scientific and technical experts on these and other important issues.

- b. Will you also ensure that any future review of PM2.5 standards is guided by the best available science rather than political or industry pressure?

Response: If confirmed, I look forward to conferring with EPA's talented scientific and technical experts on these and other important issues.

4. Programs like the Congestion Mitigation and Air Quality Improvement Program provide resources to help nonattainment areas start working to clean up their air. Will you commit to maintaining programs that support these activities?

Response: If confirmed, I look forward to conferring with EPA's talented scientific and technical experts on these and other important issues.

- a. If legal or administrative issues arise, what steps will you take to ensure that states and local governments still have the resources and guidance needed to begin work on PM2.5 pollution reduction?

Response: If confirmed, I look forward to conferring with EPA's talented scientific and technical experts on these and other important issues.

5. Will you commit to ensuring that EPA's Clean Air Scientific Advisory Committee (CASAC) remains independent and includes experts in cumulative pollution impacts?

Response: If confirmed, I look forward to conferring with EPA’s talented scientific and technical experts on these and other important issues.

6. Air quality monitoring can provide communities with accurate information about the air quality where they live, work, and play. However, over one third of Americans breathe unhealthy air, over 20 million people live in areas with inadequate air monitors, and 2.8 million live in pollution hotspots with no air monitors. What steps and considerations will you take to support states to build and maintain air quality monitoring networks, especially communities with high cumulative pollution burdens?

Response: If confirmed, I will work to protect the health of all Americans, including the most vulnerable among us.

7. Over 100 million people live in areas with unhealthy ozone levels. Many downwind states struggle to meet air quality standards because of pollution blowing in from upwind states. The Clean Air Act’s Good Neighbor provision is supposed to prevent this, yet upwind pollution continues unchecked. Given the public health stakes, what specific steps will you take to develop a legally durable and enforceable approach to interstate ozone pollution?

Response: If confirmed, I commit to protecting air quality consistent with the lawful authorities delegated to EPA by Congress and the evidence in the record.

- a. Will you commit to ensuring that your office will make sure that downwind states have the effective plans they need to bring ozone air pollution down to healthy levels on time, as the Clean Air Act requires?

Response: If confirmed, I commit to protecting air quality consistent with the lawful authorities delegated to EPA by Congress and the evidence in the record.

8. The EPA’s mission is to protect human health and the environment. How do you plan to oversee the Office of Air and Radiation given previous clients in the fossil fuel and chemical industry?

Response: I commit to consulting counsel in all matters of ethics to promote and protect the public trust.

- a. If confirmed, will you recuse yourself from matters in which your former clients have a direct interest?

Response: I commit to consulting counsel in all matters of ethics to promote and protect the public trust.

Senator Blunt Rochester:

3. Mr. Szabo, you were named a contributor of Project 2025. One section of the proposal includes recommendations for “the immediate and consistent rejection” of some research

and science activities under EPA's Office of Research and Development. Mr. Szabo, yes or no, will you commit to basing EPA's rulemaking and guidance on the scientific conclusions of the career scientists that work at the EPA?

Response: If confirmed, I commit to protecting air quality consistent with the lawful authorities delegated to EPA by Congress and the evidence in the record.

4. The EPA conducted a study where they concluded that the Clean Air Act Amendments prevented over 230,000 premature deaths and 85 percent of economic benefits are attributable to reductions in ambient particulate matter. Mr. Szabo, how do you justify the argument for deregulating clean air standards, when the agency's own studies show deregulation of air standards will negatively impact public health and business growth?

Response: If confirmed, I commit to protecting air quality consistent with the lawful authorities delegated to EPA by Congress and the evidence of the record.

- a. How do you justify measures that weaken air quality standards that serve the public interest when it might be detrimental to those same goals?

Response: If confirmed, I commit to protecting air quality consistent with the lawful authorities delegated to EPA by Congress and the evidence of the record.

5. Mr. Szabo can you answer yes or no if carbon dioxide and greenhouse gases are dangerous to our environment and public health?

Response: Greenhouse gases do not have a direct impact on public health or the environment, which is a distinct issue from whether GHGs impact climate change.

- a. Is it the EPA's responsibility to enact programs and regulations to curtail harmful greenhouse gas emissions? Please explain.

Response: If confirmed, I commit to protecting air quality consistent with the lawful authorities delegated to EPA by Congress and the evidence of the record.

6. EPA data shows Delaware's New Castle County is designated as being in nonattainment for air quality. Can you discuss the importance of air quality monitoring?
 - a. Mr. Szabo can you commit to utilizing air quality data from hyperlocal monitoring, fenceline monitoring, and sensory monitoring to better help communities?

Response: If confirmed, I will work to protect the health of all Americans, including the most vulnerable among us.

- b. Mr. Szabo, can you commit to working with my office in helping constituents like mine in Delaware access resources to better understand the hazards of the air they breathe and the pollutants that may be impacting their communities?

Response: I understand the importance of these issues to you and your constituents, and I look forward to working with the Committee on these issues if confirmed.

Senator CAPITO. Thank you. Thank you both.

I will start with the questions, but first I would make a comment that you both have very compelling personal stories, particularly as it regards to your own personal health. I think that is one of the main missions of EPA, to help folks that have been affected much like you, but also for future generations. Thanks for being so open about those issues.

I want to ask my first question on cooperative federalism. We have talked a little bit, a couple of us have mentioned it already. The environmental laws are based on the principle of which States are co-regulatory partners with the Federal Government.

Rather than considering the States as partners, the previous Administration has sort of overlooked and treated States as subordinates. State and local environmental agencies are dedicated to working together with Federal regulators and a lot of times, certainly understand the areas, their own personal, their own regions a lot better. State agencies are best suited to understand the diversity in their geographic, economic and social elements.

I will start with you, Mr. Fotouhi. Will you commit to engaging with States under the cooperative federalism framework to establish workable rules and implementation strategies—this is for both of you—to protect public health and the environment?

Mr. FOTOUHI. Thank you, Senator. Yes, absolutely. The environmental statutes, as you said, broadly speaking, are drafted in a way that the Federal Government and States and tribes and others work in partnership to achieve the results that Congress intended when the statutes were promulgated.

Doing so in a way that empowers States through cooperative federalism, as you mentioned, providing the technical assistance that States need to understand their resources best, and also to encourage States and tribes to assume the responsibility for Federal permitting programs will be a priority of mine if confirmed.

Senator CAPITO. Thank you. Good.

Mr. Szabo, same question, and can you describe what you see as the primary benefits and, I didn't know if you had had experience with this in your prior government service.

Mr. SZABO. Thank you, Senator. I would say that for me, it is, as I mentioned in my opening statement as well as in my conversations with you and other Senators on both sides of the aisle, the importance of cooperative federalism, as David mentioned, it is important that States have the primary role in regulating. They know what is best for their States. It is something I believe and it is something which the Clean Air Act requires.

States know how to regulate their entities the best, and it is important to allow them to do that under the Clean Air Act. Additionally, it is also important not to punish those States for emissions that are not the fault of their own State.

I think that we can work better in a cooperative manner with the States and provide those environmental protections faster.

Senator CAPITO. Thank you. I think it is important to note in the last administration under one of the provisions the States were asked to do a State implementation plan when doing that, to the

EPA, of their oversight. They just scrapped all the State plans and said, no, you are going to do the Federal plan.

That to me does not speak of cooperative federalism. I think, again, we want to keep our eye on where are the core functions, but also what functions the best.

I want to talk a little bit about electric energy reliability. We know that the Clean Power Plan has certainly had a lot of experience with this, intentionally designed to impose unattainable requirements to cause the early retirement of our lot of coal and natural gas plants.

During the same time, prices have skyrocketed and our reliability has been called into question. The North American Electric Reliability Corporation forecasts that well over half of the U.S. will face potential electricity shortages and blackout risks. This is a large result of reduced supply baseload power.

Mr. Szabo, I warned your processor, Mr. Goffman, about the potential for his strategy to undermine the reliability of our electric grid several times. Based on his actions, he ignored these warnings.

As you oversee and implement the Clean Air Act's statutory obligations to protect public health and environment, will you ensure that the agency takes into account electric reliability and energy affordability on the impacts on American families?

Mr. SZABO. Thank you, Senator, for the question. Currently, and then also if confirmed, we are bound by what is stated in the Clean Air Act, and that includes the consideration of costs and impacts on the Country. With respect to any action within Section 111 that the Clean Power Plan was, or the Clean Power Plan 2.0, whichever version you want to call it, was established under, we must follow the law and that includes the consideration of impacts on electricity reliability.

Senator CAPITO. Well, I would say too the prior administration, at one point I remember seeing a chart of where, you know, this is No. 1, two, three, four, they reordered where the priorities should like in terms of looking at reliability. I would discourage that.

Mr. Fotouhi, do you have a comment on that, on the reliability issue?

Mr. FOTOUHI. Yes, thank you, Senator. I think the agency needs to heed the decision of the Supreme Court and the West Virginia case in particular. That was very clear that EPA is not a grid-wide energy regulator. It is not an entity that is responsible for determining whether generation shifting should occur between different sources. EPA should always, when implementing the Clean Air Act or any other program, abide by its statutory authority that Congress has delegated to it.

Senator CAPITO. Thank you.

Before I turn to the Ranking Member, I will have to slip out, we have a roll call vote over in Commerce, so I will go do that, and then I will come back. Thank you.

Senator WHITEHOUSE. Mr. Szabo, good morning. What effects are carbon dioxide emissions from fossil fuel combustion having in the earth's atmosphere?

Mr. SZABO. Thank you, Senator, for that question. I cannot speak to generally what the specific impacts would be from fossil fuels. Carbon dioxide in combination with other greenhouse gases can result in heat being trapped in the atmosphere.

Senator WHITEHOUSE. Can result, or are actually resulting?

Mr. SZABO. My understanding is that there is some heat trapping that occurs from greenhouse gases.

Senator WHITEHOUSE. Is it not scientifically established that CO₂ and methane are both greenhouse gases that trap heat in the atmosphere?

Mr. SZABO. That is my understanding.

Senator WHITEHOUSE. What effect does methane leakage from fossil fuel production and transport have in the atmosphere?

Mr. SZABO. Thank you for the question. As I mentioned previously, I cannot call out what the specific impacts would be from methane from fossil fuels. Methane in general is also a greenhouse gas that can trap heat in the atmosphere.

Senator WHITEHOUSE. Can trap heat in the atmosphere, or actually does trap heat in the atmosphere right now?

Mr. SZABO. It does, I am not specific to every single molecule of methane. I know in general methane does trap heat. I just am not a scientist and do not know what the impact of every single molecule of methane may be in the atmosphere.

Senator WHITEHOUSE. What effect are carbon dioxide emissions from fossil fuel combustion having in our oceans?

Mr. SZABO. As I mentioned previously with respect to just carbon dioxide in general, it does result in acidification of the ocean, as well as there is heat trapping in the oceans, as you mentioned in your opening statement.

Senator WHITEHOUSE. How much heat trapping? How would you measure what the oceans are taking up in terms of excess heat from carbon dioxide emissions from fossil fuel combustion?

Mr. SZABO. As I mentioned, I can not speak to specifically from carbon fuel combustion but my understanding is, I believe NOAA has stated that 90 percent of the heat is trapped in the ocean.

Senator WHITEHOUSE. You have no disagreement with that?

Mr. SZABO. I am not a scientist, so I defer to the scientists.

Senator WHITEHOUSE. Do you understand that the excess heat going into the ocean is measured in zettajoules, which is an enormous number with 21 zeroes?

Mr. SZABO. As I mentioned, Senator, I am not a scientist. If that is the number, I am not aware of the exact number.

Senator WHITEHOUSE. Have we hit the 1.5 degree climate risk threshold, and why is that important?

Mr. SZABO. My understanding is that we are on a trajectory to hit that threshold, according to scientists. The stated importance of that, I believe, is that climate impacts would get worse at that degree temperature. However, my understanding is that was also a policy decision that was made as part of the U.N. discussions and the Paris Climate Accord.

Senator WHITEHOUSE. You used the word "stated." Does that indicate any hesitation in believing that?

Mr. SZABO. I have not—my understanding is there is various scientific studies on the impact of 1.5 degrees as well.

Senator WHITEHOUSE. What do they generally conclude?

Mr. SZABO. I mean, it would depend on which, I mean, as I said, I am not a scientist.

Senator WHITEHOUSE. I said generally. What do they generally conclude? What is the strong consensus message about 1.5 degrees as a risk threshold?

Mr. SZABO. That it could result in increased climate change based on that temperature threshold.

Senator WHITEHOUSE. What are key climate tipping points that you would watch in your position to try to avoid?

Mr. SZABO. Senator, I believe that the climate is changing. I believe that it is important for us to adapt to any change including those that occurred with respect to climate.

Senator WHITEHOUSE. Not to mitigate, to prevent it. Just to adapt to it, even if it is man-made pollution that is driving it?

Mr. SZABO. I am currently, and if confirmed am bound by the laws that Congress has established and cannot—

Senator WHITEHOUSE. Last question. Are we now on a pathway to climate safety? Or do we need to do more to reduce carbon emissions in order to get on that pathway?

Mr. SZABO. As I stated previously, I believe that we need to be adapting to all changes, including those to the climate.

Senator WHITEHOUSE. Thank you.

Senator CAPITO. Senator Cramer?

Senator CRAMER. As tempting as it is to give Senator Whitehouse my time, I am going to take a little bit of it first.

Thank you both for being here. I join the Chairwoman in thanking you for your personal testimonies, and being so transparent. It is inspirational, to say the least.

One or both of you have referenced the United States' contribution to the global issue. I think we flaunt it too often, take all the blame for our own excellence, compared to the world that is not, it is quite mediocre in comparison, in my view.

In fact, I also share Chairman Capito's affection for cooperative federalism. I mean, for the life of me I do not know why a State like North Dakota or West Virginia or any other State of excellence would relinquish that excellence to mediocrity at the Federal level.

That being said, I want to explore a little bit with you the contribution of the United States emissions to compare to the globe's emissions. As I see the reduction, and I think on or both of you have testified to this, the reductions that we have been making as a country while growing our economy and growing our manufacturing base, growing even our energy sector at a time when there is actual electricity hogs out there, just waiting for a place that would welcome the opportunity to invest, why would they seek the United States if we are going to have these, what I think are actually very non-competitive regulatory issues?

That said, I have been looking at a lot of the—by the way, I am not as smart as you guys, but I am fairly nerdy and pretty resourceful, and having been an energy regulator for a long time. The issue of reliability is a really big deal. The issue of availability at a time when again these economy, whether it is AI, crypto, the energy hogs, are looking for places to land, I think it is really, really important.

I would like to explore our contribution and our declining contribution in the global State of things. Maybe Mr. Szabo, you could start with what you may know about the various models and data and how the United States measures up.

Mr. SZABO. Thank you, Senator Cramer. It isn't going to be shocking to anyone, but we have significantly decreased both our greenhouse gas and traditional air pollution emissions tremendously, especially over the past 20 years. While other countries such as China have significantly increased their greenhouse gas emissions as well as their traditional air pollution emissions over the years, and what we are seeing now actually is that international emissions, as you kind of mentioned about not talking about some of the other things, traditional air pollution from China goes and impacts States like California, due to the transport from the Pacific.

Generally, if we shut off all greenhouse gas emissions in this Country tomorrow, that would not have any real impact with the increases that we have seen from other countries around the world, specifically China.

Senator CRAMER. Mr. Fotouhi, anything to add to that?

Mr. FOTOUHI. Thank you, Senator. I would echo those comments. I think something over the last 20 years or so, as Mr. Szabo was saying, American greenhouse gas emissions have decreased by something like a million tons per year, while China's have increased by something like six to seven million tons per year, completely swamping our hard-earned reductions in greenhouse gas emissions.

I think to the extent there needs to be work to be done to address that issue, it needs to be done both domestically and globally.

Senator CRAMER. I have been looking at some MAGICC data in modeling. Would it be an exaggeration to say that our trend of going down and the rest of the world, particularly the big polluters going up in terms of emissions, that our power sector can be like contributing less than .2 percent of the emissions in the future, with current trends? Does that sound plausible?

Mr. SZABO. Senator, I would have to go look back at the exact data, but happy to work with you on those numbers after talking to staff and make sure we are working with you on getting those values.

Senator CRAMER. I would welcome that opportunity and wish you both well. Thank you.

Senator CAPITO. Senator Padilla?

Senator PADILLA. Thank you, Madam Chair. I want to thank both of the nominees before us for their public service and their willingness to continue to serve. I especially appreciate the comments that have been made by you, Mr. Fotouhi, by Mr. Szabo especially and even the Chairwoman recognizing our collective mission to achieve clean air. Clean air is possible, not just environmental, but the health impacts that pollution contaminants have and the recognition that State and local governments have a primary role.

Did I get that language correct from your testimony, for both of you?

Mr. SZABO. Yes.

Mr. FOTOUHI. Yes, Senator.

Senator PADILLA. Okay, thank you. It is in that spirit, proudly representing the State of California that prides itself in policy leadership in so many areas, but including and especially when it comes to environmental protection and clean air.

Given the special collaborative relationship over the years between the State of California and the Federal Government, I would like, Mr. Szabo, for you to walk me through the statutory basis for EPA's authority to grant California a waiver of Federal preemption under the Clean Air Act.

Mr. SZABO. Thank you, Senator Padilla, for that. It was a pleasure talking to you earlier about various issues related to California.

The Clean Air Act requires EPA to provide a waiver to California assuming that certain requirements are met with respect to that. To my knowledge, we currently do not have any waivers in front of EPA.

Senator PADILLA. That is not my question. I am well aware of what was submitted in the prior administration, waivers that were granted, requests that have been withdrawn. Just for the record, it is from Section 209 of the Clean Air Act, which allows California to exercise this waiver opportunity and adopt its own emission standards if those waiver requests are granted.

In reading the statutes, can you share with us, Mr. Szabo, under what specific statutory conditions can EPA deny a waiver request?

Mr. SZABO. Thank you, Senator. At this time, I cannot recall the exact provisions in Section 209 and I do not want to provide incorrect information to you. I am happy to get back to you with that information.

Senator PADILLA. Okay. Colleagues, red flag No. 1. Obviously you are up for consideration for a very critical position. We are talking about air quality, must the environment's impact to health impacts that you both personally shared with the committee your experience.

We are talking about the State of California, not just the most populous State in the Nation, but home to the largest number of people by far who live in non-attainment levels. We know the Federal Government hasn't done as much as it can and should do to improve air quality in California and elsewhere. We know that California has taken upon itself to do more.

Given the jurisdictional balance and relationship between State and Federal Government, California has been successful through the waivers process to achieve more gains, yet you can not articulate for me the basis for denying a waiver request when you are going to play such a critical role is concerning.

Let me ask this, then. Does the Clean Air Act give EPA discretion to deny a waiver simply because the Administrator may disagree with California's policy goals?

Mr. SZABO. That, my understanding is no, it would not be just because of policy goals.

Senator PADILLA. Their answer is not discretion, then, on behalf of the Administrator and the agency?

Mr. SZABO. From my recollection, within Section 209, there is nothing that states that it would be related to just a policy difference between California and the Federal Government.

Senator PADILLA. Do you believe that California faces compelling and extraordinary conditions when it comes to air quality?

Mr. SZABO. When it comes to traditional air pollution, I believe that that can be the case.

Senator PADILLA. Then by traditional air pollution, the EPA is tackling pollutants and air quality?

Mr. SZABO. I believe when it comes to National Ambient Air Quality Standards that that is right, as well as hazardous air pollutants. That is what I mean by it.

Senator PADILLA. To your knowledge, has an administrator ever denied a waiver on the ground that California does not face compelling and extraordinary conditions?

Mr. SZABO. I believe that was part of the justification in the 2020 Safe Vehicle Rule Part 1.

Senator PADILLA. Okay. Well, for the record, let me share with our colleagues that the answer is actually no. The EPA has tried to deny on other grounds, but never for the argument that California does not face compelling and extraordinary conditions.

Mr. Szabo, my time is running out, so I will end with this. Can you point to where in the Clean Air Act it gives EPA the authority to revoke a waiver once it is granted?

Mr. SZABO. I believe that would be within Section 209 of the Clean Air Act.

Senator PADILLA. Actually, no. We know that there will be efforts to do just that. I will end. I know my time is up, with the recognition, very important distinction between a waiver request, a waiver denial, and a waiver being granted versus rulemaking. When there are attempts by Congress to utilize the CRA to undo a waiver that was granted, precedent has established that that is not appropriate because a waiver is a waiver, not a rule.

Thank you, Madam Chair.

Senator CAPITO. Thank you.

Senator HUSTED?

Senator HUSTED. Thank you, Chairman Capito. I appreciate the opportunity to talk with the nominees today.

Mr. Szabo, I want to bring up an issue that we talked about briefly, based on my experience in the East Palestine train derailment and subsequent fire and disaster that happened there, just for the sake of sharing something that can be hopefully helpful, is that one of the things that happened in that crisis moment is that while we had a team of people on the ground there from the EPA who were very versed in the rules and regulations they weren't very versed at crisis management.

I just shared with you in our conversation that I, this administration in the course of 4 years will face one of those moments. It is inevitable that the unexpected will occur. I just want to share thoughts, and either of you, actually, can respond to this about thoughts that you have on how we can be better prepared for a time of crisis.

Mr. FOTOUHI. Senator, I am happy to respond initially. It is a critical function of the agency, its emergency response function. I had the privilege, when I worked in the agency during the first term of the Trump administration to work closely with the career civil servants who are housed in that emergency response office

within the Office of Land and Emergency Management and across EPA's regional offices. They are often the ones who plan for natural disasters, things like hurricanes, making sure that industrial sites are prepared so that there are not environmental incidents as a result of a natural disaster.

Similarly, they play an important role in responding to issues like the East Palestine derailment or the fires in Los Angeles or the floods in western North Carolina. Administrator Zeldin, in his first month on the job, has made the emergency response function of the agency a critical priority. If confirmed, I would support him in that effort.

Senator HUSTED. Great. Thank you.

I have, my next question is also largely an Ohio-related question. It is because in the final, literally the final day of the Biden administration, they imposed a new rule at EPA over, it is called a nuisance rule. It was enacted on January the 20th, regarding rules on air, dust, grime, things like that.

It is unique to Ohio. We have our own nuisance rule regulations in Ohio to be adjudicated through the Ohio EPA and the Ohio court system. Now we have one State that was identified, basically picked on, the EPA and the administration, to put this new rule in place. The Ohio delegation is united behind eliminating that.

This is what we talk about, when we talk about the Federal Government imposing things on States without the cooperation of those States and the people who understand what makes sense in those States. I just would ask for your support in our efforts to overturn this rule and that any comments that you have about that or the partnership between Federal and State regulators in general.

Mr. SZABO. Senator, thank you for that question. I know in my time at EPA I have heard about the issues with that action. If confirmed and just in general right now, as I stated in my opening statement and in our conversations, cooperative federalism is key. That is working with the States, not against them. I look forward to working with you as well as the State of Ohio in resolving these kinds of concerns and issues that have been created.

Senator HUSTED. Thank you. I just will close with this thought. The people who run State government, the EPA, the Governors, the communities that are affected, they care more about their States and their communities than anybody else. They know what is best. Please be collaborative with the States of this Nation and their regulators and their enforcement entities to make sure that they can solve environmental issues and do it in a timely manner, but also in a manner that is not burdensome to the people who are trying to live and operate in those States.

Thank you.

Senator CAPITO. Thank you.

Senator Alsobrooks?

Senator ALSOBROOKS. Thank you so much, Chair Capito and Ranking Member Whitehouse.

Mr. Fotouhi, Mr. Szabo, good to see you. Congratulations on your nominations.

Last week at his cabinet meeting, the President said that Administrator Zeldin "thinks he is going to be cutting 65 percent or so of the percent of the people," is what he said, from the EPA. Ad-

ministrator Zeldin later clarified that he meant 65 percent of the agency's budget.

I have questions for both of you. I just want to be clear and get a direct answer. Do you support cutting the EPA's budget by 65 percent?

Mr. FOTOUHI. Senator, thank you for the question, and I appreciated the time that you took to meet with me earlier in this process. My view on that is that what Administrator Zeldin has referred to publicly on that issue is that the reduction would pertain to a baseline reduction from the amount of expenditure in 2024, which included a significant amount of IRA funding as opposed to a reduction of the base budget, which is of course congressional, is for Congress to determine.

Senator ALSOBROOKS. Okay, so you agree, then, that the role of setting funding levels belongs to Congress, and not to the administration?

Mr. FOTOUHI. Senator, Congress sets EPA's budget.

Senator ALSOBROOKS. Okay. Then if you are confirmed, will you enforce the law, including appropriations law, and ensure that that function continues to remain one that is a congressional function?

Mr. FOTOUHI. Senator, thank you for the question. On this issue and all issues, if confirmed, I will always follow the law and always advise Administrator Zeldin in the same manner. That extends to issues related to appropriations and budget.

Senator ALSOBROOKS. Thank you.

Now, in Maryland we are doing really great work where climate is concerned. We are also working to reduce greenhouse gas emissions and air pollutants.

Right now, there are many actions related to Maryland's State implementation plan for the Clean Air Act that are pending approval at the EPA. This plan is very critical to Maryland. It ensures that my constituents have healthy air to breathe, and it also provides certainty to businesses who are investing in Maryland.

I understand that there are similar backlogs in other States, and it is because the office that you have been nominated to lead is understaffed and not overstaffed. The question is, in light of this concern around slashing budgets, how would you achieve the efficiencies that will be necessary to ensure we have clean air to breathe and that we meet our other goalposts, if we are cutting budgets and slashing work force?

Mr. FOTOUHI. Senator, thank you for the question. It is a priority of mine, if confirmed, to ensure that across the agency that we are reducing backlogs for things like State implementation plans under the Clean Air Act, for water quality standards from States under the Clean Water Act, other submittals like permit applications and the like. Working to ensure with Administrator Zeldin that appropriate staffing is put in the right places and that we have the expertise needed to process those applications and State implementation plans in a timely manner would be an area of emphasis to me. I look forward to working with you and your staff on the Maryland issues that you raised specifically.

Senator ALSOBROOKS. Okay, thank you. Just one final question, and this question I would be asking of Mr. Szabo. The cost of homeowners insurance is on the rise. Since 2018, homeowners in-

insurance non-renewals have increased by 30 percent in Maryland. This means that major homeowners insurance providers are dropping hundreds of thousands of policy holders in response to frequent extreme weather events caused by climate change.

I want to know whether or not you acknowledge that the root cause of climate change, including reducing greenhouse emissions, has a very serious connection to what we are seeing in terms of unaffordable insurance premiums, and ask what you intend to do about that.

Mr. SZABO. Thank you, Senator, for that question.

In my current role and if confirmed, while I believe that it is important that we as Americans and we as humans continue to adapt to all changes, including those with respect to climate, I would not have any regulatory authority over the insurance markets themselves and how those insurance companies may or may not react to changes in the climate. I am fully supportive of Americans and people adapting to any changes in the climate that may be occurring.

Senator ALSOBROOKS. The last part, and I know my time is up, would you agree that the effects of climate change are driving economic hardship for families?

Mr. SZABO. I believe that there are impacts to climate change.

Senator CAPITO. Senator Curtis?

Senator CURTIS. Thank you, Chairman.

It is great to be with you, both of you, thank you for coming by my office. Some of what I want to talk about in my short 5 minutes we discussed. I think it is important to have this discussion so that everybody, particularly back in Utah, can hear our discussion and your thoughts on it.

We discussed, and I tried to make the point in this venue a lot of times, Utah's unique geography and natural phenomenon require a nuanced approach. Approximately 80 percent of our ozone comes from, ozone emitting from the earth surfaces or from outside of the region. As Utahns, that means we only control 20 percent of the ozone in the area.

Utah's air quality has improved significantly, and that is because our publicly elected officials, our education, our business leaders, all have made commitments and we have had great investments in new technology to improve our air.

I might say I am very grateful for the new administration's early jump into this and some of the relief that we have received already. Please pass along my appreciation for that.

Utah's Uinta Basin faces similar challenges of oil and gas production in the region where we provide affordable, reliable and clean energy are burdened by EPA standards and do not account for this unique geography that we have in Utah. Fortunately, all of our stakeholders, as I mentioned, are all committed, the education community, the political leaders and business communities are all committed to this.

Despite this, in the final stretch the Biden administration EPA reversed course, instead of granting the extension as previously proposed, the agency issued a final ruling redesignating northern Watsatch Front Uinta Basin as non-attainment with significant impact to it economically and otherwise for our area.

Once again, thanks for your help there.

I would like to just ask both of you, so folks back home can hear, if confirmed, can we count on this flexibility in working with regional administrators to follow their lead in dealing with these tough issues? Hopefully we can have that commitment from both of you?

Mr. Szabo, if you want to jump in.

Mr. SZABO. Sure. Senator, it was great talking to you yesterday about these issues as well. In my current role as well as if I am confirmed I will commit that we will work with the State of Utah as well as all the States on each State's unique issues, but specifically Utah's.

Senator CURTIS. Okay, thank you.

Mr. FOTOUHI. Thank you, Senator, and I also appreciated the time meeting with you. You have my commitment to work together to resolve these issues and to do so in a way that protects our air and also protects the economic development and growth that your community is looking for.

Senator CURTIS. Thank you. I am glad that you mentioned that. Everybody does want to protect the air, everybody wants clean air. We just have some unique geographic features.

Also part of the Uinta Basin, we have a number of small suppliers. They really struggle to meet the methane regulations, not out of will, but just simply out of resources. We find that EPA sometimes has been overly restrictive in how they fix the problem, rather than defining what they want fixed and letting people get there through using different types of technologies.

Once again, I would like to ask for your working with regional administrators to get to the end goal and not be so prescriptive on how we get there.

Mr. SZABO. Absolutely, Senator.

Mr. FOTOUHI. Yes, you have my commitment on that, Senator. Thank you.

Senator CURTIS. Good, thank you.

Mr. Fotouhi, we talked in the office about this chemical approval problem. I would also just like to clarify, previous administration we had zero percent of chemicals approved within their statutory guideline. Many of these chemicals would replace currently problematic chemicals that are bad for our environment.

By not approving them, we are actually really harming our environment. I would like to just have you assure with my folks back home your commitment to work on getting these chemicals approved in a timely manner.

Mr. FOTOUHI. Yes, thank you, Senator Curtis. It is a critical function that the agency performs to review new chemicals. It needs to do so in abidance with its statutory timelines and in consideration of the science as well.

As you said, those chemicals often replace older chemistries and the newer chemicals are often more environmentally friendly. You have my commitment to take that as an area of emphasis, so that EPA gets back on track and is meeting its statutory obligations in its new chemicals program.

Senator CURTIS. Thank you.

With all my love and affection for you and your new boss, we will have a honeymoon period and then I will use this pulpit to be really tough on you as I was your predecessors, if we are not getting those approved.

Thank you, I yield my time.

Senator CAPITO. Senator Schiff?

Senator SCHIFF. Thank you, Madam Chair.

Mr. Szabo, is climate change real?

Mr. SZABO. Thank you, Senator. Yes, the climate is changing.

Senator SCHIFF. Mr. Fotouhi, the same question, is climate change real?

Mr. FOTOUHI. Yes, Senator.

Senator SCHIFF. Mr. Szabo, would you agree that human activities contribute to climate change?

Mr. SZABO. Senator, I believe there are many things that can create the climate to change themselves.

Senator SCHIFF. That would include human activities, would it not?

Mr. SZABO. In the aggregate, there is a potential impact from human activities on the climate.

Senator SCHIFF. You would agree, Mr. Fotuhi, that human activity contributes to changes in the climate?

Mr. FOTOUHI. Yes, Senator.

Senator SCHIFF. Some of those human activities include burning coal, oil, and gas, Mr. Szabo?

Mr. SZABO. I believe there are many activities that can release greenhouses gases into the atmosphere in general.

Senator SCHIFF. Well, I am asking you in particular, burning coal, burning oil, burning gas contributes to climate change, does it not?

Mr. SZABO. Those activities do release greenhouse gases into the atmosphere.

Senator SCHIFF. Mr. Fotouhi, you would agree that burning coal, oil, and gas contributes to climate change?

Mr. FOTOUHI. Senator, emission of greenhouses gases into the atmosphere plays a role and does contribute to the changing climate.

Senator SCHIFF. In particular, burning coal, oil, and gas contributes to climate change?

Mr. FOTOUHI. Senator, those activities, depending on how they are undertaken, can result in the emission of greenhouse gases, yes, including methane.

Senator SCHIFF. In trying to address climate change, would you agree that trying to reduce our reliance on coal, oil, and gas as they are contributors to climate change makes sense, Mr. Szabo?

Mr. SZABO. I believe that it is important that we adapt to any changes, including those with respect to the climate. I believe that the American people can adapt to those changes.

Senator SCHIFF. That is a bit of a murky answer. If coal, oil, and gas are contributing to climate change, wouldn't you agree that one strategy to address climate change would be to reduce our reliance on coal, oil, and gas?

Mr. SZABO. I believe, once again, that we can adapt to the potential impacts to climate change without causing potential issues to our reliance on our natural resources within this Country.

Senator SCHIFF. I am not sure I understand that answer. If coal, oil, and gas are contributing to climate change, would it make sense as part of our strategy to address climate change to reduce our reliance on coal, oil, and gas? Yes or no.

Mr. SZABO. Senator, I think it is important to take the, with respect to the potential impacts from those sources of emissions with respect to the global nature of any with climate change, and consider it that with respect to any policy positions moving forward.

Senator SCHIFF. I am still having trouble understanding your answer.

Should we reduce the consumption, the burning of coal, oil, and gas as part of a strategy to mitigate climate change? Yes or no.

Mr. SZABO. Senator, I believe that it is important that we follow the law with respect to any actions we take. If Congress wishes for us to take a different action on climate change, I would leave that into the decision of those in Congress about what policies the United States would take with respect to that.

Senator SCHIFF. As a potential top official in the EPA, you would agree, would you not, that if coal, oil, and gas contribute to climate change and climate change is resulting in horrendous fires like we had in Los Angeles and stronger hurricanes and more flooding, that one part of a sensible approach to dealing with climate change would be to reduce our reliance on fossil fuels that are contributing to that crisis? Wouldn't you agree with that?

Mr. SZABO. Senator, I would say that the wildfires in California were very tragic. There were many reasons as to what the results of those, why those wildfires occurred in and of themselves.

Senator SCHIFF. Mr. Szabo, do you think the oil industry has a disproportionate impact on our ability, willingness, to speak plainly about climate change? You seem to be having difficulty. Does the oil industry exert too great an influence on our policy dealing with climate change such that you can not answer that question?

Mr. SZABO. No. I am curious if you are insinuating that I am somehow under the influence of the oil and natural gas industry. I have been consulting with career executives—

Senator SCHIFF. I think this whole Congress is under the influence of the oil, coal, and gas industry. That makes it so difficult to answer a simple question about if these are contributors to climate change. Wouldn't a sensible policy be to reduce our reliance on them? There is some explanation for why that question is difficult to answer, and it is not science.

I yield back.

Senator CAPITO. Senator Ricketts?

Senator RICKETTS. Great. Thank you, Chairman. Appreciate it. Thank you, Ranking Member, for calling this hearing today. Thank you to our witnesses for being willing, or our nominees for being willing to serve in the Federal Government. I appreciate it.

I do want to hit upon some of the things that have come up in this topic before. First of all, the cooperative federalism, States being responsible—nobody cares more about our environment than the States. That is, as a former Governor, that is what we want to do, we want to protect our environment, we want clean air, clean water. We do want to work cooperatively with the EPA to be able to have it. When the EPA just throws out State implementation

plans, it really is a disregard for the law and our system of federalism. I think that is one aspect that I want to hit upon.

Also I wanted to hit upon this idea of consensus. There was a consensus early on in the pandemic, and I was just introduce Dr. Jay Bhattacharya at the Health Committee about, we should lock down schools. Well, it turns out that, because this was just wrong, right? Science is about arguing, it is about research, it is about everything, like you may have an idea, you have a theory, you test it, you have research, and there is going to be research not always going to agree.

Consensus is meant to be challenged, right? That is what the point of science is. We want to make sure we are thinking about those things. For example, when you are, the Senator from California was just talking about oil and gas. Well, why do not we sequester carbon dioxide, if you are worried about that? We can burn coal and sequester the carbon, the technologies could be out there, we do not have to reduce it. We can just sequester the carbon dioxide, if that is the problem you are concerned about.

There are other solutions out there. I do not think we have to run to a one-size big government solution about how to fix this, and that has been the problem for the last administration. They tried to mandate certain solutions, like EVs, that do not work in places like Nebraska. Let's let American innovation solve these problems.

One of the innovations that we can solve happens to be biofuels. I know the Chairman knows I love talking, being on this committee, talking about biofuels.

[Laughter.]

Senator RICKETTS. The good news is biofuels are safe, can save consumers money at the pump, they cleanup our environment, all the things the Senator from California wants to do, and it is good for our farmers and ranchers.

What I want to do is just work on making sure we can do that. E15 is one of the things we can do to do that. The EPA has been issuing waivers to be able to do that.

This is a very simple question for the both of you. Waiver is an annual emergency thing. To make it permanent, Mr. Fotouhi, do not we actually need to pass a bill on E15? Legislation has to be passed by Congress to be able to make E15 all year around permanent, is that right?

Mr. FOTOUHI. Senator, thank you for the question. That is my view. When I served in the first term of the Trump administration at EPA, we attempted a regulatory proceeding to allow for the expanded use of E15, and ultimately a court determined that the agency lacked the adequate statutory authority for that action.

My view is that congressional, if that is the congressional intent, then congressional action is required for EPA to be able to take that on without going through the RVP, Reid Vapor Pressure, waiver or emergency waiver process.

Senator RICKETTS. Mr. Szabo, same question.

Mr. SZABO. I would just echo what David said, and yes, we would need a legislative solution.

Senator RICKETTS. Great. Perfect. Second, additionally, timely review of renewable volume obligations are mandated by the renewable fuels standard, that is a law, should be a biofuels priority for

the EPA here. RVOs are powerful signals to producers of the fuel markets. They need to be published reliably in thoughtful increments and should be reflective of market realities.

I understand you cannot prejudge the outcome of an agency rulemaking, but I want to get you on the record here. Will you commit, again, because the RVOs that were supposed to be published November 2024 are not supposed to be done now until December 2025, a year late, Mr. Fotouhi and Mr. Szabo, do you each commit to implementing statutory directives in the renewable fuels standard to publish a timely rulemaking for the renewable volume obligations?

Mr. FOTOUHI. Senator, thank you for the question. It is important that we hit our statutory timing obligations for setting RVOs. My recollection is that in the Biden administration when EPA set the RVO for 2023 half the year had already passed. That is not the type of clarity and certainty to all market participants that are needed from this program.

My view is that the statutory timelines are very important.

Mr. SZABO. Senator, I agree with what David said, and commit to make sure that we get RVOs out in time to provide that certainty for industry.

Senator RICKETTS. Great. Follow the law is exactly the right answer from both of you. Thank you very much. I look forward to your speedy confirmations.

With that, Chairman, I turn it back over to you.

Senator CAPITO. Thank you. We may have some others coming. We did commit to have a second round.

I have one question, then I will go to the Ranking Member. Then Senator Padilla, do you have a question for a second round? Yes.

Mr. Fotouhi, you have served as an attorney who has advised and litigated on behalf of both private clients and the EPA for almost 15 years. How would that experience guide your approach to ensuring the EPA rules are consistent with statute and durable for the long term? I think this is part of the problem. I have been on this panel for 10 years. The swings in administrations and regulations and viewpoints and other, even reflected really on the questioning that has been coming from the panelists, from the Senators, as well, I think is a difficult part of the system. I do not know how people adjust from a business standpoint, environmental, municipality, whoever, even a State.

How does your past experience, would it be consistent with not just the statute, but more durable, so we do not have these swings that we have seen recently?

Mr. FOTOUHI. Thank you for the question, Senator. Rule of law is my touchstone. It is extremely important to me as a professional, as an environmental lawyer, as it was the case when I served at EPA, in my role there advising the administrator on options and legal issues.

The critical touchstone has to be, in every occasion, ensuring that we are following the congressional authorization and statutory language that has been drafted by Congress. The Supreme Court has been very clear on this point, repeatedly. In the Biden administration alone, the Biden EPA lost every Supreme Court case that it had in front of a court over the last 4 years.

We need to restore trust in EPA's actions, and part of that is to ensure that those actions are done consistently with the law, and that we are not over-reading our statutory authority and exceeding the boundaries that this Congress has placed on the agency.

With regard to your point about switching and lack of predictability or certainty, I think the Waters of the U.S. Rule is a prime example of that, where the court has now spoken in the Sackett decision in a very prescriptive manner about what is and is not jurisdictional for regulatory purposes under the Clean Water Act. It is incumbent now on the agency to clarify that for the American public, so that they can understand when they need a permit from the Corps of Engineers or from EPA or their State and when they do not, without hiring a legion of consultants and attorneys to tell them what the law means.

Senator CAPITO. Senator Whitehouse?

Senator WHITEHOUSE. Thanks very much.

Mr. Szabo, let's go back to your work for Project 2025. You were a contributor to that document and were thanked by the author of the chapter on EPA, correct?

Mr. SZABO. Yes, that is correct, Senator.

Senator WHITEHOUSE. How did you contribute? What precise advice did you give to the document's authors?

Mr. SZABO. Thank you, Senator, for that question. I provided just general advice and thoughts with respect to policies that, within the Clean Air Act section specifically.

Senator WHITEHOUSE. Do you have, or do they have any record of the advice that you gave?

Mr. SZABO. I am not aware of any records they may have. I was a volunteer, and I do not have any records myself.

Senator WHITEHOUSE. You have no notes, you have no memos, nothing was in writing on all of this?

Mr. SZABO. I have no records, Senator.

Senator WHITEHOUSE. Is that because you had records and you have gotten rid of them, or were there never any records?

Mr. SZABO. Senator, I have no records.

Senator WHITEHOUSE. That does not answer the question.

Is the reason you have no records because you got rid of your records of your engagement with Project 2025?

Mr. SZABO. Senator, as a private organization, I am not sure what their recordkeeping policies were or are. I do not have any records.

Senator WHITEHOUSE. Did you submit anything in writing to them at any point? Did you ever have records? You not them, you.

Mr. SZABO. Senator, I provided advice to Project 2025.

Senator WHITEHOUSE. How? By email? By phone? Personal conversations? Memos?

Mr. SZABO. Senator, I provided them advice in a number of ways.

Senator WHITEHOUSE. Including ways that were in writing?

Mr. SZABO. Senator, that is likely.

Senator WHITEHOUSE. Likely? Isn't that something you would actually know, since it was your advice and you would have written it down? How is that likely? Isn't that yes or no?

Mr. SZABO. Senator, I would have to go back and, as I said, I have no records. I would have to go think more about whether there were——

Senator WHITEHOUSE. Well, I will ask you to think more and also to make this a records preservation request. We will followup as appropriate.

The EPA chapter of Project 2025 has dedicated five pages to the Office of Air and Radiation, which you intend to lead. Do you stand by the policy recommendations in that subsection related to NAAQS, climate change, HFCs, mobile and stationary source permitting, Clean Air Act sections 111 and 112, radiation and EPA personnel?

Mr. SZABO. Senator, thank you for the question. My understanding is these are aspirational ideas that were put out by a non-profit which are very similar to what other non-profits have done, including the Center for American Progress, for decades, for potential candidates. I was not involved in any sort of final review or determination as to what went into that chapter or any of the other chapters within Project 2025.

Senator WHITEHOUSE. Were you compensated for that work?

Mr. SZABO. No.

Senator WHITEHOUSE. What is your intention, well, let me just go back a step. What we have seen is everybody from President Trump down saying, we had nothing to do with Project 2025, and that is not our blueprint. Then as we watch things roll out in real life, we see that it is the Project 2025 blueprint, over and over and over again.

My question to you, is it your intent going into this job to implement the recommendations of Project 2025 in the office that you intend to lead?

Mr. SZABO. Senator, if confirmed, I believe in an open door policy with respect to ideas from all potential stakeholders, whether they be conservative or democratic. I am open to any groups' ideas. I believe that is the best way to be a regulator is to have an open, collaborative framework with anyone who would like to engage with the Federal Government.

Senator WHITEHOUSE. Yes. Nice in theory, except that your career working for America First, which is a fossil fuel funded organization, doing the work for American Petroleum Institute members, who are by definition fossil fuel corporations, facilitating Project 2025, which was run by Heritage, a fossil fuel funded front group, everything in your past shows you absolutely aligned with the industry that is the heart of climate pollution. It makes me wonder how it is possible for you to take an honest look at climate change and the risks that it presents to us from that background.

My time is expired.

Senator CAPITO. You can respond.

Mr. SZABO. Thank you, Senator. I would also mention I spent over 10 and a half years as a Federal career civil servant, including over two of those, I think two of those, in the Obama White House, implementing many of those policies. I believe that based on my extensive career of civil service that that would be done.

Senator WHITEHOUSE. Time will tell, won't it?

Senator CAPITO. Senator Kelly?

Senator KELLY. [Remarks off microphone.] As we discussed, and as I discussed with Administrator Zeldin during his confirmation hearing, we are facing serious challenges when it comes to ozone non-attainment under the Clean Air Act. All the data shows that the overwhelming source of our ozone pollution does not come from sources within Maricopa County. Yet, any new development in the region needs to identify offsets to get their permit.

Of course, the goal of the Clean Air Act, and a goal that I share, is to find a pathway to improve air quality without stifling economic development, like Arizona's clean energy manufacturing industry.

Do you agree that the goal of the Clean Air Act is to improve air quality?

Mr. SZABO. Senator, it was a pleasure talking to you earlier, and yes, the goal of the Clean Air Act and my goal currently and if confirmed is to improve air quality.

Senator KELLY. Of course, as you know, ozone pollution is a challenge to address. I know you know this, but for my colleagues here, can you just explain how ozone pollution forms and why regions like Phoenix are susceptible to ozone formation?

Mr. SZABO. Yes, thank you, Senator, for the question. Nitrous oxides and other forms of emissions interact with the atmosphere, and therefore, create ground level ozone, which can happen in smog, create smog. With respect to the geographic nature of your States, that can increase that potential ground level ozone, especially with potential emissions from outside.

Senator KELLY. Yes, a combination, we have nitrous oxide and we have volatile organic compounds reacting with sunlight, it creates ozone.

The problem we have is a lot of this does not come from the Phoenix area. In fact, somewhere between 80 and 85 percent of the emissions come from outside of the region, yet when a new permit has to be issued, EPA requires emissions reductions that generate offsets or credits that can only come from within the region, even though the ozone is coming from outside the region, or the organic compounds or the nitrous oxide comes from outside.

First, if confirmed, will you commit to making yourself and your staff available to work with my staff, other Members of the congressional delegation, and our Arizona stakeholders to help us work through non-attainment related challenges?

Mr. SZABO. Yes.

Senator KELLY. Second, without prejudging outcomes, will you commit to ensuring that the Region 9 office and EPA headquarters dedicate resources to quickly review any pending new source review permits in the region, ideally before we move into serious non-attainment?

Mr. SZABO. Senator, I would be happy, if confirmed, and in my current role, to work with Arizona on those issues.

Senator KELLY. Thank you. Similarly, without prejudging outcomes, will you commit to ensuring that coordination between Maricopa County, Region 9 and EPA headquarters continues to make progress on the two local rules proposed by Maricopa County? We spoke about these, Rule 204 and 205.

Mr. SZABO. Senator, as I mentioned earlier, I think it is very important to follow the Clean Air Act with respect to cooperative federalism, and can commit that if confirmed and in my current role, will work with Arizona on these issues.

Senator KELLY. Will you commit to having EPA Region 9 and EPA work with our local officials to ensure our attainment plans can account for pollution from other countries and ensure there is a more streamlined exceptional event process for wildfire smoke?

Mr. SZABO. Senator, yes, I can confirm that.

Senator KELLY. Thank you. I have 40 more seconds; I want to talk a little bit about staffing issues and cuts. Mr. Szabo, I understand you have not been a part of a staffing conversation in your current role. We spoke about that. If you are confirmed, do you believe you could significantly reduce the number of staff in the Office of Air and Radiation and still keep the commitments you just made to me?

Mr. SZABO. Senator, yes, I believe that we can meet our obligations with the budget provided.

Senator KELLY. My understanding is you have been working at EPA for the past 6 weeks, is that correct?

Mr. SZABO. Since January 20th, yes.

Senator KELLY. So far, has your impression been that the Air office is overstaffed or understaffed?

Mr. SZABO. Senator, I believe that both the political and the career civil servants have been doing a fantastic job implementing their obligations under the Clean Air Act.

Senator KELLY. All right. Thank you. Madam Chair, my apologies for going over by 10 seconds.

Senator CAPITO. Oh, no problem.

Senator Padilla?

Senator PADILLA. Thank you, Madam Chair. I am happy I was able to make it back for the second round of questions.

I would like to pick up where I left off with questions for Mr. Szabo. Before I left, I was trying to highlight the difference and distinctions between the rulemaking process and the waiver process.

Maybe let me ask you, if you have a minute here, to articulate for the record your understanding of the difference between the two procedurally, the waiver process under Section 209 versus the rulemaking process under the Administrative Procedures Act.

Mr. SZABO. Senator, thank you for that question. My understanding is that they both go through a comment period themselves, and for instance, the California waiver granting is similar to a SIP approval process.

Senator PADILLA. Is the process identical, pretty much identical? Or how are they different?

Mr. SZABO. They are both rules, and the process is with respect to what the requirements are under the Clean Air Act.

Senator PADILLA. They are not both rules. One is a rulemaking process; one is a waiver process. If you are not familiar with the important distinctions, let me move on.

Does granting a waiver implement a new EPA policy? Or is it simply granting, in my case the State of California, the ability for it to enforce its own standards?

Mr. SZABO. Similar to granting a State a State of implementation plan that would just be providing that State that authority.

Senator PADILLA. That is my understanding as well.

When the EPA does grant a waiver, when does it go into effect?

Mr. SZABO. My understanding is it goes into effect when it is signed.

Senator PADILLA. Automatically, right? Immediately. As a followup, you may or may not know the answer to this question, what does the congressional Review Act say about the time length for Congress to act on a disapproval resolution?

Mr. SZABO. I believe it is within 60 legislative days from the date that it is either the later of the publication within the Federal Register notice or when it has been submitted to Congress and GAO.

Senator PADILLA. Right. Unless or until that happens, the waiver is in effect.

Is the granting of a waiver adjudicatory?

Mr. SZABO. It is a rule.

Senator PADILLA. Is it adjudicatory?

Mr. SZABO. It is a rule under the congressional Review Act.

Senator PADILLA. All right, adjudicatory, the action is covered under the congressional Review Act.

Mr. SZABO. With respect to the waivers, they are a rule under the congressional Review Act.

Senator PADILLA. They are waivers; they are not rules. That has been established. For the record, that is why for 50 years, including under the first Trump administration, the EPA has treated waivers, including the attempted revocation of a waiver, as an adjudication and not a rule. That is fact.

I just want to end by spending a minute emphasizing, Madam Chair, why I have been so insistent and precise with my line of questioning. As I mentioned earlier, California has a disproportionate number of people who live in non-attainment areas, significantly.

On the one hand, I am encouraged by what I heard from the nominees and from you, Madam Chair, and several members of this committee, of the State and local governments having the primary role in improving air quality. For multiple reasons, from an environmental protection standpoint and from a health standpoint, that is why EPA can and should help, collaborate, it should, when it may not be willing to consider this, it certainly should not hold up States and locals from going above and beyond if that is what they choose, if that is what their constituents need and deserve, so that we can have less Californians and less Americans in the future having to suffer from cancer or chronic lung disease and other impacts of the high levels of emissions, pollution and air contamination that so many communities throughout California and throughout the Country currently suffer from.

Thank you, Madam Chair.

Senator CAPITO. Thank you both very much.

As we conclude here, I would like to ask unanimous consent to enter into the record letters of support for both nominees.

[The referenced information follows:]

Hearing on the Nominations of David Fotouhi to be Deputy Administrator of the Environmental Protection Agency and Aaron Szabo to be Assistant Administrator for the Office of Air and Radiation of the Environmental Protection Agency"
March 5, 2025

Statement by Senator Cynthia Lummis (R-WY)

Madam Chairman, thank you for holding today's hearing on the nomination of David Fotouhi to serve as EPA Deputy Administrator and Aaron Szabo to serve as Assistant Administrator for Air and Radiation.

Aside from the top job, these are arguably the most important positions affecting environmental policy in Wyoming and across the west. The Deputy Administrator is responsible for the day-to-day administration of the EPA, while the Office of Air and Radiation oversees implementation of the Clean Air Act and emissions from power plants.

In Wyoming, we have some of the cleanest air and water while being the top energy exporter in the nation. Despite being a testament to producing the cleanest traditional energy in the world, the EPA under the Biden administration pulled out every stop to destroy my state.

It's time to right the ship, and I believe Mr. Fotouhi and Mr. Szabo are the right people to do so. Many of my colleagues on the other side of the aisle believe the mission of the EPA is to find far-left scientific publications and implement them as if they are fact. The EPA's mission is not to follow fringe science—it's to follow the law.

In my meetings with Mr. Fotouhi and Mr. Szabo, we discussed the role of the EPA and how it can work more efficiently. We discussed avenues that would return the agency to its core mission of balancing environmental protection with economic growth and favoring state and local control over federal mandates.

We also discussed the importance of small refinery exemptions (SREs) under the Renewable Fuel Standard (RFS) program. Currently, there are more than 100 hardship relief applications sitting at EPA waiting for a decision. Mr. Fotouhi and Mr. Szabo both committed to reviewing this issue after their confirmation, and I am grateful for that.

Finally, we discussed the myriads of environmental regulations strangling Wyoming. The best example is the Naughton Power Plant in southwest Wyoming. Once TerraPower's Sodium reactor is online in 2027, the power plant is expected to convert fully to nuclear. Under the Biden EPA's regulations aimed at killing coal, Naughton will have to convert from coal to natural gas for one year before converting to nuclear, costing ratepayers in Wyoming millions of dollars. Mr. Fotouhi and Mr. Szabo both committed to reviewing this issue as well, and I look forward to working with them both over the next four years.

Thank you again, Madam Chairman, for holding today's hearing. I am proud to support both nominations as we continue to fix the blatant disregard for Wyoming under the past administration.



The Alliance
for Responsible Atmospheric Policy

March 3, 2025

The Honorable Shelley Moore Capito
Chairman, Senate Environment and Public Works
Committee
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sheldon Whitehouse
Ranking Member, Senate Environment and Public
Works Committee
456 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senators Capito and Whitehouse:

I am writing on behalf of the Alliance for Responsible Atmospheric Policy in support of the nomination of Aaron Szabo to serve as the Assistant Administrator for Air and Radiation, at the U.S. Environmental Protection Agency.

The Alliance for Responsible Atmospheric Policy ("Alliance") is an industry coalition of fluorocarbon producers, user entities and trade associations of companies that rely on these compounds. The Alliance was organized in 1980. Today, the Alliance coordinates industry participation in the development of economically and environmentally beneficial international and domestic policies at the nexus of ozone protection and the important role of economic and international trade for significant American industries. A list of our member companies and associations is enclosed.

The Alliance and its member companies and associations have been active on critical environmental policy issues relating to protection of the earth's ozone layer since its founding. As such, we have had ample opportunity to be involved in a number of key domestic and international policy issues. Domestically, our activities include the Clean Air Act Amendments of 1990 and the American Innovation and Manufacturing Act of 2020. Internationally, our activity encompasses the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer, including the most recent Kigali Amendment.

We believe Mr. Szabo has the experience and drive to achieve environmental goals and economic success from our industries. We believe he will continue to work hard to find consensus where possible and identify paths forward for mutual success.

We recommend support for Aaron Szabo's confirmation as the Assistant Administrator of the EPA Office of Air and Radiation. Please do not hesitate to contact us if you have questions concerning our views on this important nomination.

Best regards,

Kevin J. Fay
Executive Director



80 M St. SE, Ste. 800, Washington, DC 20003 • www.trucking.org

March 4, 2025

The Honorable Shelley Moore Capito
Chairman
United States Senate Committee on
Environment and Public Works
Washington, D.C. 20510

The Honorable Sheldon Whitehouse
Ranking Member
United States Senate Committee on
Environment and Public Works
Washington, D.C. 20510

Dear Chairman and Ranking Member,

On behalf of the American Trucking Associations (ATA), I am writing you today in support of the nominations of David Fotouhi to serve as Deputy Administrator of the Environmental Protection Agency (EPA) and Aaron Szabo to serve as Assistant Administrator for the Office of Air and Radiation of the EPA.

America's truckers need EPA leaders that will work proactively with industry stakeholders to establish achievable federal emissions standards. Because the previous Administration failed to meet this need, we are grateful that the Trump Administration is putting forward nominees who will take the keys from the California Air Resources Board and restore common sense.

Aaron Szabo's work as Senior Counsel for the White House Council on Environmental Quality, as well as his experience in the Office of Management and Budget and U.S. Nuclear Regulatory Commission, offers insights into how he will approach enormously important issues for America's truckers. In conversations with ATA's leadership, he has demonstrated a dedication to working collaboratively and providing thoughtful feedback to the needs of trucking.

This experience complements the leadership that we expect from Mr. Fotouhi. We know that California and other states will seek to litigate their unworkable EV mandates. Having a Deputy Administrator at EPA who has previously served key roles in the General Counsel's office is of the utmost importance over the next four years.

Trucking is the lifeblood of our economy – moving over 70% of the nation's freight and serving as the sole mode of freight transportation for 80% of American communities. As the largest national trade organization representing over 8.5 million men and women working in the trucking industry, ATA strongly encourages the Committee to approve these nominations so that they can be confirmed by the full Senate at the earliest opportunity.

Sincerely,

Chris Spear
President & CEO
American Trucking Associations

cc: Members of the Senate Committee on Environment & Public Works



March 4, 2025

The Honorable Shelley Moore Capito
Chairman
Senate Environment and Public Works Committee
Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sheldon Whitehouse
Ranking Member
Senate Environment and Public Works Committee
Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Capito and Ranking Member Whitehouse,

On behalf of the nearly 900 not-for-profit electric cooperative members of the National Rural Electric Cooperative Association (NRECA), I write to express NRECA's support for David Fotouhi and Aaron Szabo to serve, respectively, as Deputy Administrator and as an Assistant Administrator of the U.S. Environmental Protection Agency (EPA).

America's electric cooperatives comprise a unique sector of the electric industry. These not-for-profit entities are independently owned and governed by the people they serve. From growing urban regions to remote farming communities, electric cooperatives provide power to 42 million Americans across 48 states.

Locally, electric cooperatives are focused on powering and empowering their communities. Nationally, electric cooperatives are focused on advocating for smart energy policies that keep the lights on at a price our consumer-members can afford. America's economic growth and national security depend on energy production from all sources to power our Country's homes and businesses with reliable and affordable electricity. This is more important than ever as electric demand grows, driven by data centers and the onshoring of manufacturing.

Recent EPA actions directly targeting critical, always available generation sources – namely coal- and natural gas-fired power plants – are not only unlawful but are barriers to the Trump Administration's vision of American energy dominance. The Power Plant Greenhouse Gas Rule is particularly harmful to electricity reliability and affordability. EPA, under the leadership of David Fotouhi and Aaron Szabo, can address this challenge by immediately repealing the rule as well as other unlawful actions and replacing them with commonsense policies consistent with the laws Congress enacted.

NRECA is proud to support David Fotouhi and Aaron Szabo's nominations as EPA Deputy Administrator and as an Assistant Administrator, urges the Environment and Public Works Committee and the full Senate to swiftly approve their nominations, and looks forward to working with them to advance U.S. energy security and reliability.

Sincerely,

Louis Finkel
Senior Vice President, Government Relations
NRECA



March 4, 2025

The Honorable Shelley Moore Capito, Chair
 The Honorable Sheldon Whitehouse, Ranking Member
 U.S. Senate Committee on Environment and Public Works
 456 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Chair Capito and Ranking Member Whitehouse:

On behalf of the American Forest & Paper Association (AF&PA) and the American Wood Council (AWC), we are writing in support of President Trump's nomination of Aaron Szabo to serve as the Assistant Administrator for the Office of Air and Radiation at the U.S. Environmental Protection Agency. We believe that Mr. Szabo is eminently qualified for this very important role and will implement President Trump's regulatory agenda in a thoughtful and well-informed manner. We are familiar with Mr. Szabo from his public service for over a decade, including at the White House Council on Environmental Quality, the Office of Information and Regulatory Affairs, and the Nuclear Regulatory Commission. We believe that Mr. Szabo is a highly capable and pragmatic nominee who would help implement reasonable and evidence-based regulations that follow the intent of Congress to protect the environment without unintentionally causing more harm than good.

AF&PA serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry accounts for approximately 5% of the total U.S. manufacturing GDP, manufactures about \$350 billion in essential products annually and employs about 925,000 people. The industry meets a payroll of about \$65 billion annually and over 75 percent of our facilities are located in counties that are over 80 percent rural. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recyclable resources, generate renewable bioenergy and are committed to continuous improvement through the industry's sustainability initiative — [Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future](#).

The American Wood Council (AWC) is the voice of North American traditional and engineered wood products, representing over 60 percent of the industry. From a renewable resource that absorbs and sequesters carbon, the wood products industry makes products

that are essential to everyday life and employs approximately one-third of a million men and women in well-paying jobs. AWC's engineers, technologists, scientists, and building code experts develop state-of-the-art engineering data, technology, and standards on structural wood products for use by design professionals, building officials, and wood products manufacturers to assure the safe and efficient design and use of wood structural components.

The U.S. manufacturing sector has been a fundamental driver of American success, but our nation faces growing challenges in a highly competitive global economy. The cost, complexity and volume of regulations is greater than ever. As a result of our cumbersome air permitting processes, U.S. manufacturers that want to expand and create jobs with cleaner, more efficient technology too often are at risk of being stymied.

At the same time, we recognize that reasonable, evidence-based regulations can provide important benefits, such as the protection of the environment, health, and safety for our country, communities and employees. Unfortunately, poorly designed regulations that fail to balance costs and benefits and disregard the best available science unintentionally can cause more harm than good, waste limited resources, undermine sustainable development, and erode public confidence in government.

The U.S. Supreme Court recently made clear that regulators must follow the best reading of statutes; they must only act within the boundaries of their statutory authority, and consider all relevant factors, including balancing costs and benefits. Accordingly, it is essential that regulations be designed to provide net benefits to the public based on best available scientific and technical information through a transparent and accountable rulemaking process, with due consideration of the cumulative regulatory burden. We think Mr. Szabo is well positioned to ensure these regulatory principles are implemented.

Based on our knowledge of Mr. Szabo and our experience working with him over the years, we believe his expertise, experience and professionalism make him an excellent candidate for this important position. Thank you for your consideration.

Kind regards,



Heidi Brock
President and Chief Executive Officer
American Forest & Paper Association



Jackson Morrill
President & CEO
American Wood Council

March 5, 2025

The Honorable Shelley Moore Capito, Chair
Environment and Public Works Committee
United States Senate
Washington, D.C. 205210

The Honorable Sheldon Whitehouse, Ranking Member
Environment and Public Works Committee
United States Senate
Washington, D.C. 205210

Dear Chair Capito and Ranking Member Whitehouse,

The undersigned groups represent industries that are vital to America's economic success and hundreds of thousands of workers across the country. Manufacturing in America is among the cleanest in the world, but manufacturers are facing staggering costs to comply with federal regulations — in particular, environmental regulations that have recently required manufacturers to achieve the implausible or impossible. In order to boost our economy and secure our jobs, it is vital to return the Environmental Protection Agency to its original mission of providing clean air and clean water with achievable, common-sense regulations that can support manufacturing. We believe that Aaron Szabo is an excellent choice to fight for manufacturing in America, and we offer our strong endorsement for his confirmation as Assistant Administrator for the Office of Air and Radiation of the EPA.

Szabo's career as a public servant makes him eminently qualified for this nomination. His work spanned three Presidential administrations. At the White House Council on Environmental Quality (CEQ) and within the Office of Information and Regulatory Affairs (OIRA), Aaron was at the forefront, analyzing and providing sound counsel on numerous air quality and permitting reform regulations.

The position of Assistant Administrator of the Office of Air is one of the most vital in the EPA, and there is much to do. For instance, last year the Biden administration ignored warning signs of severe economic consequences and prematurely reconsidered a previous rulemaking to set a particulate matter standard at or below naturally occurring background levels throughout much of the country, which impacts all industrial sectors. The revised standard will have a chilling effect on investments for both existing and new manufacturing facilities. Many manufacturing facilities that had initiated their permitting under the previous protective standard are now having difficulty demonstrating to state regulators that they can meet the revised standard, threatening both economic growth and livelihoods. The rule was changed despite at the time being the most stringent global standard.

In another instance, the EPA last year finalized a regulation on power plants that threatens energy availability. As we are looking to revitalize manufacturing in the United States and deploy the latest AI, we need more kilowatts on the grid, not a regulation that could shut down much needed American-made power generation.

Szabo will work with Administrator Zeldin tirelessly to implement President Trump's smart regulatory policy that aims to put America first. We encourage the Committee to support Szabo and move quickly to confirm him as Assistant Administrator for the Office of Air and Radiation.

Sincerely,

The Aluminum Association
American Chemistry Council
American Forest & Paper Association
American Fuel & Petrochemical Manufacturers
American Iron and Steel Institute
Concrete Reinforcing Steel Institute
The Fertilizer Institute
Industrial Energy Consumers of America
Institute of Makers of Explosives
National Propane Gas Association
National Stone, Sand & Gravel Association
National Wooden Pallet & Container Association
Portland Cement Association
Steel Manufacturers Association



American
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afpm.org

4 March 2025

The Honorable Shelley Moore Capito
Chairman, Committee on Environment & Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Chairman Capito,

On behalf of the American Fuel & Petrochemical Manufacturers (AFPM), we ask you to schedule a full committee vote as soon as possible to confirm David Fotouhi to be the next Deputy Administrator of the U.S. Environmental Protection Agency (EPA).

Mr. Fotouhi has extensive experience with the inner workings of the agency, having previously served as Acting General Counsel and Principal Deputy General Counsel at the EPA during President Trump's first administration. Without a doubt, his expertise and skill in providing legal counsel to the Administrator and overseeing nearly every major environmental statute and office within the EPA make him uniquely qualified for the role of Deputy Administrator.

Mr. Fotouhi's leadership would undoubtedly bring a fresh perspective to the EPA and help strengthen the agency's role in addressing the complex environmental challenges we face.

I strongly urge the Senate Committee on Environment and Public Works to advance his nomination swiftly, and we offer our full support for his appointment as Deputy Administrator of the EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Chet Thompson", is placed below the word "Sincerely,".

Chet Thompson
President and CEO
American Fuel & Petrochemical Manufacturers



March 19, 2025

The Honorable John Thune
Majority Leader
United States Senate
Washington, DC 20510

Senate Majority Leader Thune:

The Independent Petroleum Association of America (IPAA) strongly supports the nominations of David Fotouhi to be Deputy Administrator of the Environmental Protection Agency (EPA) and Aaron Szabo to be Assistant Administrator for Air and Radiation at EPA. Both nominations are currently pending before the full Senate, and we urge you to bring these nominations to the floor as soon as possible.

IPAA represents the primary producers of the nation's oil and natural gas and account for 83 percent of America's oil production and 90 percent of its natural gas output. Independent American producers are a driving force in our economy and support millions of jobs in the United States.

Well-structured, cost-effective regulations are essential to manage methane and other emissions while assuring that American oil and natural gas producers can provide the energy demanded by our nation and world economies. One key aspect of the independent component of the American oil and natural gas production industry is its breadth – spanning from large publicly traded companies to small business and from large, high production wells to marginal production wells. EPA needs to ensure the agency develops a cost-effective regulatory program that encourages energy innovators to address methane and other issues. The agency should look for ways to provide flexibility in its regulatory regime and encourage innovation in addressing these critical issues.

Both David Fotouhi and Aaron Szabo are extremely qualified and possess the knowledge, experience, and executive skills to be outstanding leaders at the EPA. Mr. Fotouhi's previous work at EPA as acting General Counsel and as an environmental lawyer in private practice give him broad knowledge of the agency and its important mission for the American people. He also understands the critical role EPA plays in the lives of the American people and the need for the agency to uphold the rule of law and conduct its mission based on the authority given to it by Congress.

Similarly, Mr. Szabo's background and experience in both the federal government and the private sector will serve him well as the Assistant Administrator for Air and Radiation

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

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at EPA. His unique experience gives him a sound perspective on the dynamic nature between regulators and the industry it is regulating. The Office of Air and Radiation plays an extremely important role for American oil and natural gas producers, and it is important to have an Assistant Administrator who has the qualifications to understand the detailed nature of the issues facing our industry. Mr. Szabo is an exceptional candidate that certainly meets all those qualifications.

For these and many other reasons, IPAA and our members strongly endorse the nominations of David Fotouhi and Aaron Szabo at the EPA. We hope the Senate will quickly take up these nominations and give them prompt consideration before the full Senate.

Thank you for your consideration.

Sincerely,



Daniel T. Naatz
Chief Operating Officer
Independent Petroleum Association of America

cc: Chairman Shelley Moore Capito



American
Fuel & Petrochemical
Manufacturers

1800 M Street, NW
Suite 900 North
Washington, DC
20036

202.457.0480 office
afpm.org

17 March 2025

The Honorable John Thune, Majority Leader
The Honorable Chuck Schumer, Minority Leader
United States Senate
Washington, DC 20510

Majority Leader Thune and Minority Leader Schumer,

On behalf of the American Fuel & Petrochemical Manufacturers (AFPM), we ask that as the Senate works through scheduling cloture votes on the Administration's nominees you prioritize the consideration of Mr. David Fotouhi, Deputy Administrator of the U.S. Environmental Protection Agency (EPA), and Aaron Szabo, Assistant Administrator of the U.S. Environmental Protection Agency (EPA) Office of Air and Radiation.

Both men are uniquely qualified for the positions of which they have been nominated. Mr. Fotouhi has extensive experience of the inner workings of the EPA, having previously served as Acting General Counsel and Principal Deputy General Counsel. His expertise in providing legal counsel to the Administrator and overseeing nearly every major environmental statute and office within the EPA further enhances his qualification.

Similarly, Mr. Szabo's over a decade of experience at the White House Council on Environmental Quality, the Office of Information and Regulatory Affairs, and the U.S. Nuclear Regulatory Commission have equipped him with the understanding needed to succeed in this role.

Undoubtedly, Mr. Fotouhi's and Mr. Szabo's leadership would bring a fresh perspective to the agency, helping to strengthen the EPA's role in tackling the complex environmental challenges we face. With the President's aggressive agenda and EPA's extensive role in executing on the Administration's priorities the need for both of these nominees to assume their roles is of the utmost importance.

I strongly urge the Senate to advance their nominations swiftly, and we offer our full support for their appointments.

Sincerely,

Chet Thompson
President and CEO
American Fuel & Petrochemical Manufacturers

Senator CAPITO. I did not give you the three standard questions that I should have done, and I apologize for that. I am going to ask you now.

Do you agree, if confirmed, to appear before this committee or designated members of this committee and other appropriate committees of this Congress to provide information subject to appropriate and necessary security protections with respect to your responsibilities? Yes or no.

Mr. FOTOUHI. Yes, Senator.

Mr. SZABO. Yes, Senator.

Senator CAPITO. Do you agree to ensure that testimony, briefings, documents, and electronic and other forms of communication of information are provided to this committee, its staff, and other appropriate committees in a timely manner?

Mr. FOTOUHI. Yes.

Mr. SZABO. Yes, Senator.

Senator CAPITO. Thank you.

Finally, do you know of any matters which you may or may not have disclosed that may place you in conflict of interest if you are confirmed?

Mr. FOTOUHI. No, Senator.

Mr. SZABO. No, Senator.

Senator CAPITO. Perfect. Okay.

Now we have no further questions. I would like to thank the nominees, and all my colleagues for their participation. Senators who wish to submit written questions, and I believe there are some unanswered questions that we will need you to followup on, or further research I think you were going to do.

For the record, you have until 5 p.m. this Friday, March 7th, to do so. The nominee responses to those questions are due back to the committee no later than 5 p.m. on Monday, March the 10th, and will be submitted to the record.

With that, this hearing is adjourned. Thank you all very much.

[Whereupon, at 11:46 a.m., the hearing was adjourned.]



March 4, 2025

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410 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Sheldon Whitehouse
Ranking Member, Senate Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, D.C. 20510

March 4, 2025

Re: March 5, 2025 Confirmation Hearing of David Fotouhi as EPA Deputy Administrator

Dear Chairwoman Capito and Ranking Member Whitehouse:

As the president and cofounder of the Asbestos Disease Awareness Association (ADAO), I am writing to express our deep concerns about the nomination of David Fotouhi to be Deputy Administrator of the U.S. Environmental Protection Agency (EPA).

Launched in 2004, ADAO is now the largest independent non-profit organization in the U.S. dedicated to eliminating asbestos-caused diseases. We have been a strong and outspoken advocate for a comprehensive U.S. ban on asbestos, championing both strong EPA action under Toxic Substances Control Act (TSCA) and enactment of the Alan Reinstein Ban Asbestos Now Act (ARBAN), which would expeditiously eliminate the importation and use of all asbestos fibers and asbestos-containing products.

Asbestos is likely the most hazardous substance that has been in commercial use since the industrial revolution and is responsible for millions of deaths worldwide. It causes lung cancer, mesothelioma, other cancers and debilitating non-cancer diseases like asbestosis. Asbestos is universally recognized to have no safe level of exposure and US deaths linked to asbestos still total over 40,000 per year even though asbestos use has declined significantly.

Despite the universally acknowledged dangers of asbestos, a known human carcinogen, Mr. Fotouhi and his clients have waged a concerted effort to overturn EPA's March 2024 Part 1 Chrysotile Asbestos rule banning six ongoing uses of this asbestos fiber. In a recent brief filed on behalf of the Alliance for Automotive Innovation (AAI), Mr. Fotouhi claims that EPA's determination that asbestos presents an unreasonable risk to human health is "indefensible" and that the well-established scientific findings underlying that

Asbestos Disease Awareness Organization is a registered 501(c)(3) nonprofit organization
"United for Asbestos Disease Awareness, Education, Advocacy, and Community Support"
1525 Aviation Boulevard, Suite 318 • Redondo Beach • California • 90278 • (310) 251-7477
www.AsbestosDiseaseAwareness.org

determination have “glaring flaws.” His brief also seeks to discredit the integrity and independence of EPA’s long-standing peer review process, asserting that EPA received biased advice from its peer reviewers that “push[ed] [it] to adopt worst-case assumptions at every turn.”

While casting aspersions on EPA’s science, Mr. Fotouhi promotes the opinions of a notorious industry expert – Dr. Dennis Paustenbach -- who has received tens of millions of dollars from auto manufacturers to oppose personal injury claims by asbestos victims. Downplaying concerns about the harmful impacts of chrysotile asbestos, the AAI brief endorses questionable science championed by Dr. Paustenbach that has repeatedly been rejected by leading health authorities and EPA.

Mr. Fotouhi’s all-out assault on an important rule addressing a major public health threat calls into question his commitment to EPA’s environmental protection mission and his qualifications to serve as the Agency’s second-in-command. As its new leadership takes the reins, EPA is facing important decisions on the path forward for the Part 1 rule and how best to reduce the health risks identified in its Part 2 evaluation for legacy asbestos. Mr. Fotouhi’s strident attacks on EPA science and peer review procedures and denial of asbestos’ well-known risks demonstrate that he lacks the requisite impartiality to make decisions on asbestos that serve the public interest and should recuse himself entirely from these deliberations if he is confirmed.

EPA Actions on Asbestos Under TSCA

In 1989, following a multi-year effort, EPA promulgated a comprehensive asbestos ban and phase-out rule under TSCA. Two years later, the Fifth Circuit Court of Appeals overturned EPA’s rule.¹ Following this court decision, the U.S. was alone among developed countries in allowing the continued importation and use of this uniquely dangerous substance.

Because of EPA’s inability to ban asbestos, the 1989 rule became the poster child for the flaws in TSCA and was a major driver for enactment of the 2016 Lautenberg Chemical Safety Act overhauling the law, which received overwhelming bi-partisan support. Using its expanded authority under the 2016 TSCA amendments, EPA revived its long-stalled efforts to regulate asbestos, finalizing its Part 1 [risk evaluation](#) in December 2020 determining that six conditions of use (COUs) of chrysotile asbestos present an unreasonable risk and then issuing a final Part 1 risk management rule prohibiting these COUs in March 2024. 89 Fed. Reg. 21970 (Mar. 28, 2024).

ADAO supports the chrysotile asbestos final rule as a critical milestone in finally bringing the unsafe use of this lethal substance to a close. In the spring of 2024, legal challenges to the EPA Part 1 rule were filed in the Fifth Circuit by the American Chemistry Council (ACC) and other industry organizations.² ADAO is also a party to these cases and is seeking both to strengthen the rule and defend the health protections it provides from industry attacks.

¹ *Corrosion Proof Fittings v. E.P.A.*, 947 F.2d 1201 (5th Cir. 1981)

² *Texas Chemistry Council v. USEPA* (No. 24-60193 5th Cir.).

AAI Amicus Brief Opposing EPA Part 1 Rule

On October 7, 2024, through his law firm Gibson Dunn and Crutcher, Mr. Fotouhi filed an amicus brief in the Fifth Circuit opposing the EPA Part I rule on behalf of AAI,³ an auto industry trade association. AAI members have long fought liability for mesotheliomas attributed to asbestos-containing brake linings, and several cases have resulted in verdicts against defendants for violating their duty to warn against the dangers of asbestos. Mr. Papouhi's amicus brief seeks to strengthen the industry's defenses against claims by asbestos victims by discrediting EPA's scientific work on asbestos.

Citing "glaring flaws in the challenged risk evaluation and risk-management rule," Mr. Fotouhi's brief accuses EPA of "claim[ing] sweeping authority to identify 'unreasonable risks' without requisite evidence of real-world impacts." The brief asks the Court to "vacate the risk evaluation and risk-management rule in their entirety" because "EPA's conclusion that chrysotile asbestos presents an unreasonable risk of injury is indefensible on multiple fronts." As the brief asserts, "EPA inflated its exposure and hazard estimates by cherry-picking studies, modifying data, and adjusting the results—exactly the type of results-oriented reasoning barred by TSCA's sound-science provisions."

According to Mr. Fotouhi's brief, "EPA's untenable conclusions cannot be explained by science." Instead, he asserts, EPA's TSCA Science Advisory Committee on Chemicals (SACC) "failed to provide for unbiased peer review of the [Part 1] risk evaluation." Without any substantiation, the brief claims that the SACC "push[ed] EPA to adopt worst-case assumptions at every turn leading to sweeping findings of unreasonable risk" that reflected the personal interests of SACC members rather than the best available science.

Mr. Fotouhi's reckless attack on the SACC ignores EPA's extensive efforts to protect the integrity of its independent scientific advisory committees. Scientists serving on these committees are subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. §2635, as well as criminal conflict of interest statutes (18 U.S.C. §§203, 205, 207, 208 and 209). It is standard SACC [procedure](#) to screen all candidate reviewers for conflicts of interest based on detailed financial information that they must submit, and to provide members of the public an opportunity to comment on the qualifications of candidates before they are chosen. Mr. Fotouhi's brief cites no evidence that EPA failed to conform to these long-standing safeguards in selecting peer reviewers for its chrysotile risk evaluation.

The unimpeachable qualifications of the 12 asbestos SACC members are a matter of public record.⁴ Several have teaching positions at prestigious universities and affiliations with major medical schools and hospitals. Many have previously served on government advisory committees and have published extensively. In several cases, SACC members have widely recognized expertise on asbestos health impacts and have conducted pathbreaking asbestos-related research. It is outrageous that Mr. Fotouhi would insinuate (without any

³ MOTION by Not Party Alliance for Automotive Innovation in 24-60193, Not Party Alliance for Automotive Innovation in 24-60281 and Not Party Alliance for Automotive Innovation in 24-60333 to file amicus brief [121] [24-60193, 24-60281, 24-60333]

⁴ See EPA SACC, "Asbestos Ad Hoc Peer Reviewer Biographical Sketches," May 28, 2020, EPA-HQ-2019-0501-0037.

evidence) that these respected and highly credentialed experts would withhold their impartial, science-based advice from EPA and instead provide the Agency with slanted and biased recommendations.

While faulting EPA for taking advice from its independent SACC, Mr. Fotouhi's brief extols the wisdom of the auto industry's preferred asbestos expert, Dr. Dennis Paustenbach, whose biases and conflicts of interest are notorious. Companies that Dr. Paustenbach owns or directs have received tens of millions of dollars from AAI members Ford, GM and Chrysler to develop and publish data bolstering their defense of tort claims by cancer victims who worked with asbestos brake linings.⁵ Beyond asbestos, Dr. Paustenbach's work for industry has often been controversial and prompted vocal criticism.⁶

Citing Dr. Paustenbach's opinions, Mr. Fotouhi's brief disputes EPA's determinations of unreasonable risk for chrysotile asbestos, advocating the repeatedly discredited theory that chrysotile is significantly less potent for lung cancer and mesothelioma than other asbestos fibers and therefore is far less harmful. According to his brief, EPA erroneously relies on studies that reflect the effects of "more potent" amphibole asbestos fibers and overstate the "much lower" risks of chrysotile exposure. However, along with respected public health authorities, EPA has repeatedly concluded that all of the six major types of asbestos, including chrysotile, cause lung cancer and mesothelioma and there is no scientific basis for differentiating among their relative potency in causing these diseases.⁷ Indeed, the industry claim of chrysotile's lower risks was fully debated and rejected by EPA's Science Advisory Board and by the EPA Administrator in 2008⁸ yet Dr. Paustenbach continues to promote it as the best available science.

Mr. Fotouhi's Impartiality and Commitment to the Mission of EPA

Mr. Fotouhi's positions on asbestos raise serious concerns about his dedication to EPA's public health mission and commitment to the strong protection of the environment required by the nation's laws.

As described above, his sharp-edged attacks on EPA's findings of unreasonable risks for asbestos, his denials of the established science on which that determination is based, his criticisms of the integrity and independence of EPA's peer review process, and his support for discredited science advocated by an expert receiving tens of millions of dollars from Mr. Fotouhi's clients all call into question his qualifications to serve as Deputy Administrator with a single-minded focus on the public interest and without bias or partiality to the views of favored stakeholders.

⁵ Michaels, "Triumph of Doubt" at 9-10, 244-45 (Oxford U. Press, 2020); Michaels, "Doubt is their Product" at 51, 52, 74-76, 100, 103, 138, 193 (Oxford U. Press, 2008).

⁶ "Triumph of Doubt" at 9-10, 32, 244-45; "Doubt is their Product" at 51, 52, 74-76, 100, 103, 138, 193; <https://www.nytimes.com/2016/04/12/business/activists-push-to-continue-a-libel-suit-against-them.html>.

⁷ EPA, National Integrated Risk Information System (IRIS), Chemical Assessment Summary for Asbestos (1988), available at https://cfpub.epa.gov/ncea/iris/iris_documents/documents/subst/0371_summary.pdf#nameddest=rfc; 54 Fed. Reg. 29460, 29470 (July 12, 1989).

⁸ SAB Consultation on EPA's *Proposed Approach for Estimation of Bin-Specific Cancer Potency Factors for Inhalation Exposure to Asbestos*, November 14, 2008; Letter from Stephen L. Johnson, EPA Administrator, to Dr. Agnes Kane, Chair of Science Advisory Board Asbestos Committee, December 29, 2008.

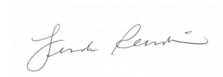
EPA's work on asbestos is not done. In coming weeks and months, the new EPA leadership will be considering whether to defend the March 2024 Part 1 rule in the Fifth Circuit or suspend enforcement of the rule and reopen and modify its requirements. In addition, as a result of its November 2024 supplemental risk evaluation determining that legacy asbestos presents an unreasonable risk to health, EPA must propose a risk management rule addressing exposure to asbestos in millions of structures across the U.S.

We believe Mr. Fotouhi cannot impartially and objectively participate in EPA decision-making on these issues in light of the positions he has taken on asbestos for his industry clients. We strongly recommend that, if Mr. Fotouhi is confirmed as EPA Deputy Administrator, he recuse himself from all matters relating to asbestos. We respectfully urge Committee members to reinforce this recommendation at the upcoming March 5 hearing.

Thank you for considering our deep concerns.

We request that this letter be included in the hearing record.

Respectfully submitted,



Linda Reinstein, President and Cofounder, Asbestos Disease Awareness Association

cc: All EPW members

John Bozzella (CEO AAI)

Jim Farley (CEO Ford)

Mary Barra (CEO GM)

Carlos Tavares (CEO Stellantis)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 19 2007

OFFICE OF THE
ADMINISTRATOR

The Honorable Arnold Schwarzenegger
Governor of the State of California
State Capitol
Sacramento, California 95814

Dear Governor Schwarzenegger,

As I have committed to you in previous correspondence, I am writing to inform you of my decision with respect to the request for a waiver of Federal preemption for motor vehicle greenhouse gas emission standards submitted by the California Air Resources Board (CARB).

As you know, EPA undertook an extensive public notice and comment process with regard to the waiver request. The Agency held two public hearings: one on May 22, 2007 in Washington, D.C. and one in Sacramento, California on May 30, 2007. We heard from over 80 individuals at these hearings and received thousands of written comments during the ensuing public comment process from parties representing a broad set of interests, including state and local governments, public health and environmental organizations, academia, industry and citizens. The Agency also received and considered a substantial amount of technical and scientific material submitted after the close of the comment deadline on June 15, 2007.

EPA has considered and granted previous waivers to California for standards covering pollutants that predominantly affect local and regional air quality. In contrast, the current waiver request for greenhouse gases is far different; it presents numerous issues that are distinguishable from all prior waiver requests. Unlike other air pollutants covered by previous waivers, greenhouse gases are fundamentally global in nature. Greenhouse gases contribute to the problem of global climate change, a problem that poses challenges for the entire nation and indeed the world. Unlike pollutants covered by the other waivers, greenhouse gas emissions harm the environment in California and elsewhere regardless of where the emissions occur. In other words, this challenge is not exclusive or unique to California and differs in a basic way from the previous local and regional air pollution problems addressed in prior waivers.

Also, I firmly believe that, just as the problem extends far beyond the borders of California, so too must be the solution. Congress has recognized the need for very aggressive yet technically feasible national standards to address greenhouse gases and energy security by passing the Energy Independence and Security Act. Just today the President signed these national standards into law, providing environmental benefits and economic certainty for Californians and all Americans. I strongly support this national approach to this national challenge which establishes an aggressive standard of 35 miles per gallon for all 50 states, as opposed to 33.8 miles per gallon in California and a patchwork of other states. This legislation

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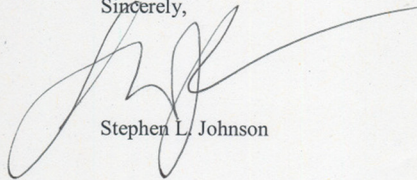
will deliver energy security benefits and bring a much needed national approach to addressing global climate change, improving the environment for all Americans.

In light of the global nature of the problem of climate change, I have found that California does not have a "need to meet compelling and extraordinary conditions." Accordingly, I have decided that EPA will be denying the waiver and have instructed my staff to draft appropriate documents setting forth the rationale for this denial in further detail and to have them ready for my signature as soon as possible.

Please be assured that my decision in this matter is made specific to the facts and circumstances of this request, which, as explained above, are distinctly different from prior waiver requests. I do not intend for this decision to affect any future requests by the State of California for waiver determinations for non-greenhouse gas emissions from vehicles.

Finally, I want to acknowledge the leadership that you and your state have shown to increase vehicle fuel economy, to address energy security, and to reduce greenhouse gases. I agree that increased vehicle standards can be a win-win for the environment and the economy. I have no doubt that the national standards Congress adopted and the President signed into law this week were enacted, in part, because of your efforts.

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Johnson', with a long, sweeping horizontal line extending to the right.

Stephen L. Johnson

cc: Governor Janet Napolitano
Governor Bill Ritter
Governor Charlie Crist
Governor Deval Patrick
Governor Martin O' Malley
Governor John Baldacci
Governor Jon S. Corzine
Governor Eliot Spitzer
Governor Ted Kulongoski
Governor Don Carcieri
Governor Jon Huntsman, Jr.
Governor Jim Douglas
Governor Christine Gregoire
Governor M. Jodi Rell
Governor Edward Rendell
Governor Bill Richardson
Senator Barbara Boxer
Senator Dianne Feinstein
Representative Xavier Becerra
Representative Howard Berman
Representative Brian Bilbray
Representative Mary Bono
Representative Ken Calvert
Representative John Campbell
Representative Lois Capps
Representative Dennis Cardoza
Representative Jim Costa
Representative Susan Davis
Representative John Doolittle
Representative David Dreier
Representative Anna Eshoo
Representative Sam Farr
Representative Bob Filner
Representative Elton Gallegly
Representative Jane Harman
Representative Wally Herger
Representative Mike Honda
Representative Duncan Hunter
Representative Darrell Issa
Representative Tom Lantos
Representative Barbara Lee
Representative Jerry Lewis
Representative Zoe Lofgren
Representative Dan Lungren
Representative Doris Matsui
Representative Kevin McCarthy

Representative Howard "Buck" McKeon
Mary D. Nichols, California Air Resources Board

The Honorable Shelley Moore Capito
Chair
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Madam Chair:

The Ethics in Government Act of 1978, as amended, provides that Presidential nominees for a position requiring the advice and consent of the Senate shall update their public financial disclosure report with respect to any outside earned income and honoraria received through the period ending no more than five days prior to the commencement of the Senate hearing of their nomination. See 5 U.S.C. § 13103(b)(1) and 5 C.F.R. § 2634.606(a).

The information on my public financial disclosure report was current as of February 8, 2025. Since that date for which disclosures were shown on my nominee report through the date of this letter, I have not received any income from any non-federal source.

Sincerely yours,

AARON
SZABO

Aaron Szabo

Digitally signed by
AARON SZABO
Date: 2025.02.28
15:21:22 -05'00'

cc: Acting Director, OGE

Justina Fugh, Alternate Designated Agency Ethics Official, US EPA

February 28, 2025

The Honorable Shelley Moore Capito
Chair
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Madam Chair:

The Ethics in Government Act of 1978, as amended, provides that Presidential nominees for a position requiring the advice and consent of the Senate shall update their public financial disclosure report with respect to any outside earned income and honoraria received through the period ending no more than five days prior to the commencement of the Senate hearing of their nomination. *See* 5 U.S.C. § 13103(b)(1) and 5 C.F.R. § 2634.606(a).

The information on my public financial disclosure report was current as of January 31, 2025. Since that date for which disclosures were shown on my nominee report through the date of this letter, I have not received any honoraria during this period or any residential rental income.

Since that date for which disclosures were shown on my nominee report through the date of this letter, I have received \$36,000 in gross income from Gibson, Dunn & Crutcher LLP.

Best regards,

David Fotouhi

David Fotouhi

Digitally signed by David
Fotouhi
Date: 2025.02.28 15:03:45
-05'00'

cc: Acting Director, OGE
Justina Fugh, Alternate Designated Agency Ethics Official, US EPA

